

**Local Development Plans –
defining Gypsies and
Travellers: consultation**
**A consultation on the definition
of ‘Gypsies and Travellers’ for
the purposes section 16B of
the Town and Country Planning
(Scotland) Act 1997**

Interim Impact Assessments

Contents

Introduction	3
Interim Business and Regulatory Impact Assessment.....	6
Interim Equalities Impact Assessment	12
Child Rights and Wellbeing Impact Assessment.....	32
Interim Island Communities Impact Assessment	36
Interim Fairer Scotland Duty Assessment.....	38
Strategic Environmental Assessment	44
Annex A: Statutory requirements of the Town and Country Planning (Scotland) Act 1997 relating to the Evidence Report and Gypsies and Travellers.	45
Annex B: Local Development Plan Consultation – decision to hold separate consultation on the definition of Gypsies and Travellers	46
Annex C: UNCRC Article Clusters (CRWIA).....	47
Annex D: General Comments – UNCRC (CRWIA).....	50

Introduction

This consultation seeks views on a definition of 'Gypsies and Travellers' for the specific purposes of section 16B of the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019. In preparing the consultation, consideration has been given to the impacts of the proposals. The following assessments are covered in this Integrated Impact Assessment.

- Business and Regulatory Impact Assessment
- Equalities Impact Assessment, covering human rights
- Childs Rights and Wellbeing Impact Assessment
- Island Communities Impact Assessment
- Fairer Scotland Duty
- Strategic Environmental Assessment

A public consultation was carried out between 17 December 2021 and 31 March 2022 on proposed [new regulations and draft guidance for Local Development Plans](#). That consultation outlined that the Planning (Scotland) Act, 2019, provides for a meaning of 'Gypsies and Travellers' to be specified in regulations. The consultation proposed to hold a separate consultation to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out.

[Interim Impact Assessments](#) were carried out for the above consultation. This Integrated Impact Assessment includes the relevant elements of those assessments and additional material specific to the content of this consultation.

What are the Impact Assessments

What is a Business and Regulatory Impact Assessment?

A Business and Regulatory Impact Assessment (BRIA) looks at the likely costs, benefits and risks of any proposed primary or secondary legislation. It also covers voluntary regulation, codes of practice, guidance, or policy changes that may have an impact on the public, private or third sector.

The BRIA explains:

- the reason why the Scottish Government is proposing to intervene;
- options the Scottish Government is considering, and which one is preferred;
- how and to what extent new policies may impact on Scottish Government, business and on Scotland's competitiveness;
- the estimated costs and benefits of proposed measures.

INTEGRATED INTERIM IMPACT ASSESSMENT

What is an Equalities Impact Assessment?

The public sector equality duty requires the Scottish Government to assess the impact of applying proposed new legislation. Equality legislation covers the characteristics of: age, disability, gender reassignment, sex including pregnancy and maternity, race, religion and belief, and sexual orientation.

An Equalities Impact Assessment (EQIA) aims to consider how a policy may impact, either positively or negatively, on different sectors of the population in different ways. A policy can cover: activities, functions, strategies, programmes, and services or processes.

The Equality Act 2010 harmonised existing equality legislation and includes a public sector duty ('the Duty') which requires public authorities to pay due regard to the need to:

- eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- advance equality of opportunity; and
- foster good relations between different groups – by tackling prejudice and promoting understanding.

Whilst there is not currently a specific Human Rights Impact Assessment, human rights considerations should be embedded throughout the policy making process. These considerations are set out within the EQIA.

What is a Child Rights and Wellbeing Impact Assessment?

The Child Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of a proposed policy on children's human rights and wellbeing. CRWIA helps the Scottish Government consider whether it is: advancing the rights of children in Scotland; and protecting and promoting the wellbeing of children and young people.

CRWIA is a Ministerial duty under the Children and Young People (Scotland) Act 2014 and in relation to the United Nations Convention on the Rights of the Child (UNCRC).

What is an Island Communities Impact Assessment?

An Island Communities Impact Assessment (ICIA) tests any new policy, strategy or service which is likely to have an effect on an island community which is significantly different from the effect on other communities. This became a legal duty in December 2020 under the Islands (Scotland) Act 2018.

INTEGRATED INTERIM IMPACT ASSESSMENT

What is the Fairer Scotland Duty Assessment?

The Fairer Scotland Duty (FSD) is set out in legislation as Part 1 of the Equality Act 2010, and came into force in Scotland from April 2018. The aim of the duty is to help the public sector to make better policy decisions and deliver fairer outcomes. The duty focuses on socio-economic inequality issues such as low income, low wealth, and area deprivation. The Fairer Scotland Duty applies to 'decisions of a strategic nature' – these are the key, high-level choices or plans that the public sector makes.

