

April 2020



CLINKS  
RESPONSE

# Home Office consultation on strengthening police powers to tackle unauthorised encampments

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## Introduction

### About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of people in the CJS and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 13,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

Clinks works in partnership with, and as an ally to, organisations working with black, Asian and minority ethnic people, including Gypsy, Traveller and Roma communities, to tackle the over representation of and poorer outcomes experienced by these groups in the criminal justice system. We supported the work of the Lammy Review and are now working to support the Ministry of Justice and Her Majesty's Prison and Probation Service to implement the review's recommendations.

Clinks is a member of the Making Every Adult Coalition (MEAM) alongside Homeless Link, Mind and associate member Collective Voice. Together MEAM represents over 1,300 frontline organisations across England. Working together we support local areas across the country to develop effective, coordinated services that directly improve the lives of people facing multiple disadvantage. We use our shared knowledge and practical experience from this work to influence policy at the national and local level.

### About this response

We are concerned that the Home Office's proposals to criminalise unauthorised encampments will further exacerbate the current overrepresentation of Gypsy, Roma and Traveller people in contact with the criminal justice system, as well as criminalising increasing numbers of homeless people. We have focused this short response on the questions of most relevance to our work and that of our members but support the fuller responses submitted by Friends, Families and Travellers and Homeless Link.

## Summary of recommendations

- The Home Office should not seek to make amendments to Sections 61 and 62A of the Criminal Justice and Public Order Act (1994) as outlined in the consultation paper, nor criminalise trespass in any circumstances.
- As recommended by Friends, Families and Travellers in their response to this consultation, the government should support and enforce duties on local authorities to ensure more authorised sites are built, not introduce more enforcement powers.
- Criminalising trespass is incompatible with the principles of the *Rough Sleeping Strategy* (2018). The Home Office should halt these plans and instead commit to supporting cross-departmental initiatives that will help the government meet its target of ending rough sleeping by 2024.

## Response

**Q16 / Do you expect that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?**

**Q17 / Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?**

### Gypsy, Roma and Traveller people and the criminal justice system

Gypsy, Roma and Traveller people are disproportionately represented and experience poorer outcomes in the criminal justice system. 5% of people in prison say that they are Gypsy, Roma or Traveller, compared to an estimated 0.1% of the general population in England<sup>1</sup>. 11% of children held in secure training centres and 6% of children held in young offender institutions identify as being from Gypsy, Roma or Traveller backgrounds<sup>2</sup>. It is understood by the Ministry of Justice that these figures are likely to underestimate the scale of the problem, due to low rates of self-declaration and data not being captured<sup>3</sup>. The Lammy Review highlights that Gypsy, Roma and Traveller prisoners are more likely than non-Gypsy, Roma and Traveller prisoners to report needing support across a range of issues, but are less likely to say that they have actually received such support<sup>4</sup>.

This forms a part of a wider pattern of poor outcomes and discrimination across other areas of society. People from Gypsy, Roma and Traveller communities have shorter life expectancy, poor access to healthcare, poor experiences at school, low employment rates and high prevalence of poor mental health<sup>5</sup>. According to a report by the Equality and Human Rights Committee, 44% of the British public hold discriminatory views against Gypsy, Roma and Traveller people<sup>6</sup>. In a survey conducted by the Traveller Movement, 91% of respondents said they had experienced discrimination because of their ethnicity,



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and 77% had been subject to hate speech or a hate crime<sup>7</sup>. These hate crimes are often not reported, for fear the police wouldn't do anything about their complaint<sup>8</sup>.

Prison inspectors recently found that most prisons they visited were not aware of Gypsy, Roma and Traveller people's existence or needs<sup>9</sup>. However, Gypsy, Roma and Traveller people in prison have detailed examples of the regular racist abuse they receive from prison staff and other prisoners and the impact this can have on their mental health<sup>10</sup>.

By criminalising unauthorised encampments, the government risks pulling more Gypsy, Roma and Traveller people into contact with the criminal justice system, and potentially increasing their overrepresentation in prison, where we know they face further discrimination and worse outcomes. This would be in direct conflict to the government's commitments to implement the Lammy Review and to implement a national cross-departmental strategy to tackle the inequalities experienced by Gypsy, Roma and Traveller people<sup>11</sup>.

We therefore believe there would be highly negative impacts on Gypsy, Roma and Traveller communities if the government were to proceed with either amending the Criminal Justice and Public Order Act (1994) or to criminalise unauthorised encampments. Criminalisation of trespass would not make unauthorised encampments disappear, it would however compound the stark inequalities experienced by Gypsy, Roma and Traveller people. We urge the government to stop these plans and explore alternatives.

