



*Definition of the term ‘gypsies
and travellers’ for the purposes
of the Housing Act 2004*

Summary of responses



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On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government

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Introduction

1. The Department for Communities and Local Government received 38 responses to its consultation paper, 'Definition of the term 'gypsies and travellers' for the purposes of the Housing Act 2004'.
2. Section 225 of the Housing Act 2004 (the Act) places a duty on local housing authorities to undertake regular assessments of the accommodation needs of 'gypsies and travellers' either living in, or resorting to their area, under the Local Housing Needs Assessment process set out in Section 8 of the Housing Act 1985. The Act also requires local housing authorities to include the needs of 'gypsies and travellers' in any housing strategy they produce in line with section 87 of the Local Government Act 2003 and to take any such strategy in to account in exercising their functions.
3. Section 225(5)(a) provides that the term 'gypsies and travellers' has the meaning given by regulations made by the appropriate national authority. In relation to England the appropriate national authority is the Secretary of State and this power is being exercised by the Secretary of State for Communities and Local Government. The Government therefore consulted on a definition of 'gypsies and travellers' which will apply when local housing authorities are carrying out accommodation assessments and preparing accommodation strategies in respect of this group.
4. The consultation exercise ran for 12 weeks from 2 February 2006 until 28 April 2006 although late responses were accepted after this date.

The breakdown of respondents is as follows:

Local Authorities/Local Authority groupings	15
Regional Assemblies (officers)	1
Gypsy and Traveller Representative Groups (Two of the responses represented a number of organisations)	5
Individuals	8
Members of Parliament	1
Other organisations	8

5. Some responses were on behalf of organisations representing a wide membership or were joint responses representing the views of a range of organisations.

Consultation Questions

6. For the purposes of the Act the following definition was consulted upon:

'gypsies and travellers' means:

Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism and/or caravan dwelling.

7. Consultees were asked the following questions in the consultation exercise:

- Does the proposed definition capture the right groups of people?
- Are there any unjustifiable disproportionate impacts on any ethnic minorities?

General Comments

8. Around half of the respondents were fully supportive of a broad definition, although some of those respondents had concerns about the precise wording of the definition and raised other related issues. Others had specific concerns regarding the scope of the definition itself. The issues raised and the Government's responses are set out below.

Key issues raised

USE OF LOWER CASE G AND T

9. Seven of the respondents to the consultation, in particular those from Gypsy and Irish Traveller representative organisations, were dismayed at the use of lower case g and t throughout the consultation document as they believed it undermined the fact that Romany Gypsies and Irish Travellers were recognised ethnic groups and were covered by race relations legislation. Respondents that raised this issue thought that the term should be capitalised, even where it might cover other travellers that were not members of these ethnic groups, since the majority of those covered by the term were ethnic Gypsies and Travellers and to use lower case g and t was derogatory.

RESPONSE

10. As explained in the consultation document itself, the term 'gypsies and travellers' is what appears in the Act and therefore the Department replicated the term in lower case throughout the document so as not to presuppose the ethnicity of those covered by the definition i.e. in recognition of the fact that

some nomadic people covered by the definition would not necessarily be Romany Gypsies or Irish Travellers.

11. However, the Department recognises that Romany Gypsies and Irish Travellers are separate ethnic groups and that this ethnic status cannot be removed. In addition, in response to this concern, unless the actual term in legislation is being referred to (which uses lower case and cannot be changed by secondary legislation) the Government will use upper case G and T in the future. The formulation, Gypsies and Travellers, in upper case is therefore used throughout this document, particularly given that the broad definition is intended to cover all ethnic Gypsies and Travellers as well as other types of traveller.

INCLUSION OF ALL NOMADIC PEOPLE REGARDLESS OF RACE OR ORIGIN

12. Four respondents (one of which represented around 13 Gypsy and Traveller groups) expressed concern over the breadth of the proposed definition and argued that a definition should be confined solely to ethnic Gypsies and Travellers rather than encompassing other types of traveller (three of the four respondents also supported the adoption of an ethnic definition for planning purposes rather than the definition contained in Circular 01/06 Planning for Gypsy and Traveller Caravan Sites)