What is Strategic Environmental Assessment?

In Scotland, public bodies and private companies operating in a public character, such as utility companies, are required to assess, consult on, and monitor the likely impacts their plans, programmes and strategies will have on the environment. This process is known as Strategic Environmental Assessment (SEA).

SEA helps to better protect the environment, aims to ensure that any development is sustainable, and increases opportunities for public participation in decision-making. It ensures that expert views are sought at various points in the preparation process from the public and the consultation authorities, who are:

- Scottish Natural Heritage
- Scottish Environmental Protection Agency
- Historic Environment Scotland.

Interim Business and Regulatory Impact Assessment

Title of Proposal

Consultation on a proposed definition of 'Gypsies and Travellers' for the purpose of Local Development Plan regulations on Evidence Reports.

The definition will be implemented with Local Development Planning Regulations associated with the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act 2019.

Purpose and intended effect

This is an Interim BRIA and is not intended to be a definitive statement or a full assessment of impacts. It does however, present preliminary and indicative impacts that will require further consideration by the Scottish Government to inform the decision-making process on the Gypsy/Traveller definition after the consultation has taken place and prior to them being finalised.

Background

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019, sets out requirements for planning authorities to involve the Gypsy and Traveller community in the early stages of preparing Local Development Plans (LDP). This includes providing a summary of the action taken to meet Gypsy/Traveller accommodation needs and providing a statement on the steps taken to seek views of the community, within the Evidence Report that will inform the preparation of the LDP. The Act refers that 'Gypsies and Travellers' has the meaning specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specified in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out. A statutory definition will be included within regulations for the specific planning purpose of preparing the Evidence Report.

Objective

This consultation aims to establish a definition of 'Gypsies and Travellers' to inform planning authorities on who to consult in preparing the Evidence Report. By consulting members of the community and other relevant bodies, the desired outcome is an accurate and inclusive definition that enables the planning system to better support the needs of Gypsies and Travellers.

Interim Business and Regulatory Impact Assessment

Rational for Government intervention

The Scottish Government is committed to ensuring equality of opportunity for all of Scotland's Gypsy/Travellers, a particularly marginalised group. They want to ensure planning authorities properly involve the Gypsy/Traveller community in planning the future of their places.

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019 refers that 'Gypsies and Travellers' has the meaning specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

Consultation

Within Government

The responsibility of these issues lie within the Planning, Architecture and Regeneration Division and the proposals have been developed with the assistance of the Equality Unit within the Directorate for Equality, Inclusion and Human Rights.

A town planner with professional experience of working with the Gypsy/Traveller community was seconded into Planning, Architecture and Regeneration Division. They supported the drafting of the consultation document, provided advice on engagement with the community and provided input to the interim impact assessments.

Public Consultation

A public consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specified in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out. The proposal received positive responses, particularly from local authorities.

Business

Members of the Gypsy/Traveller community may be more likely to be self-employed as shown in the latest [census analysis](#). We therefore propose to include a specific question on the impact on business with the consultation. There is potential for an impact on business sectors that are involved in the supply of resources and materials for Gypsy/Traveller sites and businesses.

Options

1 - 'Do nothing'

This option entails not providing a formal definition of 'gypsies and travellers' in the Local Development Plan regulations. Not providing a definition would leave a gap in the legislation as the provisions of section 16B(3)(a) and (4)(a)(ii) both depend upon

Interim Business and Regulatory Impact Assessment

the meaning of the term “Gypsies and Travellers”. Not having a definition will mean planning authorities are unclear who to involve and the preparation of the evidence report and could result in some members of the community’s needs not being considered.

2 - Open-ended question

This option entails asking how communities would want to be defined, allowing consultees to formulate a definition to be embedded within regulations. While this option may allow for increased autonomy for members of the Gypsy/Traveller community to construct a definition that relates authentically to them, it may not be legally purposeful. It would also require a longer timeframe to conclude an agreed definition across interests.

3 - Suggested definition

This option entails presenting a suggested definition to allow consultees to respond to. This provides direction for the consultation and the framework for a legally sound definition. In concluding on this option, we considered there to be benefit in involving a planner with professional experience of working with the community to consider relevant matters and propose a definition for consultation. Consultees have the option to voice views on any aspect of this definition.