**Recommendation: The Home Office should not seek to make amendments to Sections 61 and 62A of the Criminal Justice and Public Order Act (1994) as outlined in the consultation paper, nor criminalise trespass in any circumstances.**

## Alternatives to criminalisation

Research conducted by Friends, Families and Travellers on police responses to a previous government consultation on unauthorised encampments, conducted in spring 2018, showed that many police forces feel they already have sufficient powers to deal with unauthorised encampments<sup>12</sup>. These powers are clearly detailed in guidance published by the Ministry for Housing, Communities and Local Government, Home Office and Ministry of Justice. This covers the existing powers available to councils, the police and landowners to remove or direct trespassers away from land, and additional powers to act in cases where unauthorised encampments breach planning controls, cause disruption or environmental damage<sup>13</sup>. The guidance document describes these range of powers as being "robust". Given sufficient powers already exist, there is no need to amend existing legislation.

As highlighted by Friends, Families and Travellers response to this consultation, there is a severe shortage of transit sites across the country – with only 374 transit pitches in the whole of England, and only 34 local authorities out of 343 in England having any transit site provision<sup>14</sup>. As a result, Gypsy, Roma and Traveller households do not have a place to stop or call home, which has serious health and social implications, as people cannot access basic amenities such as water and sanitation, and experience difficulties in accessing services such as education and healthcare.

Friends, Families and Travellers research also shows that many police forces consider the lack of site provision to be the main hindrance for them to deal with unauthorised encampments effectively. Over half of the police responses analysed stated that Section 62A of the Criminal Justice and Public Order Act 1994 was less effective due to a lack of available pitches in their



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respective local authorities. In effect, without available sites to direct people towards, clearing an unauthorised encampment would only mean people moving along to another unauthorised encampment in a different area and local authority, effectively moving but not solving the issue.

**Recommendation: As recommended by Friends, Families and Travellers in their response to this consultation, the government should support and enforce duties on local authorities to ensure more authorised sites are built, not introduce more enforcement powers.**

### **Q18 / Do you have any other comments to make on the issue of unauthorised encampments not specifically addressed by any of the questions above?**

#### **Risk to rough sleepers and people facing multiple disadvantage**

The impact of the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 would overwhelmingly be borne by Gypsy, Roma and Traveller communities, as these amendments concern people who are bringing vehicles onto land. However, proposals to criminalise trespass by potentially extending the definition of unauthorised encampment to include any encampment that might “substantially damage” the land occupied, will have the effect of criminalising a much wider group of people, including rough sleepers living in makeshift shelters or tents.

There has been a large increase in the number of people sleeping rough in recent years across the country. 4,266 people were estimated to be sleeping rough on a single ‘typical’ night in 2019, up by 141% since 2010<sup>15</sup>, and thousands of people are said to be sleeping rough in cars, trains, buses and tents<sup>16</sup>.

From our own work with voluntary organisations working with people in contact with the criminal justice system, we know there are particularly challenging barriers to accessing secure and stable accommodation for people in contact with the criminal justice system. In 2017, one in seven short-term prisoners and one in ten longer-term prisoners were released from prison without knowing where they were going to sleep that night, and this appears to have worsened<sup>17</sup>. Other data has suggested as many as one in five people are released from prison with no fixed abode. It’s highly likely therefore that there are a significant number of people recently released from prison who are now sleeping rough.

There are many different reasons as to why this is happening, including poor resettlement planning, confusion of the roles and responsibilities of different agencies, barriers to the private rental market and a lack of appropriate accommodation, particularly for women<sup>18</sup>. There have even been reports of people leaving prison being given tents in lieu of appropriate alternatives.

Many rough sleepers may have faced other severe disadvantages in their lives, including experience of poor mental health and substance misuse. As the work of MEAM shows, these people often fall through the gaps between services and systems, making it harder for them to address their problems and lead fulfilling lives<sup>19</sup>.

People erecting unauthorised encampments therefore may be rough sleepers with no home to call their own, who may face multiple disadvantages and have not received sufficient support from services to access appropriate accommodation. Given that the



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government has committed to end rough sleeping by 2024, it would be a backwards step to facilitate an enforcement approach over the well-evidenced good practice support interventions endorsed in the *Rough Sleeping Strategy* (2018)<sup>20</sup>. Criminalising people for erecting tents and shelters will only exacerbate their existing disadvantages and, for some, further fuel a revolving door of homelessness and custody.

**Recommendation: Criminalising trespass is incompatible with the principles of the *Rough Sleeping Strategy* (2018). The Home Office should halt these plans and instead commit to supporting cross-departmental initiatives that will help the government meet its target of ending rough sleeping by 2024.**



**CLINKS**

**Clinks supports, represents and advocates for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.**

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Block C, 5th Floor  
Tavistock House  
Tavistock Square  
London WC1H 9JJ  
020 7383 0966

info@clinks.org

🐦 @Clinks\_Tweets

[www.clinks.org/policy](http://www.clinks.org/policy)

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### End Notes

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