



The Traveller Movement's submission to the UN Human Rights Council's Universal Periodic Review of the UK's human rights record



Traveller Movement (TM) is a national community charity promoting inclusion and community engagement with the Gypsy, Traveller and Roma communities in Britain. Formerly called the Irish Traveller Movement in Britain, TM was established in 1999.

This submission was drafted in consultation with TM's stakeholders; TM is extremely grateful for their invaluable contributions. Stakeholders' endorsements of the submission are listed at Annex 1.



The Traveller Movement,
The Resource Centre, 356 Holloway Road, London, N7 6PA
Tel 020 7607 2002 | Fax 020 7607 2005
www.travellermovement.org.uk
Email: policymanager@travellermovement.org.uk

1. INTRODUCTION

- 1.1. Gypsies, Travellers and Roma (GTR)¹ people continue to experience some of the highest levels of discrimination and poorest life chances in the UK.²
- 1.2. As health and policing authorities do not record GTR ethnicity³, they remain an invisible minority on health and criminal justice policy agendas.⁴
- 1.3. The UK Government's actions, and inactions, have made the lives of GTR people in England, Wales and Scotland even more insecure and increased the disadvantages they face in 2016.

¹ In this submission the acronym GTR is used to refer to Gypsies, Travellers and Roma individuals and communities. Gypsies, Travellers and Roma is the preferred designation used by the communities in the UK and as such recognises the communities' distinct histories of migration to the UK by the order in which named. In European documentation and discussions the preferred term is 'Roma' which encompasses diverse groups including Roma, Gypsies, Travellers, Manouche, Ashkali, Sinti, Boyash and others. The acronym G&T refers to Gypsy/Gypsies and Traveller/s.

² *Inequalities experienced by G&T communities: a Review* Sarah Cemlyn, Margaret Greenfields, Sally Burnett, Zoe Matthews and Chris Whitwell; University of Bristol, Buckinghamshire New University, Friends, Families and Travellers, 2009. Available at: www.equalityhumanrights.com/sites/default/files/research_report_12inequalities_experienced_by_gypsy_and_traveller_communities_a_review.pdf. See also *England's most disadvantaged groups: Gypsies, Travellers and Roma*, March 2016; available at EHRC: www.equalityhumanrights.com/sites/default/files/ief_gypsies_travellers_and_roma.pdf

³ The UN CERD expressed concern that '*data are neither collected systematically in all fields where racial discrimination exists, not uniformly across the [UK's] jurisdiction... It is also concerned at the lack of systematic and effective use of data to develop policies to tackle racial discrimination and notes initiatives such as "2020 Vision" are not based on objective baseline assessment. The Committee also notes the concern that a shift of the State party's policies away from special measures that are targeted specifically towards vulnerable groups may in the present circumstance exacerbate the existing inequalities on the grounds of race, colour, descent, or national or ethnic origin*'; para 13, *Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom*, August 2016, CERD/C/GBR/CO/21-23

⁴ '*The literature suggests that: Gypsies, Travellers and Roma are significantly under-represented as victims in criminal justice processes, whereas they are significantly over-represented as offenders in criminal justice systems throughout Europe. There is a subsequent mistrust of criminal justice processes and personnel, particularly police, amongst Gypsy, Traveller and Roma communities and a lack of willingness amongst those communities to therefore engage with them to either report crime or victimisation*'. See page 5 *Crime and Punishment: Gypsies, Travellers and Roma in the criminal justice system*; Greenfields, M., James, Z. and Berlin, J. Thematic meeting report Council of Europe / European Academic Network of Romani Studies (2015). Available from: <http://bucks.ac.uk/content/documents/Research/INSTAL/Bridging the Gap Criminal Justice Report .pdf>

1.4. TM has prioritised six human rights which the Government continues to fail to adequately respect, protect and fulfil in relation to GTR. These are:

1.4.1. Right to equality and non-discrimination

1.4.2. Administration of justice and the rule of law

1.4.3. Right to respect for family life, the traditional Gypsy and Traveller way of life & an adequate standard of living

1.4.4. Right to health

1.4.5. Education

1.4.6. Freedom of expression.

2. FOLLOW UP TO THE 2012 UPR

2.1. TM'S 2012 submission to the Human Rights Council (HRC) recommended the implementation of national strategies to tackle socio-economic inequalities affecting GTR minorities.

2.2. In this submission, TM repeats many of its 2012 recommendations; it also highlights recent policy developments which have had an adverse impact on the lives of GTR people.

3. RIGHT TO EQUALITY AND NON-DISCRIMINATION:

3.1. **Recommendation 110.53⁵ has not been met in relation to GTR.**

3.2. As noted in 2008, despite the UK's '*advanced approach to promoting non-discrimination and equality, **inequalities continue to affect persons belonging to minority ethnic communities in the fields of employment, education, housing, health and access to justice.***'⁶ This is still the experience of GTR minorities in 2016.

⁵ A/HRC/21/9: 110.53: *Take effective measures to eliminate discrimination on the grounds of race, religion and nationality and to guarantee the rights of Muslims, Roma people and migrant workers.*

⁶ Noted in 2008 in the HRC's first review of the UK in the submission by the **Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe**, page 3, para 9 of the HRC'S Working Group on the UPR First session, summary of stakeholders submissions: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/115/86/PDF/G0811586.pdf?OpenElement>

- 3.3. Despite the UK's strong legislative protection against discrimination,⁷ many GTR people continue to experience racial discrimination.⁸ TM regrets that the UK did not accept the 2012 recommendation to strengthen measures to reduce inequalities which exist despite that legislation.⁹

GTR experiences of discrimination

- 3.4. The interim findings of TM's 2016 online discrimination survey¹⁰ show that 98% of GTR respondents had experienced discrimination because of their ethnicity.¹¹ Some results to date include:
- 3.4.1. 81% had experienced hate speech/crime
 - 3.4.2. 77% had experienced discrimination in education
 - 3.4.3. Over one third of respondents experienced discrimination in planning/accommodation (39%), health care (38%) and employment (39%)
 - 3.4.4. 77% had hidden their ethnicity to avoid discrimination
 - 3.4.5. Over 50% had been refused services because of their ethnicity.¹²

⁷ UN Universal Periodic Review Mid Term Report of the United Kingdom (2014) page 68: '*... the UK has a very strong legislative framework to protect individuals and communities from discrimination, complemented by the UK ratification (and implementation) of a range of international human rights instruments at United Nations and regional level. This framework is kept under review to ensure it remains effective and appropriate in the face of new challenges.* Since 1976, the UK's equality legislation (the Race Relations Act 1976 as amended by the Equality Act 2010) has prohibited discrimination, harassment and victimisation on the grounds of race, colour and ethnicity in employment, education, housing and the provision of goods, facilities and services. Romani Gypsies (*CRE v Dutton* [1989] 1 All ER 306, CA) and Irish Travellers (*O'Leary v Allied Domecq* August 29, 2000 (unreported), Central London County Court) are recognised in law as distinct ethnic minority groups.

⁸ For more information on Roma specific experiences gathered by the Equal Rights Trust in 2015 in a consultation exercise with Roma communities (i.e. members of the migrant Roma community – those who originate in other European countries and whose families have immigrated to the UK at some point in the past), see

<http://www.equalrightstrust.org/ertdocumentbank/Equal%20Rights%20Trust%20Submission%20to%20CERD%20on%20United%20Kingdom.pdf>

⁹ The UK did **NOT** support recommendation 110.102: *Strengthen measures aimed at reducing serious inequalities in access to health, education and employment which still exist despite the adoption of the Equality Act.* See para 21 A/HRC/21/9/Add.1

¹⁰ TM is conducting an online survey on discrimination experienced by Gypsies, Travellers and Roma in 2016. This survey is ongoing in September 2016; the interim report is available at: <http://travellermovement.org.uk/wp-content/uploads/Discrimination-survey-report.pdf>.

¹¹ This discrimination had occurred in all areas of life including at school, in bars/pubs/restaurants, by police forces, in shops, by councils/local authorities, by neighbours, at the doctor's, or on social media.

¹² This refusal of service had occurred in motels/hotels, shops, hospitals, GPs, dentists, churches, petrol stations/garages, pubs/restaurants, public toilets, government schemes, schools, parks, sport centres, holiday camps, insurance companies, libraries, cinema and amusement parks.

