Improving educational outcomes for children of travelling families

Consultation

Introduction to the René Cassin organisation and our Chronically Excluded campaign

René Cassin is a human rights non-governmental organisation that uses the experience of the Jewish people, and positive Jewish values to campaign and educate on universal human rights issues such as discrimination, detention and genocide.

There are many parallels between the historical experience of the Jewish people and that of the Gypsy and Traveller communities. Both groups were victims of the Holocaust, and have experienced persecution, hostility and racism for centuries. It is reprehensible that Gypsy and Traveller communities continue to suffer inequality and discrimination in the present day.

Although we acknowledge that the Department for Education is seeking to improve educational outcomes for children of Travelling families, we disagree that repealing Section 444(6) of the Education Act 1996 is the answer. Rather, we believe that this change is proposed for political reasons will in fact remove another element of flexibility, which research has shown is the key to improving outcomes for Gypsy, Roma and Travelling children.

Our position with respect to the proposed repeal of S.444(6) of the Education Act 1996

The Government is proposing to repeal the current legislation that protects parents in Travelling families from being found guilty of school attendance offences if their child is absent from school, in certain circumstances.

Under S.444 of the Education Act 1996, a parent commits an offence if they fail to ensure their child’s regular attendance at a school where the child is registered; or, knows that the child fails to attend regularly at school and fails to cause the child to attend. S. 444(6) provides the defence that a parent cannot be found guilty of a school attendance offence, when the child is of no fixed abode, and:

a) The parents are engaged in a trade or business of such a nature as to require them to travel from place to place;

b) The child has attended at a school as a registered pupil as regularly as the nature of that trade or business permits; and,

c) If the child has attained the age of six, he or she has made at least 200 attendances during the period of 12 months ending with the date on which the proceedings were instituted.

René Cassin’s response

We agree with the Government’s proposition that children who have poor attendance at school are unlikely to achieve well, and the lack of access to conventional education is a major issue which
affects the life outcomes of Gypsies and Travellers, and we applaud the Government’s concern for the welfare of children from Travelling families.

However, we are concerned that this consultation frames the current problem as a result of the lifestyle and culture of these communities, rather than taking partial responsibility. We are uncomfortable with the removal of this protection for Travelling families and the assumption that Travelling parents do not value their children’s education.

Evidence shows that Gypsy and Traveller parents are positive about engagement with education generally. Negativity and disengagement begins when children experience racism and unhelpful school responses and policies,¹ and concern for a child’s psycho-social well-being takes precedence over educational aspirations.² In Scotland, studies have found that despite inflexibility of schools, Show families regarded schooling as the norm for their children from the age of five onwards, and that Show families did not permit their children to drop out of school, even when experiencing racist behaviour from other pupils.³ These positive overarching attitudes to education persist even though few schools have policies or practices that specifically address the needs or views of these pupils and their parents.

Unrealistic alternatives

Elective Home Education would hypothetically be an easy way for Traveller families to comply with current or proposed laws; however, this is unrealistic and also may be an undesirable solution. Gypsy and Traveller parents (along with many parents from the settled community) are often not in a position to deliver a well-rounded educational experience, particularly as these communities experience higher than average illiteracy rates and economic pressures. Moreover, there is little state support available for out-of-school learning. The government’s own study found that arrangements for EHE were poorly supported and monitored, and only two out of 16 respondent local authorities provided educational materials.⁴

Furthermore, the election of EHE even with proper resources has the potential to lead to greater social exclusion. Parents from Travelling families often chose home education, not because it is convenient, but because they fear certain aspects of in-school education: fear of racist bullying, cultural erosion and the perceived lack of relevance of the secondary school curriculum.

It is highly likely that these proposed changes will only push more Traveller communities to home educate their children; the above reasons should give us significant pause.

⁴ Department for Education and Skills, 2004, The situation regarding the current policy, provision and practice in Elective Home Education for Gypsy, Roma and Traveller children
The consultation paper notes that it provides other options for Traveller families to avoid prosecution, such as the dual registration system; however, this is impractical for several reasons: firstly, schools have no legal obligation to dual register; or, may not have available places. Centralised schools’ admission systems can take weeks to assign pupils to a school, which defeats the purpose for a highly mobile family. There is also evidence that some schools disregard their legal duties with respect to dual registration. Some parents have found their children being removed from the register of the base school while they are away travelling so there is no place for them when they return.

Wrong focus

We contend that by proposing to revoke Section 444(6), the Government has chosen the wrong track for addressing educational attainment levels in Travelling families. Professor Jean-Pierre Liegeois, notes that ‘if we place [Gypsy and Traveller] children in ‘scholastic competition’ where conditions clearly favour some more than others, yet we perpetuate the myth of meritocracy, we can only expect confrontation. And confrontation gives rise to “conflict (latent or violently explicit)” within the school.’