RESPONSE

13. Prior to the introduction of section 225 of the Act, many local housing authorities had failed to include Gypsies and Travellers in traditional housing needs assessments in their areas. This lack of understanding about need for forms of accommodation other than traditional bricks and mortar housing had partly resulted in the present situation where around 25% of Gypsy and Traveller caravans are on unauthorised sites (as at July 2006 Caravan Count).
14. In introducing section 225 into the Act, the Government sought to redress an imbalance that had existed for a number of years. In doing so, the Government's aim is that local housing authorities understand the range of need amongst ethnic Gypsies and Travellers whether they are in caravans or in bricks and mortar housing as well as the need of other types of traveller who may live in caravans and who have a nomadic habit of life. By understanding need amongst this broad group local authorities can then plan strategically to meet that need, whether through the provision of caravan sites, through the identification of land in plans for private provision or through support services to enable those in housing to sustain tenancies.
15. Some of those currently living in caravans on unauthorised sites are not ethnic Gypsies and Travellers but nevertheless need somewhere authorised to live. Therefore in order to understand the full range of need and provide the necessary amount of accommodation or land, local housing authorities must include those who have a nomadic habit of life, regardless of their race or origin, in the assessment process. It is for this reason that the Government still believes a broad definition is necessary which encompasses both ethnic Gypsies and Travellers and others who have a nomadic habit of life.

16. In the context of planning, using an ethnic definition of Gypsies and Travellers would effectively allocate land for a particular ethnic group – which might discriminate against members of other ethnic groups who would not benefit in the same way.

EXISTENCE OF MULTIPLE DEFINITIONS

17. 10 respondents advocated the use of a single definition for housing and planning purposes, however, there were varying views on what might be the most appropriate definition to adopt. A few supported the adoption of the planning definition (as contained in Circular 01/2006 Planning for Gypsy and Traveller Caravan sites) for both housing and planning purposes while one expressed support for a single definition, but offered no views on which definition might be appropriate. One response also supported the adoption of the proposed housing definition for planning purposes. Three respondents supported an ethnic definition for both housing and planning purposes; these responses have been dealt with above.
18. A few also noted that the Caravan Sites and Control of Development Act 1960 (CSCDA), contains a power for local authorities to provide additional working space on caravan sites for Gypsies and that the definition contained in that Act was different again and a narrower version of the one contained in Planning Circular 01/06. One of these respondents advocated the adoption of the CSCDA definition for all purposes.
19. Others understood the reasoning behind having different definitions but thought that the interface between housing and planning systems, where some people may fall within one definition but outside another was confusing.

RESPONSE

20. The Government carefully considered adopting one definition for both housing and planning purposes but felt it was not appropriate to do so. Adopting the 'planning' definition for the purposes of the Act would mean that those ethnic Gypsies and Travellers that may live in housing who may have ceased to travel for reasons other than those set out in the planning definition e.g. lack of authorised sites, would not be included. The Government believes it to be important that local housing authorities, in assessing need, seek views from Gypsies and Travellers that currently live on sites, both authorised and unauthorised and from those ethnic Gypsies and Travellers that may live in housing and may not be getting access to appropriate housing or other services that they need. Need identified through the Gypsy and Traveller Accommodation Assessment may not be confined to those in need of a caravan site but might uncover other accommodation needs such as different types of housing requirements or other support services.
21. Using a broader definition for the purposes of planning policy was also considered. However, as the planning system allocates land based on land use requirements, it was concluded that this would be inappropriate since using a wider definition encompassing all ethnic Gypsies and Travellers, regardless of

their way of life would effectively allocate land for a particular ethnic group – which might discriminate against members of other ethnic groups who would not benefit in the same way.

22. The broader definition which was consulted on for the purposes of the Act enables local housing authorities to assess and strategically plan for the wide range of need that may exist (amongst those of a nomadic way of life and amongst ethnic Gypsies and Travellers on caravan sites and in housing) – it does not imply that those assessed should have their needs met in a particular way. As recognised in the consultation paper, neither the housing nor the planning definition has an effect on the ethnic status of Romany Gypsies and Irish Travellers whose ethnicity cannot be removed.
23. In response to the concern that the interface between the needs assessment and the planning system is not obvious, the definition now separately identifies the groups covered within it (although recognising that some people may fall within more than one group), allowing authorities to see more clearly which planning policy is relevant to which group.
24. The definition cited in the Caravan Sites and Control of Development Act 1960 (CSCDA) provides a permissive power so that local authorities can provide additional working space and other facilities for anyone on caravan sites who falls under the definition of ‘gipsy’. The definition in the CSCDA does not recognise that many Gypsies and Travellers want to settle for health and education reasons and does not match modern requirements. The Government does not believe it is appropriate to adopt the CSCDA definition for housing purposes. However, if a suitable legislative opportunity occurs, the Government will consider whether to align the CSCDA definition with the housing definition allowing local authorities to provide sites for all those identified as in need.