- 3.5. Two recent court cases exemplify the institutional discrimination experienced by GTR in relation to service provision in the private sphere,¹³ and in the public sector in relation to planning services.¹⁴

Accessing justice

- 3.6. The best equality laws or legal protections from discrimination are irrelevant if complainants cannot enforce their rights because they a) do not know these, or b) cannot access legal advice or representation.
- 3.7. TM's 2016 discrimination survey found that 71% of GTR respondents who had experienced discrimination did not seek legal advice/advocacy because they lacked trust in authorities, lacked knowledge of their rights, or lengthy/expensive legal processes.
- 3.8. The right to legal representation, paid for by the state where necessary, to protect and secure legal rights, without discrimination, is recognised as fundamental to a fair, just and humane democratic society.¹⁵
- 3.9. Since 2013 Government reforms have reduced the availability of legal aid; these reforms have been strongly criticised by the UN CERD, governmental scrutiny bodies and others.¹⁶¹⁷ The

¹³ In *Traveller Movement & others v JD Wetherspoons* May 2015, the Central London County Court held that the private service provider Wetherspoons had breached the Equality Act 2010 when it refused admission to Travellers on racial grounds in 2011. Nine successful complainants were awarded £3,000 damages each, see:

<http://www.communitylawpartnership.co.uk/traveller-other/323-the-traveller-movement-and-others-v-j-d-wetherspoon-plc>

¹⁴ In *Moore & Coates v Secretary of State for Communities and Local Government & others*, 2015, the High Court ruled that the Secretary of State for Communities and Local Government indirectly discriminated contrary to the Equality Act 2010 against two Gypsies when he decided to personally review their planning appeals. His decision to recover all appeals relating to Travellers' pitches put both ethnic G&T at a disadvantage because their appeals would take far longer to be determined. The court also held that the SSCLG had breached his Equality Act public sector equality duty and his practice delayed the decision-making process in breach of Article 6 of the European Convention on Human Rights. See: <http://www.communitylawpartnership.co.uk/traveller-planning/277-moore-a-coates-v-ssclg>

¹⁵ International instruments requiring such rights to be made available to all persons include Articles 3, 14 & 26 UN International Covenant on Civil and Political Rights; Articles 6, 13 & 14 European Convention on Human Rights; and Articles 21 & 47 EU Charter of Fundamental Rights.

¹⁶ Implemented under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Government's civil legal aid reforms were criticised in 2015 by the UK House of Commons Committee of Public Accounts *Implementing reforms to civil legal aid*, Thirty-sixth Report of Session 2014–15 [http://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20\(web%20version\)%20v2.pdf](http://www.parliament.uk/documents/commons-committees/public-accounts/HC%20808%20civil%20aid%20final%20(web%20version)%20v2.pdf)

¹⁷ The **UN CERD** expressed concern about the Government's legal aid reforms and the consequent '*restricted access to justice for individuals belonging to ethnic minorities in areas such as employment, housing, education and social welfare*'. It recommended that the UK '*undertake a thorough assessment of the impact of the reforms to the legal aid system to ensure that individuals belonging to ethnic minorities are not disproportionately affected*.' Paras 20 & 21 *Concluding observations on the twenty-*

introduction of a mandatory telephone gateway for discrimination cases,¹⁸ and more stringent financial eligibility tests have reduced access to justice for clients who would previously have been eligible for legal aid.¹⁹ Significantly increased court fees and radical changes to both funding for judicial review and conditional fee agreements²⁰ have increased the negative impact of the reforms.²¹

3.10. NGOs, which could provide advice or representation, do not receive adequate funding to support GTR complainants.

3.11. Without viable alternatives for those who cannot afford to pay privately, access to justice is severely limited.

first to twenty-third periodic reports of United Kingdom, August 2016, CERD/C/GBR/CO/21-23. In the 2015 UK House of Common's Justice Select Committee's report *Impact of changes to civil legal aid under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 – Justice*, the Committee concluded that 'the faulty implementation of the legal aid changes contained in Part 1 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 [LASPO] has harmed access to justice for some litigants'. This Committee also concluded that the Government's exceptional cases scheme, which was designed to act as a 'safety net' to compensate for its narrowing of legal aid, was not working to catch those cases where legal aid was vital to ensure access to justice.

See <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/311/31104.htm#a1>

¹⁸ The House of Lords reviewed the telephone gateway – called the Equality Advisory and Support Service – and in March 2016 reported that outsourcing the service (which up to 2012 was operated by the Equality and Human Rights Commission) had failed; despite the recommendation that the service be returned to the EHRC, the Government has decided to award the contract to G4S.

https://www.buzzfeed.com/alanwhite/exclusive-g4s-to-take-over-vital-government-discrimination-s?utm_term=.fjv16zjL07#.yaq5xdKBja

¹⁹ Research conducted by Hodge Jones & Allen in 2015 found that the amount of publicly funded civil cases fell by 46% following the introduction of LASPO in 2013. Although trends have now levelled out, civil legal aid budgets are still low, at around one-third of pre-LASPO levels, while workloads in civil representation stand at around two-thirds of what they were before the Act was implemented. See http://www.hja.net/wp-content/uploads/HJA_UNJUST_KINGDOM.pdf; contact TM for a copy of HJA's submission to the Bach Commission on Access to Justice.

²⁰ Conditional Fee agreements (CFA) are no longer an option in most discrimination claims as they are only viable in personal injury claims. Changes to CFA mean that neither the success fee nor after-the-event insurance premiums can be recovered from defendants making them far less viable, particularly in discrimination claims. (Costs protection exists in personal injury claims via 'Qualified One Way Costs Shifting'.) Without such costs protection, 'After the Event' insurance companies will not insure discrimination claimants as the cost of any insurance premium would exceed the likely damages recovered. In addition, claimants are unlikely to be able to afford disbursements, such as court fees (which have gone up dramatically). In addition, CFAs are also no longer as commercially viable, since lawyers' fees can only be recovered from the successful claimant's damages, to a capped level in many cases. Given damages tend to be low in discrimination claims, success fees are now a tiny sum, giving lawyers little compensation above basic rates, which is problematic particularly given there is no fee at all if the claim is unsuccessful; this in turn makes it difficult for lawyers to pursue more risky claims (which some of the most important and novel claims tend to be).

²¹ Judicial Review is a legal process by which individuals can challenge decisions made by public authorities. Many of the Government's reforms have been designed to deter claims and to introduce new procedural hurdles for claimants, including by restricting access to legal aid and sources of third party funding, all of which will have a particularly negative impact on GTR claimants. See also the No Mad Laws campaign which is fronted by Gypsies and Travellers and their supporters to highlight the disastrous effect the legal aid and judicial review reforms will have upon Gypsies and Travellers who do not have authorised stopping places, <https://www.nomadlaws.co.uk>

4. ADMINISTRATION OF JUSTICE AND THE RULE OF LAW

- 4.1. GTR people's experience of the UK's criminal justice system²² is often negative and counterproductive.

Policing

- 4.2. Most G&T perceive the police and the criminal justice system as serving the settled community. This has framed their experiences of, and attempts to access, justice.
- 4.3. Roma experiences of police brutality in their countries of origin, alongside illegal immigration and anti-trafficking operations targeted at them in the UK compound their fear and mistrust of the police service.²³
- 4.4. This mistrust of the police means that GTR people do not tend to report crimes.²⁴

Ethnic monitoring by police

²² Recognising that there is possible bias against black defendants and other ethnic minorities in the criminal justice system, in January 2016 the UK Government established an independent review of the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the criminal justice system. The report is due in spring 2017. See <https://www.gov.uk/government/organisations/lammy-review>

²³ Operation Nexus (ON) has created fear among Roma as a result of the UK Border Force's forced removal of people it deems are not using their European Union free movement rights. ON began in London in October 2012 and has since been rolled out in several other areas including the West Midlands and Manchester. ON is a joint initiative between the Home Office's Immigration Enforcement Directorate and several police forces, including the Metropolitan Police. It seeks to remove and/or deport foreign nationals whose deportation is said to be '*conducive to the public good*'. This includes, but is not limited to, people who have previous convictions either in the UK or in another country. To be forcibly removed, the Border Force/police have to prove that the person is a '*genuine, present and sufficiently serious threat against society, public policy, security or health*'. According to UKREN, such operations have resulted in many Roma living in vulnerable positions avoiding all contact with people they deem as 'officials', in case they are reported to Border Force/police. Home Office guidance for case workers (social services and others) was changed on May 4, 2016 and makes rough sleeping an abuse of free movement and subject to administrative removal from the country. A number of Roma live in their cars/vans or sleep in homeless accommodation until they have earned sufficient funds to move into private accommodation. UKREN fears they could now be forcibly removed from the UK. For more info see: www.freemovement.org.uk/operation-nexus-for-dummies-happening-now-in-our-time/

²⁴ The European Union Agency for Fundamental Rights records the overrepresentation of Roma as victims of crime and their low levels of reporting crime to the police. Reasons included lack of confidence in the police's ability to do anything and their negative attitude towards the police. See Data in Focus Report, Minorities as Victims of Crime European Union Agency for Fundamental Rights 2012 http://fra.europa.eu/sites/default/files/fra-2012-eu-midis-dif6_0.pdf

- 4.5. The Home Office requires police forces to record and report the ethnicity of users and employees; however, the classification system currently in use by 81% of UK police does not include GTR categories.²⁵ Without data, police forces cannot comply with their statutory duties to ensure equality for all service users.²⁶

Racial bias in stop and search powers

4.6. Recommendation 110.56²⁷ has not been met in relation to GTR.

- 4.7. TM is aware of widespread and repeated allegations of stop and search powers being used to harass GTR people;²⁸ TM believes they are disproportionately affected by these powers.²⁹
- 4.8. The UK did not support other recommendations to address ethnic profiling which result in a disproportionate use of stop and search against ethnic minorities, arguing that the law forbids discriminatory use of these powers.³⁰

²⁵ See page 7 [Inclusion of Gypsies and Travellers in ethnic monitoring systems of Police forces in the UK](#), The Traveller Movement, 2016.

