

## LEGAL BULLET POINTS IN RESPONSE TO THE N&E REPORT TO SCRUTINY 2010

- Gypsies and Irish Travellers are recognised ethnic minorities for the purposes of the Race Relations Act 1976. They are probably Britain's most disadvantaged ethnic group:
- Gypsies and Irish Travellers have the poorest life chances of any ethnic group today: life expectancy for Gypsies and Irish Travellers in Leeds is 28 years less than for the general population; Gypsy and Irish Traveller mothers are 20 times more likely than mothers in the rest of the population to have experienced the death of a child; and, in 2003, less than a quarter of Gypsy children achieved five GCSEs at A\*-C grades, compared to a national average of just over half.
- No duty to provide sites for Gypsies & Travellers in its area? This is correct in the sense that the old duty to provide adequate accommodation for gypsies residing in or resorting to [the council's] area under s24 Caravan Sites and Control of Development Act 1960 was abolished by the Criminal Justice and Public Order Act 1994. However, as a bald statement it requires significant qualification.
- Local housing authorities have a duty to consider housing conditions in their district and the needs of their district with respect to the provision of further housing accommodation (s8 Housing Act 1985). When undertaking such a review they must carry out an assessment of the accommodation needs of Gypsies & Travellers residing in or resorting to their district (s225 Housing Act 2004). The needs of the Gypsy & Traveller community are thus an essential part of a proper housing strategy. Further, applying public law principles, any authority which subsequently departs from its published strategy would need strong justification for doing so.
- Circular 01/06 Planning for Gypsy & Traveller Caravan Sites provides guidance to local planning authorities on the provision of sites for Gypsies & Travellers. It gives guidance as to how appropriate levels of Gypsy & Traveller site provision should be determined under the new planning system set out in the Planning Act 2004. The starting point for

this provision is to be the assessment of the need for further sites. The circular remains in force.

- The joint effect of planning law and policy within Circular 01/06 and the obligations on local authorities under the Housing Acts should be, according to the Government, to require them to develop a coherent strategy taking in both housing and planning functions which will result in greater site provision for Gypsies & Travellers and which will help to avoid the cycle of homelessness and evictions that gives rise to the problems referred to above. *Circular 01/06, paragraphs 3, 5 and 10 – 12*
- Thus while the old duty to provide adequate accommodation for Gypsies & Travellers resorting to a local authority area has been repealed, it has been replaced by an overarching policy the purpose of which is to ensure that adequate accommodation is available but which is deliberately drawn more widely in order to allow for diversity in provision.
- The report entitled *Identifying Gypsy & Traveller Accommodation Needs in Yorkshire and The Humber* (July 2006) which is cited in the RSS as forming the evidence for the provisional regional and sub regional pitch requirements set out in part A of the policy [H6]
- The Leeds Core Strategy which provides that new Gypsy and Traveller accommodation should be provided in Leeds and that the best option for doing that is by providing a variety of small sites spread around the city close to existing communities, services and infrastructure, for a number of reasons;
- the Council's obligation to have due regard to promoting equality of opportunity for persons of different ethnic groups; fostering good relations between persons racial groups; and, eliminating discrimination (previously pursuant to Section 71 of the Race Relations Act 1976 (RRA) as amended, but now replaced in whole or in part by the Equalities Act 2010 (EqA), in particular those set out in Section 149(1)(a) to (c) EqA (the public sector equality duties));

- the decision of the Administrative Court in *Cala Homes (South) Limited v Secretary of State for Communities and Local Government* [2010] EWHC 2866 Admin) in which Justice Sales determined that the Secretary of State had acted unlawfully by purporting to revoke the Regional Strategies, with the effect that the Regional Spatial Strategy (RSS) remains in force.
- The Yorkshire and Humber Plan RSS of May 2008, of which policy H6 states expressly that additional site provision is needed, and sets out outcomes and indicators to measure success, the outcome being that ~~a~~sufficient accommodation has been provided for and Gypsies and Travellers~~q~~and the indicators being ~~P~~rovision of sites Gypsies and Travellers~~q~~and a ~~r~~eduction in unauthorised pitches~~q~~