TRAVELLING SHOWPEOPLE

25. Four respondents did not believe that the definition should include travelling showpeople since they have not traditionally been included in the grouping of Gypsies and Travellers and they believed the issues which travelling showpeople face to be different. However, those respondents recognised that local housing authorities should separately assess the needs of travelling showpeople and where appropriate, provide sites for them, they just didn’t believe this definition would be the most appropriate way to achieve this aim.
26. This view was balanced by The Showman’s Guild of Great Britain which welcomed the fact that travelling showpeople were not excluded from the definition and fully supported the idea that local housing authorities should include travelling showpeople in assessments of need, particularly because they faced a shortage of accommodation similar to that suffered by those more traditionally covered by the term Gypsies and Travellers. Whilst they acknowledged the fact that showpeople were not traditionally Gypsies and Travellers (as recognised by the fact that a separate planning circular applied to them) they recognised that the accommodation needs assessment process would be an appropriate way to assess the needs of showpeople, even if the needs identified might be different to other Gypsies and Travellers and

therefore planned for differently. However, the Showmen's Guild found the consultation document somewhat ambiguous on whether travelling showpeople should be included and urged the Department to clarify to local housing authorities that they should be included in any needs assessments.

RESPONSE

27. The definition which was consulted upon implicitly included travelling showpeople, since the group in question have a cultural tradition of nomadism and/or living in caravans. However, the Government also recognises that many local authorities have overlooked the needs of this group in wider housing needs assessments and that specifically including travelling showpeople in the definition will make this requirement more explicit. For much of the year, travelling showpeople travel with their businesses and have land on which to station their caravans and carry out their work. However, there is a shortage of winter quarters and accommodation where family may wish to remain during the summer months for educational or health reasons. The definition will therefore be amended to explicitly include travelling showpeople.
28. The Government recognises that some local housing authorities might have already undertaken needs assessments and not included travelling showpeople in their assessments since they are not traditionally grouped with Gypsies and Travellers. In these circumstances, local housing authorities should seek to include travelling showpeople in future updates of the Gypsy and Traveller Accommodation Assessment. In the meantime, those local housing authorities should consider whether it is necessary to conduct a mini accommodation assessment of the needs of travelling showpeople. The Showmen's Guild of Great Britain is a useful source of information regarding the location of travelling showpeople. The guidance on conducting Gypsy and Traveller accommodation assessments is currently in draft form and when finalised will offer any additional guidance necessary on conducting assessments for Travelling showpeople.

Other issues raised

Nomadism should be specified by moving every 60 days

29. The Government accepts that Gypsies and Travellers increasingly would like to settle on sites for a number of reasons including access to work, educational and health reasons. The Government therefore believes it would be unreasonable to suggest that Gypsies and Travellers should have to move on a regular basis, particularly given the evidence that frequent moving can result in social exclusion and lack of access to services. Many Gypsies and Travellers still travel regularly albeit on a more limited basis than previously to annual events or on summer holidays. If Gypsies and Travellers were encouraged to move frequently, the lack of transit sites to accommodate them would also exacerbate the incidence of unauthorised camping since they would have no authorised site on which to camp.

One authority suggested that the Government should issue guidance on the definition of a New Traveller as opposed to an ethnic Gypsy or Traveller since it is not always obvious whether someone would fall within the proposed definition.

30. A local housing authority should use a pragmatic approach to conducting its Gypsy and Traveller accommodation assessment. The local housing authority should gather a good evidence base to inform its accommodation strategies and subsequent delivery plans. If someone is believed to fall within the definition then it would be advisable to err on the side of caution and consider the needs of this group within the assessment. For example, if there is a known group within the local authority area that is suspected to fall within the definition, it would make sense to approach them and discuss their housing needs. On the basis that local housing authorities have to consider the housing needs of the general population anyway, and the people in question appear to be pursuing a nomadic habit of life, then it would be sensible to assess their needs. However, as the draft guidance on conducting Gypsy and Traveller accommodation assessments advises, local housing authorities are not expected to assess the needs of every individual that may fall within the definition and assessing the needs of a representative sample may provide enough information on which to base projections.