²⁶ Under S149 of the Equality Act 2010 a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

²⁷ The UK accepted in part: A/HRC/21/9: 110.56. *Investigate allegations that stop and search orders disproportionately fall on persons belonging to ethnic, religious and other minorities and introduce adequate safeguards in this regard.* The UK did NOT accept: A/HRC/21/9: 110.54. *Take further steps to address ethnic profiling in practice*; NOR 110.55: *Revise the policies that involve racial and ethnic profiling such as "stop and search" practice*; NOR 110.57: *That the law enforcement authorities put an end to stop and search practices based on religious and ethnic profiling*;

²⁸ See the Irish Chaplaincy's 2013 [Traveller Equality Project Response to the Home Office stop and search consultation](#) which recounted examples including: repeated stopping and searching of very young Traveller children, aged 10 and under, causing fear and distress; police parking outside temporary Traveller sites, stopping and searching residents on a daily basis as a form of harassment to make people move on; searches of all vehicles on a site housing multiple families, where police intelligence only warrants the searching of a single vehicle.

²⁹ Note that in a Thames Valley Police commissioned review of GTR policies and procedures, *TVP GRT Policy and Procedure Review* May 2015, Greenfields, Watson & Davies, May 2015, amendments to current stop and search policies in relation to GTR were under consideration to address this issue. See http://thamesvalley.police.uk/final_tvp_report_6-5-15.pdf. The **UN CERD** also expressed concern that the 'use of "stop and search" powers continues to have a disproportionate impact on persons belonging to ethnic minorities, especially young men.' It recommended the UK regularly reviews the impact of these powers and ensure they are using in a lawful, not-arbitrary and non-discriminatory manner. See paras 27 & 27 August 2016, CERD/C/GBR/CO/21-23.

³⁰ A/HRC/21/9 page 11, para 73: *'Responding to Brazils' question about the proportionate use of stop-and-search, the UK said that unless the police had a description of a suspect, a person's race, age or appearance could not be used alone or in combination as the reason for searching someone. The Police and Criminal Evidence Act 1984 made clear that stop-and-search must not be conducted in a discriminatory way and in particular that a person's religion should never be considered a reason to stop and search them'.*

Prison & probation

- 4.9. The distinct needs of GTR prisoners are often not recognised or supported within the secure estate. Issues they face include:
- 4.9.1 Overrepresentation in prison populations, estimated to be 5% - 6%³¹
 - 4.9.2 Greater likelihood of reporting problems with health, including mental health and substance misuse, yet less likely to receive support with these³²
 - 4.9.3 Negative perceptions of their own safety in prison and levels of victimisation³³
 - 4.9.4 Lower proportions engaged in vocational or skills training, education or with a prison job³⁴
 - 4.9.5 Extremely poor levels of literacy (particularly Travellers) which compounds their difficulties in prison³⁵

³¹ Even on the lowest estimates (which are accepted to be underestimates) HM Inspectorate of Prisons (HMIP), an independent UK inspectorate of places of detention, reported in 2014 and again in its annual report of 2015-2016, (see: <https://www.justiceinspectorates.gov.uk/hmiprison/inspections/annual-report-2015-2016/>) that the proportion of GTR male prisoners might be as high as 5%, female prisoners 6%, children 8%, and much higher than this in some establishments. See HM Inspectorate of Prisons (2014): *People in prison: Gypsies, Romany and Travellers. A findings paper*. London: Her Majesty's Inspectorate of Prisons. Available at:

<http://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/04/gypsies-romany-travellers-findings.pdf>. In 2011 the code 'W3-Gypsy or Irish Traveller' was added to the prison's P-Nomis monitoring system for the first time. However, HMIP found that the number of GTR prisoners continues to be underestimated within the custodial estate and the distinct needs of this group are often not recognised and go unsupported. The **UN CERD** recommended that the UK ensures that '*the over-representation of persons belonging to black and ethnic minority groups at all stages of the criminal justice system...is thoroughly investigated, and take concrete measures to effectively address racial prejudice and bias in the criminal justice system*'; para 29, August 2016, CERD/C/GBR/CO/21-23

³² See Conn Mac Gabhann *Voices Unheard, A Study of Irish Travellers in Prison*, June 2011 Irish Chaplaincy in Britain: <http://www.irishchaplaincy.org.uk/Publisher/File.aspx?ID=81554>

³³ Page 12, para 1.37 HMIP (2014): *People in prison: Gypsies, Romany and Travellers. A findings paper*.

³⁴ The Irish Chaplaincy Traveller Equality Project, [The Right Type of Education](#), November 2015

³⁵ 68% of Traveller prisoners did not attend school, or left at or before the age of 14; Irish Chaplaincy in Britain – Mac Gabhann, C. and Cottrell-Boyce, J. (2014): *G&T Prisoners: A Good Practice Guide*. London: Irish Chaplaincy in Britain.

<http://www.irishchaplaincy.org.uk/Publisher/File.aspx?ID=130347>

4.9.6 Greater use of pre-trial custody³⁶ and denial of release on licence due to bias regarding accommodation on caravan sites.³⁷

4.10 The available evidence³⁸ about GTR experiences of probation and youth offending teams indicates extensive discrimination.³⁹

5. RESPECT FOR PRIVATE AND FAMILY LIFE & THE TRADITIONAL GYPSY AND TRAVELLER WAY OF LIFE; RIGHT TO AN ADEQUATE STANDARD OF LIVING

5.1. **Recommendation 110.103⁴⁰ has not been met in relation to adequate housing for GTR.**

Planning and accommodation

5.2. The Human Rights Act 1998⁴¹ imposes a duty on the UK to facilitate the traditional way of life of ethnic G&T (an integral part of which involves living in caravans);⁴² the FWCPNM obliges the state to promote the conditions necessary for them to maintain and develop their culture, and to preserve the essential elements of their identity.⁴³

³⁶ HM Inspectorate of Prisons found: 'In 2012–2013, a smaller proportion of Gypsy, Romany and Traveller prisoners (85%) were sentenced compared with non-Gypsy, Romany and Traveller prisoners (88%). This may support some research findings that there is greater use of pre-trial custody at the request of criminal justice agencies who fear that this group are more likely to abscond'; para 1.16, page 6 *People in prison: Gypsies, Romany and Travellers*, 2014.

³⁷ Research on the criminal justice agencies negative responses to a culture of nomadism or even a suspicion about nomadism or transience was outlined and reviewed at pages 156 - 157 EHRC Research Report 12 *Inequalities experienced by Gypsies and Travellers, A review* 2009. Available at: <https://www.equalityhumanrights.com/en/publication-download/research-report-12-inequalities-experiences-gypsy-and-traveller-communities>

³⁸ See forthcoming research on Roma engagement with social work teams and youth offending teams, Margaret Greenfields, Buckinghamshire University, 2016, and EHRC Research Report 12 cited above.

³⁹ In addition to the research cited above in relation to G&T, the Roma Support Group report (in 2016) concerns about the use of disproportionate sentencing in relation to Roma young offenders – especially women. Contact: www.romasupportgroup.org.uk

⁴⁰ A/HRC/21/9: *Guarantee the enjoyment of economic, social and cultural rights, particularly health education and adequate housing*. A/HRC/21/9/Add.1 - Para. 19

⁴¹ On September 6, 2016 the Lord Chancellor and Secretary of State for Justice Secretary, the Right Hon Elizabeth Truss MP confirmed in the House of Commons that the Government is committed to scrapping the Human Rights Act and to introducing a British Bill of Rights. The **UN CERD** expressed concern that the Government's proposal to replace the Human Rights Act of 1998 with a British Bill of Rights may lead to decreased levels of human rights protection in the UK; see para 9, August 2016, CERD/C/GBR/CO/21-23. The UK's decision to leave the European Union following the referendum on June 23, 2016 may additionally have an adverse impact on existing equality protections derived from EU directives.

⁴² *Chapman v United Kingdom* (2001) 33 EHRR 399 at paragraph 96.

