

**Improving the Lives of Scotland's Gypsy/Travellers:
Policy Development and Delivery**

Improving the Lives of Scotland's Gypsy/Travellers: Policy Development and Delivery

Purpose

1. This paper updates on the Board's priorities to ensure that there is adequate provision of good quality accommodation for Gypsy/Travellers and to tackle racism and discrimination experienced by the community. It also establishes three areas for initial policy development and discussion. The purpose is to seek advice from the Board on these emerging policy positions and potential joint actions with the Scottish Government's Ministerial Working Group on Gypsy/Travellers.

Current COSLA Position

2. The Community Wellbeing Board has directed COSLA staff to work constructively at officer level with the Scottish Government's Ministerial Working Group on Gypsy/Travellers and to co-ordinate policy developments that can help to improve education, health, housing/accommodation and employment outcomes for the community. Members have chosen to prioritise work to improve housing/accommodation rights and to tackle racism and discrimination experienced by the community.
3. At the September meeting, the Board directed COSLA officers to undertake proactive policy and delivery work on key areas including increasing and improving the provision of permanent sites and supporting the fulfilment of Gypsy/Travellers rights to a nomadic lifestyle. This includes consideration of policy options to support ongoing investment in the development of local authority provision. It also includes the development of a cross-sector equality campaign and work to pilot the 'negotiated stopping' approach to managing roadside encampments.

What is Changing

(a) Improving the quality of permanent sites

4. The Scottish Housing Regulator published its report, *Improving Gypsy/Travellers' sites: landlords' compliance with minimum site standards*, on October 23. This found that 14 of the 27 Gypsy/Traveller sites across Scotland did not meet the standards by the June 2018 deadline and that a number of landlords will not have met the standards until 2019. We understand that the Scottish Housing Regulator has since required all relevant landlords to provide a remedial plan setting out how they will meet them and by what date. They are also considering whether further enforcement actions may be necessary. COSLA will be meeting with the Chair of the Regulator to discuss this further.
5. The Regulator's report requires urgent consideration by the Board, and discussion of further steps that can be taken to ensure Gypsy/Travellers accommodation is safe, secure and meeting statutory minimum requirements.

(b) Assessing the number of permanent sites

6. The Scottish Government has recently updated [guidance on assessing local housing needs and demands](#), and this includes a focus on assessing the specific accommodation needs of Gypsy/Travellers. Unfortunately, this process has not had the level of

Summary and Recommendations

This paper updates on the Board's agreed priorities for work to improve the housing/accommodation rights of Gypsy/Travellers and to tackle racism and discrimination experienced by the community. The paper specifically advises members that urgent and immediate actions are needed to ensure that all Local Authority-run sites are meeting statutory minimum standards. It also highlights a joint commitment from COSLA, Scottish Government and Police Scotland to work together to tackle negative attitudes towards Gypsy/Travellers and provide leadership across the public sector.

The paper additionally sets out three areas of proposed policy development and consideration for partnership work with the Scottish Government:

1. Transfer of Gypsy/Traveller services to the Housing Revenue Account;
2. Funding for new and improved provision; and
3. Wider policy reforms in line with equalities and human rights duties.

The paper invites members to:

- i. Discuss the updates on the key priorities agreed by the Board with respect to housing/accommodation and tackling racism and discrimination; and
- ii. Consider the proposed areas of policy development described above and approve future work with finance colleagues and the Scottish Government, including to develop future funding positions and to review relevant policy and legal issues impacting on the Board's priorities.

References

- 18-09-21 CWB Item 3.6: Improving the Lives of Scotland's Gypsy/Travellers: Housing and Accommodation Priorities
- 18-06-22 CWB Item 10: Improving the Lives of Scotland's Gypsy/Travellers
- 18-03-09 CWB Item 4: Improving Outcomes for Gypsy/Travellers

Eloise Nutbrown
Policy Manager
Migration, Population and Diversity Team
0131 474 9200
eloise@cosla.gov.uk

December 2018

engagement with COSLA that we had hoped. However, we would wish to ascertain the extent to which changes in assessing need might strengthen the way in which information is gathered.

7. We ask members to share information on methodologies and approaches currently in use to assess Gypsy/Travellers' housing/accommodation needs and demands (including settled housing; permanent sites; transit sites; and roadside encampments). We are additionally keen to hear views on whether a national housing needs and demands assessment for Gypsy/Travellers would be helpful in supplementing local authority data for this community.