We maintain that other factors, such as lack of flexibility and resources, racist bullying, and unhelpful school responses play a larger role in the problem of lack of engagement and educational attainment of Travelling children, than S.444(6). In addition, this is only one consequence of a broader problem of the absolute and chronic shortage of culturally suitable accommodation. Gypsies and Travellers on unauthorised sites live in constant threat of forced eviction, forcing them to move on to different localities, which also disrupts children’s education. This problem is exacerbated when schools fail to quickly transfer records. Interrupted attendance has a negative effect on children’s social relationships and inclusion, leading to a cycle of exclusion that undermines learning and education.

The Appendix to this response contains several recommendations, extracted from *Inequalities experienced by Gypsy and Traveller communities* which allow Gypsy and Traveller children to maintain and develop their culture, and stay safe in school and enjoy and achieve educational outcomes while maintaining their identity.

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5. The 2006 Pupil Registration Regulations states that the Base School must keep a place open for the pupil while they are travelling, and record their absence as ‘present at approved educational activity’ if they know the pupil is attending another school. Dual registered Traveller students are covered by Regulation 9 which states that the student cannot be deleted from the school roll of their base school whilst travelling.
Procedural issues

We are extremely concerned that the consultation process does not involve oral hearings. Other recent consultations have organised oral hearings as part of the consultation process to enable Gypsies and Travellers to voice their opinions on these proposals.\(^{10}\) This is in breach of Article 5.1 of The Compact, which requires the government to actively seek the views of people specifically protected under legislation and other underrepresented and disadvantaged groups.\(^{11}\)

The public consultation also fails to meet the Cabinet Office Principles on Consultation, particularly the requirement for departments to give more thought to how they engage with and consult with those who are affected.\(^{12}\) The failure to provide oral hearings is poor execution considering the well documented lower written literacy levels of the Gypsy and Traveller communities.

Discrimination and human rights

We maintain that the proposed revocation of S.444(6) will amount to indirect discrimination, and thus violate Britain’s obligations under the European Convention on Human Rights, in particular Article 8 (Respect for Private and Family Life) and Article 14 (Prohibition on Discrimination) because of the failure to recognise the different circumstances of Travelling families, and because this is not a proportionate means of achieving the Department of Education’s aims.

In addition, the proposed measure does not serve to advance equality of opportunity between those who share a protected characteristic and those who do not, as required by the Public Sector Equality Duty (S.149 of the Equality Act 2010).

This proposal is also in direct contravention of the Coalition Government’s statement of agreement which pledged to support improved community relations and opportunities for ethnic minority communities. We remind the government of its commitment to improving community relations and social justice.

In conclusion, we are strongly opposed to the repeal of S.444(6) of the Education Act 1996, and we trust that you will take the submissions outlined above into consideration as part of the consultation process.

\(^{10}\) The Department of Communities and Local Government organised oral hearings as part of the consultation process for the proposed changes to the use of Temporary Stop Notices.

\(^{11}\) 5.1 Work with CSOs that represent, support, or provide services to people specifically protected under legislation and other under-represented and disadvantaged groups. Understand the specific needs of these groups by actively seeking the views of service users and clients. Take these views into account, including assessing impact, when designing and implementing policies, programmes and services. Available online at: http://www.cabinetoffice.gov.uk/sites/default/files/resources/The%20Compact.pdf

Appendix 1:

Extracted from *Inequalities experienced by Gypsy and Traveller communities: A review* (pp 123-124)

i. Inequalities relating to accommodation need to be addressed in order to reduce other aspects of exclusion experienced by children and young people.

ii. The racism experienced by young Gypsies and Travellers need to be tackled at every level, and active support provided to them so that they feel safer to report it.

iii. Young Gypsies and Travellers need greatly extended opportunities to learn about, explore and develop their own heritage and culture and to share this on their own terms with the wider community.

iv. Play and youth facilities should actively seek ways to make themselves accessible and valuable to young Gypsies and Travellers.

v. Specialist and outreach provision should be available where the barriers to inclusion are currently too great.

vi. Key organisations nationally and locally, such as the National Youth Agency and local play associations, should provide leadership in developing inclusive policies and practice. The National Playbus Association and more specialist local projects provide examples of such leadership.

vii. Further research and understanding is needed of the different meanings of play in Gypsy, Traveller and sedentary communities.

viii. Research is needed into the different meanings of community and the individual’s role in Gypsy, Traveller and sedentary communities.

ix. The needs of young disabled or gay, lesbian and bi-sexual Gypsies and Travellers, about which information is currently lacking, require investigation.

x. Further research is needed into the exclusion of young Gypsies and Travellers from play and youth service opportunities in all three countries.

xi. Further research is also needed into best practice in work with young Gypsies and Travellers, so that lessons can be learnt.