⁴³ The UK is a state party to the Council of Europe's Framework Convention for the Protection of National Minorities, Article 5 (1) *The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential*

- 5.3. Despite this, the UK is failing to recognise the ethnic minority status of Romani Gypsies and Irish Travellers in its planning policy and legislation; it is failing to provide them with adequate appropriate accommodation.
- 5.4. The UN's Special Rapporteur on Adequate Housing noted: '*The lack of appropriate and culturally adequate residential and transit accommodation is often at the root of the stigma and discrimination faced by Gypsies and Travellers ... underpinning a range of other problems, from access to education or work to appropriate health care or inclusion in community life.*'⁴⁴
- 5.5. Despite the UK's acceptance of Recommendation 110.103 guaranteeing adequate housing, the lack of sites for G&Ts has forced them into bricks and mortar accommodation causing increased risk of mental ill-health due to their cultural aversion to this form of accommodation, and separation from their family and community.⁴⁵

England

- 5.6. In 2015 the Government changed the planning definition of the term 'gypsies and travellers' in its planning policy relating to site provision in England. The new definition ⁴⁶ excludes those who have **permanently** ceased to travel for work - only those who can prove they continue to travel or have **temporarily** ceased to travel for

elements of their identity, namely their religion, language, traditions and cultural heritage. (2) Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

⁴⁴ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik; Addendum; Mission to the United Kingdom of Great Britain and Northern Ireland; A/HRC/25/54/Add.2, [2013] para 69. She urged the UK to (para 79(h)) '*Strengthen efforts to address stigma and discrimination for the G&T communities in relation to the wider spectrum of rights, starting with the recognition that cultural adequacy in housing is a pillar for inclusion, and that legislation and policy are not enough to overcome local obstacles*'; and at para 79(j) '*Promote and protect the right to adequate housing without discrimination on any grounds; in particular, refrain from establishing mechanisms that can result in indirect discrimination against migrants or Roma in access to adequate housing*'. See also *Gypsies and Travellers in Housing*. Bristol: Smith and Greenfields (2013) which found extensive evidence of psychological harm associated with being forced into housing. See also TM's 2016 report commissioned by the National Inclusion Health Board, Greenfields and Brindley *Impact of insecure accommodation and the living environment on Gypsies' and Travellers' health* 2016

⁴⁵ Anglia Ruskin University [2014]: *Gypsy, Traveller and Roma: Experts by Experience, Reviewing UK Progress on the European Union Framework for National Roma Integration Strategies*. Online at: <http://bit.ly/1pydST3> page 27

⁴⁶ Department for Communities and Local Government, Planning policy for traveller (sic) sites, August 2015. Originally designed to promote the provision of caravan sites for G&T, the policy is available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf.

educational, health or old age reasons, will be recognised within planning policy as needing caravan sites to live on.⁴⁷

- 5.7. In 2016, the Government abolished the specific duty on local authorities to carry out a separate assessment of the accommodation needs of G&T.⁴⁸ Local planning authorities are now required to address the needs of 'caravan dwellers' within their general housing strategies, a requirement which G&T fear will make the provision of sites even less likely.⁴⁹
- 5.8. These changes to planning law and policy will exacerbate the chronic shortage⁵⁰ of sites in England.

Scotland

- 5.9. *'In Scotland, adequate and culturally sensitive accommodation for Roma, Gypsy and Traveller children remains insufficient.'*^{51 52}

⁴⁷ ONS Census 2011: 24% of Gypsies or Irish Travellers live in caravans or other mobile or temporary structures. This policy change will affect those G&T who live in caravans but don't live a nomadic life style and in particular, those ethnic G&T who have given up a nomadic lifestyle on grounds of old age or ill-health. As a consequence it is clear that the new policy definition is indirectly discriminatory and breaches Articles 8 and 14 of the European Convention on Human Rights. It is ALSO contrary to the claim in the UK's UPR mid-term report to the HRC in 2014 (para. 9, page 7) that the UK remains committed to improving opportunities for older people as the definition change means older G&T no longer have right to settle on a pitch. Concerns have been expressed that those who do not meet the new definition may be residing illegally on sites and therefore could be subject to eviction.

⁴⁸ S124 of the Housing and Planning Act 2016

⁴⁹ See, for example, the Friends, Families and Travellers website: <http://www.gypsy-traveller.org/lobby-your-mp-about-the-housing-and-planning-bill/>

⁵⁰ Central government does not monitor the provision of new G&T sites which makes it difficult to assess the effectiveness of the current policy. Evidence from a research project carried out by the London G&T Unit in 2016 shows that since 2012 less than 10 new pitches were delivered out of 800 identified as needed in London in 2008. See LGTU *Planning for the Accommodation needs of Gypsies and Travellers in London*. Available at: <http://www.lgtu.org.uk/publications/20160630%20Planning%20for%20the%20accommodation%20needs%20of%20Gypsies%20and%20Travellers%20....pdf>. In 2010 the EHRC estimated that at the current rate of delivery it would take local authorities 27 years to meet the need for Traveller sites; <https://www.equalityhumanrights.com/en/publication-download/research-report-68-assessing-local-authorities-progress-meeting-accommodation>

⁵¹ Noted by the **UN Committee on the Rights of the Child** Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland; adopted by the Committee at its seventy-second session (17 May -3 June 2016), para 69 (e) CRC/C/GBR/CO/5

⁵² The Children and Young People's Commissioner Scotland has recently highlighted the lack of culturally sensitive accommodation for Gypsy/Travellers which is having an adverse impact on children, and other shortcomings in the provision of sites and accompanying services: *'Report on the application of the International Covenant on Economic, Social and Cultural Rights in Scotland'*, 2016. Available at: <http://www.cypcs.org.uk/ufiles/ICESCR-report.pdf>

- 5.10. Current government policies are not exerting sufficient legal pressure on local authorities to take due regard of their legal duties⁵³ to allocate secure tenure for the community.⁵⁴

Wales

- 5.11. The Welsh government has new legislative measures to strengthen the duty⁵⁵ on local authorities to provide accommodation but there are gaps in site provision,⁵⁶ inadequate standards and choice of utilities.⁵⁷

Access to housing for Roma people

- 5.12. Roma communities' housing experiences are characterised by over reliance on low quality, private rented accommodation located in deprived areas.⁵⁸ Low skilled and low waged employment plus high

⁵³ Under the Housing [Scotland] Act [2014]

⁵⁴ Article 12 in Scotland, Response to the United Kingdom's Fourth Report to the *Council of Europe* under the *Framework Convention for the Protection of National Minorities* March 2016. The Scottish Parliament's Equal Opportunities Committee 1st Report, 2013 *Where Gypsy/Travellers Live*, March 2013 referred to 'shocking standards of living' and 'horrendous conditions' on sites for Scottish Gypsy/Travellers. Available at: https://www.amnesty.org.uk/sites/default/files/scot_parl_eoc_where_gypsy_travellers_live_2013.pdf

⁵⁵ The introduction of the Mobile Homes (Wales) Act 2013 brought the rights of tenants and duties of site owners into line with those in England. Residents of local authority G&T sites now have proper security of tenure; they should be issued with a written statement detailing their rights and responsibilities on site, and have recourse to the Residential Property Tribunal if they disagree with proposed changes to their tenancy. The Housing (Wales) Act 2014 introduced a duty from February 2015 on each local authority to complete a **full and prescriptive Gypsy & Traveller Accommodation Assessment** by Feb 2016 and every 5 years thereafter **and to provide for this assessed need**. G&Ts take part in steering groups overseeing this process. The Welsh Government has published updated (non-statutory) Guidance on Managing Unauthorised Encampments which encourages local authorities to carry out full welfare assessments, and tolerate and negotiate short-term encampments; however, there is anecdotal evidence that many local authorities don't follow this.

⁵⁶ Provisional estimates indicate a shortfall of 321 pitches across Wales (based on the Gypsy Traveller Accommodation Assessment figures to date in 2016) (Travelling Ahead, using a Welsh Government source).

⁵⁷ Access to choice over utilities is a problem e.g. water rates are high, and electricity and gas are often only supplied by one provider; there is often no infrastructure for internet access or telephones. This was acknowledged in the Welsh Government *Travelling to a Better Future Delivery Plan* update 'the Welsh Government convened a Water Issues Task and Finish Group comprised of the WLGA, Water Companies and the Welsh Government to discuss barriers to individual metering and billing of households on Local Authority G&T sites. Progress has been made to ensure all future sites will be able to achieve individual metering and billing.' (<http://gov.wales/docs/dsjlg/publications/equality/160309-travelling-better-future-delivery-plan-end-term-update-en.pdf> Objective 2 Page 6).

⁵⁸ The Craig report *The Roma, A Study of National Policies*, June 2011, page 14, reviewed existing small scale studies which highlight exploitation in housing including high rents, overcrowding, poor quality maintenance, public health issues and general levels of exploitation; and an urgent need for

rents is leading to severe cases of overcrowding and associated issues of perceived anti-social behaviour and community tensions.

- 5.13. Rogue landlords employ tactics of bullying and harassment to secure illegal evictions.⁵⁹
- 5.14. Restrictions on EU national's access to welfare supports, such as housing benefit, have created additional complexities for Roma families seeking safe and secure accommodation.⁶⁰

6. RIGHT TO HEALTH

- 6.1. **Recommendation 110.103⁶¹ has not been met in relation to health outcomes for GTR.⁶²**
- 6.2. Compared with the general population, G&Ts are more likely to suffer bad health,⁶³ the consequence of which includes:

Roma to be made aware of their housing rights in relation to unscrupulous landlords.

<http://www.york.ac.uk/inst/spru/research/pdf/EURoma.pdf>.

⁵⁹ Although Roma specific data is lacking, in July 2016, the Citizens Advice Bureau reported an increase of 47% on the previous year in requests for help with threats of illegal evictions.