(c) Supporting changes to the planning system

8. Local authorities have raised concerns that current planning legislation (which prohibits unauthorised roadside encampments) conflicts with public sector equalities duties and their obligations under the European Convention on Human Rights. Later in the paper we suggest a need for further work to be done on this issue, which may include a potential request for changes to secondary legislation to ensure that encampments can be authorised under agreed conditions, to facilitate Gypsy/Travellers' nomadic lifestyle. COSLA officers are additionally meeting with Planning Aid Scotland to discuss ways of working together to improve equality outcomes for Gypsy/Travellers, and a verbal update on this meeting will be provided at the Board meeting.

(d) Enabling temporary stopping

9. Further to discussions at the previous Board meeting, COSLA hosted a successful initial meeting for local authorities to explore opportunities to test the 'negotiated stopping' approach in Scotland. The meeting was attended by representatives from 16 local authorities along with Police Scotland, NHS and third sector partners and members of the Community Wellbeing Board. We are now asking local authorities to indicate their interest in participating in the pilot which will run during 2019 with support from Scottish Government.

(e) Tackling racism and discrimination

10. Since our last meeting, it was reported in the media that an internal communication circulated by an NHS Board used discriminatory language towards Gypsy/Travellers, and perpetuated negative stereotypes about the community. This raised significant concerns about Gypsy/Travellers access to and treatment by public services. COSLA's interim Community Wellbeing Spokesperson made a joint commitment with Scottish Government and Police Scotland to respond to these issues by helping to provide leadership across the public sector. It is proposed that work previously approved by the Community Wellbeing Board to help tackle racism and discrimination towards the community, will form the basis of this work. We also ask that members provide details of any specific training or engagement work currently in place within their own authority to assist staff to better understand and protect the rights of Gypsy/Travellers and to share views on what might be useful for our national partnership to achieve.

Proposed COSLA Position

11. In order to address the Board's housing/accommodation priorities, we propose that our policy positions meet two key principles or tests:

- **Equalities and human rights based approach:** investment in new and improved services for the Gypsy/Traveller community should be fully compliant with our

equalities and human rights obligations and have parity with arrangements in place for the settled community.

- **Securing sufficient investment in local delivery:** local authorities are under significant budgetary pressure, therefore there is a need for sufficient funding to deliver new and improved provision as well as additional support to meet the needs of especially vulnerable groups

12. Based on these tests, there are three policy areas where we believe that partnership actions with the Ministerial Working Group might be usefully explored. We ask for initial views and input from the Board, with a view to further consulting with key stakeholders in 2019.

(a) Transfer housing services for Gypsy/Travellers to the Housing Revenue Account

13. Scottish Government's Ministerial Working Group has been considering proposals to transfer the cost associated with accommodation services for the Gypsy/Traveller community from the Local Authority General Fund to the Housing Revenue Account (HRA). This is an option that has previously been put to the Ministers for consideration as a means of strengthening housing/accommodation outcomes for Gypsy/Travellers. It has been suggested that a transfer to the HRA would ensure that investment decisions match arrangements in place for the settled community and are made in the context of other housing related priorities including physical condition, demand, service quality and tenants' views. From an equalities and human rights perspective this could be considered a more appropriate set of benchmarks for assessing priority.

14. Initial discussions with ALACHO and with local authority officers have indicated some support for the proposal amongst those responsible for strategic and operational decision-making related to Gypsy/Traveller housing/accommodation provision. ALACHO has advised that it may lead to more timely investment in existing sites and facilities. However, the proposal may present financial risks or may not be viable from a finance perspective, should the change transfer a deficit into the HRA. There is also a lack of evidence to demonstrate that changing the context in which funding decisions are made will increase levels of provision or investment.

15. Our understanding is that Ministers have not yet formed a view on this issue and are unlikely to introduce any changes of this nature without Local Government support. It is important to note that local authorities can currently request permission from the Scottish Government to transfer Gypsy/Traveller funds to the HRA. The proposal put before the Ministerial Working Group aimed to consider the benefits of adopting this as the typical funding arrangement going forward. Cllr Whitham is due to meet the Minister for Housing and Minister for Equalities and Older People to discuss this and other key policy proposals being considered by the Ministerial Working Group early in the new year.