It is not possible to identify Gypsies and Travellers in housing

31. As the draft practice guidance on conducting Gypsy and Traveller accommodation assessments suggests, those organisations that may work with Gypsies and Travellers on a regular basis may be helpful in identifying Gypsies and Travellers in housing. Such organisations might include the Traveller Education Service and local health workers although of course any information sharing would be subject to data protection principles. Gypsies and Travellers living on established sites are also likely to have links with Gypsies and Travellers in housing and may be able to assist in accessing those in housing. Councils are encouraged to conduct ethnic monitoring (including the categories of Gypsy and Irish Traveller) of their local authority tenants to gain a better understanding of the ethnic backgrounds of those that may live in housing. In fact, in its recent report 'Common Ground', the Commission for Racial Equality specifically recommended that local housing authorities add two separate categories for Gypsies and Irish Travellers in all ethnic monitoring arrangements, and take steps to encourage them to provide information about their ethnicity.
32. Some of those Gypsies and Travellers that may be living on unauthorised encampments in the area may be visiting friends and family who live in housing and may be able to assist researchers in contacting Gypsies and Travellers living in housing.
33. The Government also recognises that there may be some Gypsies and Travellers living in housing who may not wish to identify themselves as Gypsies or Travellers, for a variety of reasons, and local housing authorities are not expected to survey every individual Gypsy and Traveller that might live in housing.

Local housing authorities will find it hard to separate need from demand when conducting Gypsy and Traveller accommodation assessments and analysing the data.

34. Definitions of need and demand are specified in the draft guidance on conducting Gypsy and Traveller accommodation assessments.

The definition should include those who have ceased to travel due to the shortage of sites

35. Those ethnic Gypsies and Travellers that may have ceased to travel due to shortage of sites, would be included in the definition on the basis that they have a cultural tradition of nomadism and/or living in a caravan.

Migrant workers are increasingly working in jobs that Gypsies and Travellers may have worked in and local housing authorities should also assess their needs.

36. Whilst it is true that migrant workers often undertake fruit picking and other types of work that may have traditionally been undertaken by Gypsies and Travellers, local housing authorities should assess their needs as part of the wider housing needs assessment which they are required to undertake. Although the Gypsy and Traveller accommodation assessment may identify other needs, its primary focus is to identify the number of additional caravan pitches that are required in an area. Migrant workers don't necessarily want to live in caravans and the Government doesn't believe that Gypsy and Traveller accommodation assessments are the right mechanism to assess their needs.

One respondent supported the definition but was concerned that those members of the public that were not Gypsies or Travellers but that might want to live in caravans were not able to do so and that Gypsies and Travellers should not be given preferential treatment

37. Local housing authorities are under a statutory duty to assess the housing needs of the general population. The assessment of the needs of Gypsies and Travellers does not mean that the need for other forms of accommodation should not be assessed amongst the general population. If an individual wants to apply for planning permission to site a caravan for residential use then they are able to do so.

A few respondents were concerned that the proposed definition didn't allow self identification.

38. The Housing Act definition is relevant for the purposes of assessing need and strategic planning to meet that need. The Government believes that the breadth of the definition allows those that would consider themselves Gypsies and Travellers to identify themselves as such.

A couple of respondents suggested that some people might be happy living in housing and/or might not want to have their needs assessed.

39. When local housing authorities conduct Gypsy and Traveller accommodation assessments there is no obligation on those people that might be approached to take part in any survey. The Government acknowledges that many Gypsies and Travellers may have made an active choice to live in bricks and mortar housing and may be content to continue doing so. However, this should not stop local housing authorities making efforts to reach Gypsies and Travellers in housing.

One response suggested that the definition for the purposes of conducting a Gypsy and Traveller accommodation assessment should be all those covered by the definition contained in the Caravan Sites and Control of Development Act 1960 and all those with a demonstrable need for land on which to station their caravan.

40. The purpose of conducting a Gypsy and Traveller accommodation assessment is to identify the varying types of need that might exist. Once identified, it will be for the local housing authority to separate need from demand and prioritise that need accordingly. However, making a decision on what is 'demonstrable need' may prejudice the outcome of the Gypsy and Traveller Accommodation Assessment. Once need has been identified it will be for the local authority to formulate a delivery strategy showing how it will meet that need.

Conclusion

41. The definition used for the purposes of section 225 of the Act is a working definition for local housing authorities to use in assessing the level of need and strategically planning for accommodation for Gypsies and Travellers. It does not seek to undermine the ethnic status of any individual group that might be contained within the wider definition e.g. Romany Gypsies or Irish Travellers, but is a pragmatic way of defining a broad group of people that may have similar accommodation needs that have not previously been addressed.
42. As a result of the varied responses received to the consultation paper, the Government has made changes to the definition consulted upon and has set out the following definition in regulations for the purposes of section 225 of the Act:

“gypsies and travellers” means:

- (a) persons with a cultural tradition of nomadism or of living in a caravan; and
- (b) all other persons of a nomadic habit of life, whatever their race or origin, including:
 - (i) such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and
 - (ii) members of an organised group of travelling showpeople or circus people (whether or not travelling together as such).