<https://www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/almost-50-more-people-facing-illegal-eviction-in-the-last-year/>

⁶⁰ Anglia Ruskin University, King's College London & Buckinghamshire New University are currently conducting research into the impact of the UK's 2013-2014 welfare reforms on UK-resident EU/EEA Roma migrants and their families, focusing on Income-Based Jobseeker's Allowance and Housing Benefit. Preliminary findings published in 2015 state that '*claiming these welfare benefits can be a daunting process for this migrant group, and refusal of a claim may raise further investigations about their right to reside... the result of an institutional anti-immigration agenda...*'

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2775243

⁶¹ A/HRC/21/9: *Guarantee the enjoyment of economic, social and cultural rights, particularly health education and adequate housing*. A/HRC/21/9/Add.1 - Para. 19. Note that Recommendation 110.102 (*Strengthen measures aimed at reducing serious inequalities in access to health, education and employment, which still exist despite the adoption of the Equality Act*) was **NOT** supported by the UK.

⁶² Welcoming acknowledgment by the UK of '*longstanding inequalities in access to [health] services in the quality of care, and in health outcomes of patients, the [UN CERD] is concerned at the lack of evidence indicating that the measures adopted have led to improvements in [these] areas for individuals belonging to ethnic minorities, particularly Gypsies, Travellers...*' The **UN CERD** recommends that the UK ensures the '*accessibility, availability an quality of health care services to persons belonging to ethnic minorities..*' Paras 30 & 31, August 2016, CERD/C/GBR/CO/21-23. The **UN CERD** asked the Government provide, within one year, information on its implementation of the recommendations of para 31 on health; see para 49, August 2016, CERD/C/GBR/CO/21-23.

⁶³ According to the 2011 Census, 14.1% of Gypsies and Irish Travellers in England and Wales rated their health as bad or very bad, compared with 5.9% of White British and 9.2% of White Irish people. Office for National Statistics, [2011 Census analysis: What does the 2011 Census tell us about the characteristics of Gypsy or Irish travellers in England and Wales?](#), (ONS) January 21, 2014. The Census did not include a 'Roma' category; it recorded G&Ts as 0.1% of the population of England and Wales. In Scotland Gypsy/Travellers were more likely than the general population to have a limiting long-term health problem or disability (28% compared to 20%) despite the fact they had a much younger age profile. Within this, they were also more likely to be limited 'a lot' by a long-term health problem or disability (16% compared to 10%).

- 6.2.1. life expectancy is 10 - 12 years lower than the national average⁶⁴
- 6.2.2. higher infant mortality rates ⁶⁵
- 6.2.3. high maternal mortality rates
- 6.2.4. low child immunisation levels
- 6.2.5. substance abuse issues
- 6.2.6. higher prevalence of mental health issues such as anxiety and depression
- 6.2.7. chronic cough or bronchitis (even after smoking is taken into account)
- 6.2.8. asthma
- 6.2.9. chest pain and diabetes⁶⁶, and
- 6.2.10. higher rates of smoking.⁶⁷

Roma health inequalities

- 6.3. The health inequalities of Roma people⁶⁸ are similar to those identified among G&T;⁶⁹ access to health services is impeded by unfamiliarity with healthcare provisions, language barriers compounded by inadequate interpretation, and a lack of cultural

⁶⁴Parry et al (2004) *The Health Status of Gypsies and Travellers: Report of Department of Health Inequalities in Health Research Initiative*, University of Sheffield.

http://www.shef.ac.uk/polopoly_fs/1.43714!/file/GT-final-report-for-web.pdf. Despite low life expectancy, there is growing evidence of dementia in Gypsy and Travellers communities. Having a culture of self-reliance, Travellers are more likely to provide 50-plus hours of informal care to family members each week than the general population (ONS 2014). See page 12 *The Journal of Dementia Care*, September/October 2016 Vol 24 No 5 and page 13 *The Journal of Dementia Care* July/August 2016 Vol 24, No 4.

⁶⁵ Infant mortality rate is 3 times higher than the national average: page 33 Parry et al (2004). Maternal mortality rates are also significantly higher than the national average. G&T mothers are 20 times more likely than the rest of the population to have experienced the death of a child. <https://www.equalityhumanrights.com/en/gypsies-and-travellers-simple-solutions-living-together>

⁶⁶ All these consequences were reported by the Government's *Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers*, 2012

<https://www.gov.uk/government/publications/reducing-inequalities-for-gypsies-and-travellers-progress-report>

⁶⁷ Aspinall, P. J., & Mitton, L. (2014) *Public Health*, 297-306.

⁶⁸ The Craig report *The Roma, A Study of National Policies*, June 2011 page 12 refers to the lack of data in the UK and highlights the invisibility of the health needs of Roma people, and the barriers to accessing health services caused by, among others, lack of fluency in English. <http://www.york.ac.uk/inst/spru/research/pdf/EURoma.pdf>.

⁶⁹ These include 'a high prevalence of diabetes, cardiovascular disease, premature myocardial infarction, obesity, asthma and mental health issues such as stress, anxiety and depression'; quoted in the EHRC research *England's most disadvantaged groups: Gypsies, Travellers and Roma*, March 2016, drawing on evidence from the European Commission 2014 study on health: http://ec.europa.eu/health/social_determinants/docs/2014_roma_health_report_en.pdf

competence of health care professionals.⁷⁰ Childhood immunisation rates remain low.⁷¹

Accessing health services⁷²

6.4. Barriers to accessing primary health care include:

- 6.4.1. Lack of GP registration⁷³
- 6.4.2. Poor literacy skills
- 6.4.3. Fear of discrimination
- 6.4.4. Over reliance on accident and emergency services (especially amongst mobile and/or homeless GTR).⁷⁴

Ethnic monitoring in health

- 6.5. The National Health Service's data monitoring does not include GTR in the ethnic categories currently monitored. Despite an explicit duty to reduce health inequalities,⁷⁵ the Service is therefore unable to

⁷⁰ The Welsh Government consulted widely on and developed an excellent guidance document *Travelling to Better Health*. This includes the expectation that by December 2016 all local health boards and partner agencies, will have completed a Health Needs Assessment of G&T in their area, which they must submit to Public Health Wales and the Welsh Government. Awareness of the guidance amongst health professionals and lack of implementation and oversight of its recommendations seems limited; see:

<http://gov.wales/topics/health/publications/health/guidance/travelling/?lang=en>

⁷¹ The issues experienced by Roma in relation to health services were examined by Healthwatch Kent: *Access to Health and Social Care Services by Eastern European Migrants in the Thanet District*. (August 2015) This report highlights the prevalence and resultant danger of a lack of cultural competence amongst health care professionals; basic rights to access health care including registering at a GP and being able to communicate with them about health needs are still not attainable for many Roma in the UK. See:

http://www.healthwatchkent.co.uk/sites/default/files/healthwatch_kent_report_on_access_to_services_by_eastern_european_community.pdf

⁷² The **UN Committee on the Rights of the Child** expressed concern at the inequality of access to health services and health outcome, negatively affecting Roma, G&T children; see Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland; adopted by the Committee at its seventy-second session (17 May -3 June 2016); it recommended the UK Government develops comprehensive and multi-sectoral strategies on child health; paras 57 & 58 CRC/C/GBR/CO/5

⁷³ The requirement to provide proof of identity and an address can be an obstacle to registration. See *Improving access to health care for Gypsies and Travellers, homeless people and sex workers An evidence-based commissioning guide for Clinical Commissioning Groups and Health & Wellbeing Boards*; Royal College of General Practitioners.

<http://www.rcgp.org.uk/news/2013/december/~media/Files/Policy/A-Z-policy/RCGP-Social-Inclusion-Commissioning-Guide.ashx>

⁷⁴ See *The Health and Wellbeing of Gypsies and Travellers* An ITMB Briefing March 2012 <http://www.travellermovement.org.uk/wp-content/uploads/2015/09/ITMB-Gypsy-and-Traveller-Health-Briefing-March-2012.pdf>

⁷⁵ In its 2012 UPR submission, the UK Government referred to the Health and Social Care Act 2012 which established the first ever specific legal duties on health inequalities which include consideration of the need to reduce inequalities in access to health services and the outcomes achieved. Without information on GTR health outcomes, it is impossible to say if this duty is being properly realised.

collect nationally representative data on GTR minorities in order to properly address their health needs.