16. We recommend that local authorities discuss this particular option – alongside others in this paper – and seek a view from Finance Directors on whether it might be appropriate for their local authority. We would welcome initial views and input, to inform a proposed position to be brought to the Board at a future meeting.

(b) Funding for new and improved provision

17. The Grant Aided Expenditure settlement for local authorities includes approximately one million pounds per annum to support investment in services for Gypsy/Travellers. This is insufficient to meet the actual revenue and capital costs of developing and running Gypsy/Traveller sites and related services. In recent years, there has not been any additional money provided to Local Government to account for the (real or projected) costs

of developing or substantially improving the quality of Gypsy/Traveller provision across Scotland. Gypsy/Traveller accommodation is also not currently supported through the Scottish Government's Affordable Homes Programme or other dedicated grants.

18. COSLA's Finance Spokesperson is currently leading negotiations to ensure that Local Government receives a fair settlement in the next Budget. We ask for initial views from the Board on funding priorities for Gypsy/Traveller housing and accommodation priorities and propose that work is taken forward to develop a position on future funding to be brought to the Board for consideration. It would be helpful to understand local authorities' views on levels of funding that may be required to support delivery of new and improved provision (including what support might be necessary if local authorities were to consider a transfer of Gypsy/Traveller funds to the HRA as discussed above). We would also welcome views on the scope of the Affordable Housing Programme to include grant aid. Previous arrangements for providing grant aid to support the construction of Gypsy/Travellers sites may be a useful starting point for discussion. We would welcome any information about local authorities' experiences of previous funding arrangements.

19. A further proposal for specific consideration is whether Scottish Government should develop a support package for private sector provision of Gypsy/Traveller sites, including both self-provision by family groups and the development of commercial private sector provision. This has been highlighted to officers supporting the Ministerial Working Group as a potential option to better meet Gypsy/Travellers' accommodation needs. It has been suggested that this would help to ensure that Gypsy/Travellers are able to access the same range of support available to settled home owners (including help to buy and shared ownership and build to rent programmes) where this preference has been identified. We would welcome initial input on this and the impact on local authority duties.

(c) Wider policy reforms in line with equalities and human rights duties

20. As set out above, there are a number of areas where policy change and/or potential legislative change may be needed to ensure that Gypsy/Travellers have parity of support and investment for their housing/accommodation rights. There is a need for further partnership work to ensure that all national and local policies are effective at promoting equalities and human rights.

21. In addition to potential funding changes, other adjustments may be needed to ensure that the management of Gypsy/Traveller accommodation and the provision of services are effective at promoting equality and human rights. Potential disparity between rent setting policies for Gypsy/Traveller sites; choice and cost of energy supply; and provision of basic services including repairs, site addresses and postal services have all been raised within discussions with Gypsy/Traveller residents and Gypsy/Traveller Site Managers in recent months. The Board may wish to request that COSLA works with Scottish Government to ensure that all of our current frameworks deliver parity of essential service provision and that these are delivered to consistent standards. Previous COSLA work to support the introduction of minimum site standards and best practice in managing roadside encampments may be a useful starting point for discussion and provide examples of where Local Government has previously played a lead role in driving national improvements from an equalities and human rights perspective.

22. A specific issue of concern is the implication of current planning legislation for local authorities, when seeking to fulfil their equalities and human rights duties. Concerns have recently been raised that the continuation of regulations that officially prohibit roadside encampments, including caravans for human habitation, may be discriminatory towards Gypsy/Travellers and make it more challenging for local authorities to engage positively with communities who wish to exercise their rights to a nomadic lifestyle, for example by officially requiring Planning Authorities to breach planning regulations in order to facilitate

temporary stopping on local authority land. Officers recommend that work is undertaken to explore any further changes to legislation that might be necessary to better protect the rights of Gypsy/Travellers and to ensure that local authority planning and enforcement powers are consistent with equalities and human rights duties.

Next Steps

23. We recommend that COSLA officers work with housing and finance colleagues to examine and further develop positions relevant to paras 13-19.

24. We also recommend that COSLA officers undertake work in partnership with local authorities and key stakeholders, including from the Scottish Government Equality Unit, to develop positions in relation to paras 20-22.

December 2018