Sectors and groups affected

Given the specific purpose of the definition we have previously indicated that a separate consultation would enable the targeted involvement of the community and an explanation of the specific matters associated with the requirement. We therefore consider there to be the two main groups affected, the Gypsy/Traveller community in Scotland and planning authorities.

However, we recognise there will be wider interest so we also intend to consult with Gypsy/Traveller community third sector bodies, other travelling communities as well as other public sector organisations.

Benefits

Option 1

There are no benefits associated with a ‘do nothing’ option.

Option 2

Asking an open-ended question would provide the Gypsy/Traveller community with greater autonomy to construct a definition.

Option 3

Proposing a definition enables views to be provided by the community and related interests as well as providing direction for the consultation within the framework for a legally sound definition.

Interim Business and Regulatory Impact Assessment

Costs

Option 1

There are practical costs associated with a 'do nothing' option as it would leave a gap in regulations and provide little direction or guidance for planning authorities when preparing Evidence Reports. It may therefore provide opportunity to challenge the legal basis of plan preparation. Fundamentally, this option could result in some community interests not being considered and therefore not take account of.

Option 2

An open-ended question could result in a multitude of views, requiring negotiation over an extended period of time. It risks consultation fatigue and diminished input.

Option 3

Proposing a suggested definition on the sensitive matter of defining a community risks concerns that it will be applied to other situations. We have attempted to mitigate this through carrying out a separate and targeted consultation to enable clearer and more effective engagement. We have sought the input of a planner with professional experience of working with the community to inform the consultation and definition. We have also taken account of existing definitions in legislation and policy and considered the issues that have arisen with them.

Sectors and groups affected

Given the specific purpose of the definition we have previously indicated that a separate consultation would enable the targeted involvement of the community and an explanation of the specific matters associated with the requirement. We therefore consider there to be the two main groups affected, the Gypsy/Traveller community in Scotland and planning authorities.

However, we recognise there will be wider interest so we also intend to consult with Gypsy/Traveller community third sector bodies, other travelling communities as well as other public sector organisations.

Scottish Firms Impact Test

The proposed definition is not expected to have any overall impact on Scottish Firms. We propose to include a specific question on the impact on business within the consultation.

Competition Assessment

There are no obvious impacts on competition from the proposed definition of the Gypsy and Traveller community within planning regulations. We conclude that the proposed definition does not have any influence towards supplier number/range, ability to compete, incentive or choice/information.

Interim Business and Regulatory Impact Assessment

Consumer Assessment

The Scottish Government definition of a consumer is "anyone who buys goods or digital content, or uses goods or services either in the private or public sector, now or in the future". Considering the Gypsy/Traveller community as consumers of the services that Local Authorities provide in terms of housing and planning, the impact of the definition would assist them in a development management context. The definition would make them more identifiable and thus their needs would be easier to recognise by planning authorities.

Test run of business forms

The formal definition of 'Gypsies and Travellers' within planning regulations will not introduce any statutory business forms.

Digital Impact Test

In the UK, Gypsy/Travellers experience significant digital exclusion with around 1 in 5 having never used the internet, and over half stating they do not feel confident using digital technology by themselves. Planning reform in Scotland seeks to improve digital access for all citizens. An inclusive definition of Gypsy/Travellers can potentially assist in providing access for this excluded community. Thus, this proposal is consistent with the increasing shift of economic, social and governmental interactions online.

Legal Aid Impact Test

These changes would not affect claims for legal aid.

Enforcement, sanctions and monitoring

LDPs are subject to review under the provisions set out in the amended Town and Country Planning (Scotland) Act 1997. According to Section 16(B)(8), an appointed person by the Scottish Ministers will assess whether the Evidence Report contains sufficient information to prepare an LDP. If insufficient, Local Authorities are required to revise the report and resubmit it to the Scottish Ministers.

Implementation and delivery plan

The definition of 'Gypsies and Travellers' will come into force along with overall regulations relating to the new Local Development Plan systems. A clear definition will support planning authorities to implement the new Local Development Plan system effectively.

Post implementation review

Evidence gathered during the consultation will help inform the full BRIA which will be completed when we finalise work on the LDP regulations and guidance.

Summary and recommendation

The requirement for a definition of the Gypsy/Traveller community has emerged from the Planning (Scotland) Act 2019. In carrying out a separate and targeted

Interim Business and Regulatory Impact Assessment

consultation we are able to focus engagement with the community and those with relevant interests, as well as explain the specific nature to which the definition would apply. We have sought the input of a planner with professional experience of working with the community to inform the consultation and definition. We have also taken account of existing definitions in legislation and policy, and considered the issues that have arisen with them, in order to consult on an inclusive and robust definition.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Approved by: Fiona Simpson

Position: Chief Planner

Interim Equalities Impact Assessment, covering human rights

Interim Equalities Impact Assessment

Title of Policy/Strategy/Legislation

Consultation on a proposed definition of 'Gypsies and Travellers' for the purpose of Local Development Plan regulations on Evidence Reports.