7. RIGHT TO EDUCATION

- 7.1. **Recommendations 110.66⁷⁶, 103 & 106⁷⁷ have not been met in relation to GTR.**
- 7.2. The Government's approach to tackling inequality which does not target special provision at 'equality strands' is not working.⁷⁸
- 7.3. GTR people are being failed by the education system and only a minority have educational qualifications.⁷⁹

⁷⁶ A/HRC/21/9: *Consider strengthening policies to combat discrimination in all areas, notably in employment and education*

⁷⁷ A/HRC/21/9: *Adopt a strategy so that children of vulnerable groups are not excluded from the education system.* A/HRC/21/9/Add.1 - Para. 19

⁷⁸ In its 2014 UPR Mid Term Report, the UK referred (page 139) to its '... *new approach to tackling inequality involves moving away from treating people as groups or "equality strands" who get special provision. Instead the focus is on creating fairness and opportunities for everyone*'. It reported a fall in numbers of children permanently excluded in England (which hides the growing numbers of exclusions of GTR pupils) and referred to the Pupil Premium and the Children and Families Act 2014 as measures to address the needs of disadvantaged children. However these measures will not assist disadvantaged GTR pupils. For example, eligibility for the Pupil Premium is based on household income and qualification for Free School Meals, which excludes low income GTR families not in receipt of welfare benefits. The Sutton Trust Education Charity reported that a rising number of schools in England are diverting money meant for disadvantaged pupils to offset budget cuts. Of 1,600 teachers polled for the Sutton Trust in March 2016, 6% said pupil premium money was used to offset budget cuts, compared with 2% the previous year, see <http://www.bbc.co.uk/news/education-36548525>. The Education Health and Care Plans introduced by the Children and Families Act 2014 do not mention GTR pupils; the Special Educational Needs section of the Act does not mention GTR young people even though GTR pupils are more likely to be identified as having SEN than the wider school population. The Children and Young People (Scotland) Act 2014 does not mention GTR children; the Welsh SEN reforms have not yet been introduced. For more information on the operation of the Pupil Premium see:

<http://www.naldic.org.uk/Resources/NALDIC/Research%20and%20Information/Documents/EAL%20and%20The%20Pupil%20Premium%20JL.pdf>

⁷⁹ The 2011 census found that 60% of Gypsies or Irish Travellers (over the age of 16) had no qualifications - a far higher proportion than that for the overall population England and Wales (23%). Equivalent figures for Scotland, from 2015, show that 50% of G&T have no qualifications, compared with 27% for Scotland as a whole. See:

<http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/what-does-the-2011-census-tell-us-about-the-characteristics-of-gypsy-or-irish-travellers-in-england-and-wales-/index.html> Scottish Government (2015), *Gypsy/Travellers in Scotland – a comprehensive analysis of the 2011 Census*. Available at:

<http://www.gov.scot/Resource/0049/00490969.pdf>. There is limited data on the specific educational experiences and attainment of Roma children as they are included in the data with Gypsy children. TM believes that, as their needs are different and complex, the data categories should be separated.

- 7.4. Since 2009/10, GTR pupils in England have consistently remained the lowest achieving ethnic groups in schools at all key stages.^{80 81}
- 7.5. The Government's Ministerial Working Group⁸² established to reduce inequalities for GTR in England and Wales (MWG) has not achieved its aim; in 2014/15 GTR pupils still had:
- 7.5.1 the worst achievements in GCSE grades⁸³
 - 7.5.2 highest rates of absences in primary and secondary schools⁸⁴
 - 7.5.3 were far more likely to be persistent absentees than any other ethnic groups (10 times more likely for Travellers, 8 times for Gypsy/Roma pupils)⁸⁵
 - 7.5.4 the highest rates of both permanent and fixed period exclusions.⁸⁶

⁸⁰ For example, in 2013/14, 19% of Gypsy/Roma children achieved 'good' in the Early Years Foundation Stage while 30.9% of Travellers achieved this rating, compared with 61.8% other White children (see Equality and Human Rights Commission, *England's most disadvantaged groups: Gypsies, Travellers and Roma*, March 2016, p3). At secondary level in 2013/14, 8.2% of Gypsy/Roma pupils and 14% of Traveller of Irish Heritage pupils attained five or more GCSEs at a good grade compared to the national average for all pupils of 56.6%. Department for Education, National Statistics, Revised GCSE and equivalent results in England: 2013 to 2014. Available at: <https://www.gov.uk/government/statistics/revised-gcse-and-equivalent-results-in-england-2013-to-2014>

⁸¹ Despite the Government's effort, the educational 'attainment gap between Gypsy and Roma children, and White children appears to have widened, while the gap between Travellers...and White children has not changed' EHRC, *England's most disadvantaged groups: Gypsies, Travellers and Roma*, March 2016, p3.

⁸² The UK's UPR midterm report (page 153) refers to the establishment of ministerial working group on reducing G&T inequalities. In March 2012 the MWG published a report containing 28 commitments from across Government in areas such as education, health, employment, housing and criminal justice. One reported outcome from the MWG was the piloting of a Virtual Head Teacher scheme in four local authorities which was delivered between 2012 and 2014. The EHRC reported that it was unaware of any independent impact evaluation of the scheme. Research by Friends Families and Travellers, using the Freedom of Information Act and a subsequent appeal to the Information Commissioner, found that MGW existed in name only, that it had met just once and had no plans to meet again. SEE for more information <http://www.gypsy-traveller.org/>

⁸³ DfE, 2016. Revised GCSE and equivalent results in England: 2014 to 2015. Main national tables: SFR 01/2016 –Characteristics summary table. Available at:

<https://www.gov.uk/government/statistics/revised-gcse-and-equivalent-results-in-england-2014-to-2015>

⁸⁴ DfE, National Statistics: Pupil absence in schools in England: autumn 2014 and spring 2015.

Available at: <https://www.gov.uk/government/statistics/pupil-absence-in-schools-in-england-autumn-2014-and-spring-2015>

⁸⁵ See p49 EHRC Submission to the **UN CERD** in advance of the public examination of the UK's implementation of ICERD, July 2016; in Scotland the white Gypsy/Traveller pupils have the lowest educational attainment rates out of the recorded ethnic groups; in Wales, figures show that Gypsy/Roma pupils have lower attainment rates and the highest absenteeism rates in both primary and secondary schools.

⁸⁶ According to the Department for Education, although the longer-term trends of permanent and fixed rate exclusions have generally decreased '*Pupils of Gypsy/Roma and Traveller of Irish Heritage ethnic groups have the highest rates of both permanent and fixed period exclusions....*' and these rates are increasing. TM's analysis of the DfE's statistic of population characteristics in January 2015 across England show that GTR pupils are disproportionately represented within the population of pupils attending Pupil Referral Units and alternative provision, see <http://travellermovement.org.uk/wp->

Loss of expertise & resources

- 7.6. Spending cuts⁸⁷ and a reduction in the remit of local education authorities caused by the growth of independent academies, has resulted in a dramatic loss of expertise from educationalists who supported GTR children and families⁸⁸ and has created difficulties of co-ordinating responses at local level.
- 7.7. Anecdotal evidence suggests that where additional funding is provided for schools in deprived communities, this does not appear to be reaching schools with sizeable numbers of Roma pupils.
- 7.8. Where changes to welfare entitlements for EU nationals have made Roma children ineligible for free schools meals, there has been a consequent reduction in schools receiving pupil premium funding to support those pupils.

Bullying

- 7.9. As acknowledged by the MWG *'bullying and prejudice against Gypsy, Roma and Traveller pupils are contributing to their poor attendance and behaviour – leading to disproportionately high levels of exclusion'*; nearly 9 out of 10 GTR children and young people have suffered racial abuse and nearly two thirds have also been bullied or physically attacked.^{89 90}

content/uploads/GTR-representation-note.pdf. See also the DfE: *Permanent and Fixed Period Exclusions in England: 2013 to 2014*, issued 30 July 2015;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449433/SFR27_2015_Text.pdf

⁸⁷ The approach taken by Welsh local authorities Pembrokeshire and Torfaen, which have successfully supported and resourced bespoke services for G&T (GT), is not replicated across the rest of Wales. Furthermore, in 2015 the previous specific per pupil grant for GT pupils was axed by the Welsh Government and subsumed into a new Education Improvement Grant. This decision was taken without public consultation; the Equality Impact Assessment and Child Rights Impact Assessment (a statutory requirement in Wales under The Rights of Children and Young Persons Measure) acknowledged a negative impact on GT children but failed to say how this would be mitigated against. The impact on Traveller Education Services is yet to be felt but to date has resulted in *loss of ring fenced funding for specific support and initiatives for GT pupils; *loss of data on numbers of GT pupils; *diminished resources for those pupils not currently engaged with the education system. The Welsh Pupil Premium (known as the Pupil Deprivation Grant) has no direct link to GT pupils and does not target their needs.

⁸⁸ In 2011 Michael Doherty explored cuts by English local authorities to Traveller Education Support Services. This research exercise found that 24 (one in five) were completely 'deleting' their dedicated Traveller education support team and a further 28 were cutting more than a third of their staff. TM believes that further cuts to TESS have continued since 2011: see <http://acert.org.uk/blog/2011/09/24/cuts-to-traveller-education-services/>

⁸⁹ Anglia Ruskin, [*Improving the education outcomes for Gypsy, Traveller and Roma pupils*](#), February 2015.

⁹⁰ The **UN Committee on the Rights of the Child** expressed concern that *'bullying, including cyber bullying, remains a serious and widespread problem, particularly against... Roma, Gypsy and Traveller*

8. FREEDOM OF EXPRESSION: HATE SPEECH AND THE MEDIA⁹¹

- 8.1. **Recommendations 110.59 & 60⁹² have not been met in relation to GTR.⁹³**
- 8.2. Hate crimes against GRT minorities are not challenged or acknowledged in the same way as similar acts towards other minority ethnic communities.⁹⁴
- 8.3. Prosecutions for incitement to racial hatred require the consent of the Attorney General; TM is not aware of any prosecutions in relation to offences against GTR people.

children'; see Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland; adopted by the Committee at its seventy-second session (17 May -3 June 2016); it recommended the UK intensify its efforts to tackle bullying in school; paras 47 (b) & 48 (a) CRC/C/GBR/CO/5. The **UN CERD** expressed concern at '*continued reports of racist bullying and harassment in schools across the State party, as well as the disproportionate rate of school exclusion of pupils from Gypsy, Traveller, Roma...communities. The Committee recommends that the State party ensure that the governments of Northern Ireland, Scotland and Wales: (a) Strengthen its efforts to eliminate all racist bullying and harassment in the State party's schools, including by requiring schools to collect qualitative and quantitative data on bullying and school exclusions on grounds of race, colour, descent, or national or ethnic origin, and to use the data to develop concrete strategies; (b) Ensure that schools comply with their public sector equality duty under the Equality Act 2010 ...to challenge racist bullying and to promote respect for diversity, including through the training of educational personnel*'; Paras 34 & 35 CERD/C/GBR/CO/21-23, August 2016.

⁹¹ The right to freedom of expression is guaranteed in the UK under Article 10 of the European Convention on Human Rights/Human Rights Act 1998 except in certain limited circumstances such as the crime of incitement to racial hatred. Under the Public Order Act 1986 it is a criminal offence to use threatening, insulting or abusive words or behaviour, or to publish or distribute material or engage in performances, recordings or broadcasts which is intended to or likely in all the circumstances to stir up racial hatred.

⁹² Following the 2012 UPR, the UK accepted certain recommendations on tackling and monitoring hate crime. The UK accepted A/HRC/21/9: 110.59 *Take all appropriate measures to combat prejudices and negative stereotypes, which may result in racial discrimination or incitement to racial hatred*; AND 110.60. *Implement ECRI's recommendation to continue to monitor hate crimes and to work with the community to increase understanding of the impact of such offences, and to pursue efforts to improve the police gathering of evidence of racist motivations.*

⁹³ In its response, the Government referred to its hate crime action plan *Challenge it, report it, stop it: The Government's Plan to Tackle Hate Crime*, March 2012; https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97849/action-plan.pdf; in its 2014 interim report, it referred to Scottish and Welsh actions. The one measureable action supporting GTR to report hate crime (p18, Action 8) – to publish an '*information pack on what hate crime is and how to report it for G&T communities*' was not completed by the time of writing this report; confirmed by email from Paul Giannasi, Head of the Cross-Government Hate Crime Programme, Ministry of Justice to TM, July 28, 2016.

⁹⁴ James, Z. (2014): *Hate Crimes against Gypsies, Travellers and Roma in Europe*. In Hall, N., Corb, A., Giannasi, P., Grieve, J.: *The International Handbook of Hate Crime*. London: Routledge.

- 8.4. Courts can impose increased penalties for racially aggravated offences⁹⁵ but as GTR people rarely report racist offences against them, there has been limited use of this provision.⁹⁶
- 8.5. The UK published a new hate crime action plan in July 2016.⁹⁷ As acknowledged in this, and its preceding 2012 plan, hate crime against GTR communities is underreported; the Government committed to improve reporting by working with organisations such as the Gypsy Traveller Liaison Group.⁹⁸
- 8.6. TM regrets that as only nine of the 48 police forces in the UK separately record GTR people in their race crime monitoring data, it is impossible to say whether this new plan will reduce levels of hate crime against GTR people.

Wales

- 8.7. The Welsh Government published its *Tackling Hate Crimes and Incidents: A Framework for Action* in 2014.⁹⁹ There is Gypsy Traveller NGO¹⁰⁰ representation on the Ministerial Advisory Group for the Framework, but awareness of the illegality of hate crime (and discrimination generally) among G&T communities remains low and there is a lack of confidence in the effectiveness of reporting.¹⁰¹

Public attitudes

⁹⁵ Such offences are set out in the Crime and Disorder Act 1998 (as amended) and include assault, grievous bodily harm, criminal damage, causing public fear, alarm or distress, and harassment. In the case of a fatal assault on a 15 year-old Irish Traveller Johnny Delaney in Liverpool in 2003, the trial judge did not find that it was a racially aggravated offence despite the evidence of a number of witnesses about the racist comments shouted during the attack. The (then) chair of the Commission for Racial Equality commented that 'it is extremely hard to see how this particular killing wasn't motivated in some way by racial prejudice' (cited in Greenfields, 2006, p. 158).

⁹⁶ James, Z. (2007): *Policing marginal spaces: Controlling Gypsies and Travellers*. Criminology and Criminal Justice 7(4), pp. 367-389; Power, Colm (2004): *Room to Roam, England's Irish Travellers*. London: Community Fund

⁹⁷ It should be noted that this Plan was published without any prior consultation on its content. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540700/Action_Against_Hate_-_UK_Government_s_Plan_to_Tackle_Hate_Crime_2016.pdf.

⁹⁸ TM was a member of this group but resigned in 2014 because of its failure to make measureable progress and its lack of accountability and transparency.

⁹⁹ *Tackling Hate Crimes and Incidents: A Framework for Action* <http://gov.wales/topics/people-and-communities/equality-diversity/rightsequality/hate-crime/?lang=en>; the online resources for this document does include a young Gypsy Traveller's story. However without champions or actions targeted at tackling G&T hate crime at a national strategic level, reliance on local hate crime advocacy NGO projects (which, despite lack of government funding, have had some success in supporting G&T to challenge hate crime and discrimination) is insufficient to address the issue.

¹⁰⁰ See for example, the Welsh Government funded *Travelling Ahead* young GTR people's project www.travellingahead.org.uk

¹⁰¹ <http://gov.wales/docs/ds/jlg/publications/equality/151209-evidence-and-outcomes-report-hate-crime-en.pdf> Page 5

- 8.8. Hostility towards GTR communities is long-standing and widespread.¹⁰² Politicians and the media continue to use hate speech against them.¹⁰³ This has created a climate in which racism and hate speech is thought acceptable.
- 8.9. Following the EU referendum on June 23, 2016, there has been a significant spike in anti-migrant attacks and many Roma fear for their personal safety and the security of their status in the UK.^{104 105}

Press and media

- 8.10. In 2014 G&T were the number one targets of hatred on social media.¹⁰⁶
- 8.11. As noted in the 2008 UPR, *'Negative and inaccurate reporting by certain sectors of the media is contributing to hostile attitudes towards ... Gypsies and Travellers.'*¹⁰⁷ TM regrets that this situation still persists and *'prejudice against Gypsies and Travellers is sadly*

¹⁰² The 2010 Scottish Social Attitudes Survey found that discriminatory attitudes remained particularly common in relation to Gypsy Travellers, and more so than many other 'minority' groups in Scotland. For example, 37 % of respondents said they would be unhappy with a close family member forming a relationship with a Gypsy Traveller, and 46 % believed that a Gypsy Traveller would be unsuitable as a primary school teacher; see *Attitudes to discrimination and positive action* available at:

<http://www.scotland.gov.uk/Publications/2011/08/11121400/1>. 50% of people in Britain reported having an unfavourable view of Roma; Global Attitudes Survey, Spring 2014, Pew Research Centre.

¹⁰³ The **UN CERD** expressed concern about the increase in hate crime following the EU referendum on June 23, 2016 which *'many politicians and prominent political figures failed to condemn ... and [which] created and created and entrenched prejudices, thereby emboldening individuals to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities...'* The Committee expressed concern about underreporting and the 'significant' gap between reported cases and successful prosecution; para 15, August 2016, CERD/C/GBR/CO/21-23. The European Commission noted the prevalence of discrimination in the UK and stated that *'the hostile attitude and negative stereotyping of Gypsies and Travellers and newly arrived Roma should be carefully addressed. Effective measures should be taken to combat anti-Roma rhetoric and hate speech'*; page 55 EC: *Directorate-General for Justice Report on the implementation of the EU framework for National Roma Integration Strategies*. European Union 2014.

¹⁰⁴ According to the National Police Chiefs' Council, reports of hate crime have risen 57% in the aftermath of the EU referendum vote; <http://news.npcc.police.uk/releases/hate-crime-is-unacceptable-in-any-circumstances-say-police>

¹⁰⁵ Qualitative research in Govanhill, Glasgow, Scotland, found that Roma people were subject to frequent unsubstantiated allegations of criminality, public nuisance, sanitation issues and overcrowding. Clark, C. 2014, *Glasgow's Ellis Island? The integration and Stigmatisation of Govanhill's Roma population*; *People, Place and Policy*, 8(1): 34-50.

¹⁰⁶ According to Hatebase, an online database that 'records' hate speech on Twitter, Shubber, 2014: <http://www.wired.co.uk/article/hatebrain-stats-uk>

¹⁰⁷ See submission from the **Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe**, page 3 para 9 of the Human Rights Council Working Group on the UPR First session, April 2008 summary of stakeholders submissions: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/115/86/PDF/G0811586.pdf?OpenElement>

endemic in society and is often fuelled by stereotypes in the media.^{108 109}

9. TM's RECOMMENDATIONS

- 9.1. **The Government should publish the Scottish National Strategy for Gypsies/Travellers¹¹⁰ and, in consultation with GTR organisations, redraft¹¹¹ the National Roma Inclusion Strategy.¹¹² The strategy should draw on expertise from GTR**

¹⁰⁸ Deputy Chief Constable Janette McCormick, National Police Chiefs' Council's lead for Gypsy, Traveller and Roma communities: <http://news.npcc.police.uk/releases/landmark-ruling-against-gypsy-and-traveller-discrimination>, 2015

¹⁰⁹ [The Leveson Inquiry](#) concluded that GTR individuals are targets of press hostility and xenophobia. Hostility towards and racial stereotyping of GTR people is widely used by the press in a way that would not be tolerated with any other minorities, see for example: Crofts-Gibbons, 2013: <http://toglobalist.org/2013/02/we-re-not-racist-but-those-gypsies/>. In Scotland an audit of published media articles over six months in 2014/15 about Gypsy/Travellers found that around two-thirds contained negative coverage; see Article 12 in Scotland [2015]: *I Witness: the UNCRC in the United Kingdom, Young Gypsy/Travellers Voices*. Online at: <http://bit.ly/1SOPys0>. See also *Gypsy Travellers In Scotland, A resource for the media*, Updated Spring 2013; available at <https://www.equalityhumanrights.com/en/scottish-news/scottish-news/gypsy-travellers-scotland-resource-media>

¹¹⁰ The Scottish Government promised to develop a National Strategy for Gypsy/Travellers in response to the recommendations of the Scottish Parliament's Equal Opportunities Committee (Scottish Parliament, Equal Opportunities Committee [2013]: *Where Gypsy/Travellers Live*. Online at: <http://bit.ly/1UuS5cw>). At the date of this document, this is still unpublished.

¹¹¹ Although the UK supported recommendation 110.117. *Share best practices of tackling the situation of the Roma and Traveller people through the EU Framework for National Roma Integration Strategies adopted in 2011*; A/HRC/21/9 - Para. 110 & A/HRC/21/9/Add.1 - Para. 19, the current strategy as presently drafted is wholly inadequate. The Government's Ministerial Working Group on preventing and tackling inequalities experienced by Gypsies and Travellers was tasked with addressing the requirements of the *EU Framework for National Roma Integration Strategies up to 2020*. It published a list of 28 'proposed commitments' many of which fell short of the explicit measures that would need to be adopted in order to prevent and compensate for the disadvantages faced by GTR in the UK. See <http://www.gypsy-traveller.org/wp-content/uploads/2012/01/TAT-News-Roma-Strategies-18.3.2012.pdf>

¹¹² Noting the lack of improvement in the situation of GTR, and the continued exclusion and discrimination they face in health, education, housing and employment, as well as their subjection to negative stereotypes and stigmatisation in the media, the **UN CERD** recommended that the UK should 'Develop a comprehensive strategy, in consultation with members of Gypsy, Traveller and Roma communities, to ensure a systematic and coherent approach in addressing the challenges that they continue to face in the fields of health, education, housing and employment, and ensure its effective implementation by adopting specific action plans and effective oversight and monitoring mechanisms to track progress, with adequate human and financial resources'; para 25(a), August 2016, CERD/C/GBR/CO/21-23. The EHRC has also emphasised the need for a comprehensive race equality strategy stating that 'It is vital that the UK Government now puts in place a race strategy which is coordinated and comprehensive, with clear accountability and governance, and which includes stretching new targets to improve opportunities and outcomes for our ethnic minority communities.' <https://www.equalityhumanrights.com/en/publication-download/healing-divided-britain-need-comprehensive-race-equality-strategy>, August 2016

representatives and be informed by best practice¹¹³ throughout the EU, and include:

- 9.1.1. Implementation of standardised disaggregated ethnic monitoring of GTR across all levels of public service¹¹⁴ (particularly in relation to policing & criminal justice services, the 2021 Census, access to health services, and health outcomes) so that the particular needs of these communities are identified and addressed**
- 9.1.2 Provision of adequate interpretation services for Roma in health care settings including the training of Romanes speakers and recruitment of Roma liaison workers in key areas of work such as childhood immunisation schemes**
- 9.1.3 Adoption of a statutory duty on local authorities in England and Scotland to provide safe, adequate sites for G&T (with a revised non-discriminatory definition of 'Traveller') including a mechanism for meaningful participation of these communities in planning and decision-making processes¹¹⁵**

¹¹³ The Welsh strategy 'Travelling to a Better Future' has been a driver for change at a national legislative and policy level with a clear plan set out to deliver change, particularly on the provision of accommodation; it has been less successful in ensuring that local authorities take its recommendations forward. Awareness of the strategy is limited among Welsh G&T. See <http://gov.wales/docs/dsijlg/publications/equality/110928gypsytravelleren.pdf> and the updated 2016 Delivery Plan: <http://gov.wales/docs/dsijlg/publications/equality/160309-travelling-better-future-delivery-plan-end-term-update-en.pdf>. The Welsh Government has also consulted on *Proposals for a Roma Inclusion Strategy* and has published the results. A decision on incorporation into an updated Travelling to a Better Future strategy is awaited; <http://gov.wales/consultations/people-and-communities/migrant-roma-strategy-consultation/?lang=en>

¹¹⁴ Noting the importance of collecting accurate and updated disaggregated data to develop effective policies to combat racial discrimination and to monitor the impact of measures taken, the **UN CERD** recommended that the UK ensure the systematic collection and publication of 'disaggregated data on the enjoyment of rights by members of ethnic minorities in all fields of life, and to include such information in the next periodic report. The Committee also recommends that the State party: (a) ...; (b) Consider adopting a detailed action plan with concrete targets, monitoring mechanisms and sufficient resources, including temporary special measures, to secure the adequate advancement of certain ethnic groups to ensure that persons belonging to such groups are able to enjoy their rights on an equal footing, ...' para 14, August 2016, CERD/C/GBR/CO/21-23

¹¹⁵ This duty exists in Wales under the Housing (Wales) Act 2014; the **Committee on the Rights of the Child** Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland; para 70(g) CRC/C/GBR/CO/5. The **UN CERD** recommended the UK 'Ensure the provision of adequate and culturally appropriate accommodation and stopping sites as a matter of priority throughout the State party and regularly publish the net increase of pitches for Gypsies and Travellers created through the Traveller Pitch Fund' para 25(b); it also recommended consultation with the G&T community on changes under the Housing and Planning Bill 2015 and on the planning definition of 'traveller'(sic) to ensure protection of their rights, para 25 (c) & (d), August 2016 CERD/C/GBR/CO/21-23. The **UN CERD** drew the Governments' attention to the particular importance of its recommendations under para 25 and asked for detail information to be provided in its next

- 9.1.4 **Implementation of inclusive education specifically for GTR pupils, addressing bullying and disproportionalities in exclusion, absences and attainment at all key stages**
- 9.1.5 **Development of a strategy with criminal justice agencies to tackle anti-GTR hate crime motivations and new preventative measures¹¹⁶**
- 9.1.6 **Make human rights education compulsory at all stages of the curriculum both to ensure GTR people are aware of their rights, and improve awareness of the rights of others among all groups in society.**

periodic report on the concrete measure taken to implement these recommendations; see para 49 CERD/C/GBR/CO/21-23.

¹¹⁶ The **UN CERD** recommended that the UK a) investigates, b) systematically collects disaggregated data and c) adopts concrete measures to increase reporting of racist hate crimes. It stressed consultation with affected groups, ensuring that the *'reporting mechanism is transparent and accessible, and that victims have trust in the police and the justice system'* and that public officials promote a culture of tolerance and respect (para 16). Such measures could include for example, a stand-alone offence for online hate crime; and proactive engagement with social media companies such as Facebook and Twitter to develop adequate tools for controlling and limiting the incidence of incitement of racial hatred on social media. The **UN CERD** asked the Government provide, within one year, information on its implementation of the recommendations of paras 16(a) and 16(e) on racist hate speech and hate crimes; see para 16 & 49, August 2016, CERD/C/GBR/CO/21-23.

ANNEXE 1: ENDORSEMENTS

ACERT (Advisory Council for the Education of Romanies and other Travellers)

Article 12 in Scotland

Catholic Association for Racial Justice

Friends Family and Travellers

Gypsy Roma Traveller Police Association

Herts GATE

Irish Chaplaincy and the Traveller Equality Project

Irish in Britain

Joseph Rowntree Charitable Trust

Leeds GATE

London Gypsy and Traveller Unit

MECOPP (Minority Ethnic Carers of Older People Project)

National Federation of Gypsy Liaison Groups

NATT+ (National Association of Teachers for Travellers and other professionals)

Rene Cassin

Roma Support Group

Travelling Ahead (Wales)

The Community Law Partnership

The Gypsy Council

The Travellers' Times

UKREN

INDIVIDUALS:

Tony Thompson, trustee, Friends Family and Travellers

Sasha Barton, solicitor, partner, Hodge Jones Allen

Chris Milsom, barrister, Cloisters Chambers

Henrietta Hill QC, barrister, Doughty Street Chambers

Marc Willers QC, barrister, Garden Court Chambers

David Renton, barrister, Garden Court Chambers

Tessa Buchanan, barrister, Garden Court Chambers

Professor Margaret Greenfields, Buckinghamshire New University

Sheila Rogers, Sheila Rogers Associates

Pauline Anderson, Consultancy