Minister

Tom Arthur MSP, Minister for Public Finance, Planning and Community Wealth

Lead Official

Fiona Simpson, Chief Planner: Planning, Architecture, Regeneration and Place

SG Officials Involved in EQIA

Carrie Thomson, Principal Planner – Development Planning & Housing
Imesha Alawattage – Planning Regulations Manager

Directorate

Local Government and Communities

New policy and/or legislation

Following consultation and considerations of views, Scottish Government will lay regulations before the Scottish Parliament associated with the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act 2019. These will provide further detail on the legislative framework for the preparation of local development plans, including the definition of 'Gypsies and Travellers' to support planning authorities in preparing their evidence reports.

Introduction

The public sector equality duty requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. Equality legislation covers the protected characteristics of: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex (gender) and sexual orientation. An equality impact assessment (EQIA) aims to consider how a policy may impact, either positively or negatively, on different sectors of the population in different ways.

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019, sets out requirements for planning authorities to involve the Gypsy and Traveller community in the early stages of preparing Local Development Plans (LDP). This includes providing a summary of the action taken to meet Gypsy/Traveller accommodation needs and providing a statement on the steps taken to seek views of the community, within the Evidence Report that will inform the preparation of the LDP. The Act refers that 'Gypsies and Travellers' has the meaning

Interim Equalities Impact Assessment, covering human rights

specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specific in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out.

Screening

Policy Aim

The consultation is part of our wider work on planning reform and implementing the Planning (Scotland) Act 2019 (the 2019 Act). It should be viewed within the context of the overarching provisions on LDPs as set out in the Town and Country Planning (Scotland) Act, 1997, as amended by the 2019 Act.

The Scottish Government is committed to ensuring equality of opportunity for all of Scotland's Gypsy/Travellers, a particularly marginalised group. We want to ensure planning authorities properly involve the Gypsy/Traveller community in planning the future of their places.

The aim is for LDPs to contribute to the following national outcomes contained in the National Performance Framework:

- We live in communities that are inclusive, empowered, resilient and safe.
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy.
- We value, enjoy, protect and enhance our environment.
- We are healthy and active.

This consultation aims to establish a definition of 'Gypsies and Travellers' to inform local authorities on who to consult in preparing the Evidence Report. By consulting members of the community and other relevant bodies, the desired outcome is an accurate and inclusive definition that enables the planning system to better support the needs of Gypsies and Travellers.

Who will it affect?

We consider there will be two main groups affected by this work, the Gypsy/Traveller community in Scotland and planning authorities. We expect there will also be wider interest from with Gypsy/Traveller community third sector bodies, other travelling communities as well as other public sector organisations.

The consultation will seek views on the proposed definition and seek views on this Equalities Impact Assessment (EQIA). An interim Business and Regulatory Impact Assessment (BRIA), interim Childs Rights and Welfare Impact Assessment

Interim Equalities Impact Assessment, covering human rights

(CRWIA), Island Communities Impact Assessment (ICIA) and Fairer Scotland Duty Assessment have also been undertaken and will be consulted on.

What might prevent the desired outcomes being achieved?

Defining a community is a sensitive matter. There may therefore be a wish expressed not to define the community. We are clear in the consultation that the definition relates only to the specific planning purpose of preparing the Evidence Report and will emphasise this as we engage on the consultation. We also seconded a planner with professional experience of working with the Gypsy/Traveller community to consider relevant issues as the document was prepared.

Stage 1: Framing

The Scottish Government's Planning, Architecture and Regeneration Division has led on the preparation of the consultation. A collaborative approach has been adopted in developing the consultation package, with input from the Equality Unit and a secondee with experience working with the Gypsy/Traveller community.

Human Rights

The European Convention on Human Rights (ECHR) is a binding international agreement which sets out basic human rights. Key rights relevant to the proposed regulation and consultation relate to a right to free expression, a right to free association, and a right not to be discriminated against. The Human Rights Act (HRA) incorporates the ECHR rights into UK law.

Scotland's National Performance Framework includes the human rights outcome – 'We respect, protect and fulfil human rights and live free from discrimination'. One of the indicators of this relates to 'influence over local decisions' and is measured as the percentage of people who agree with the statement "I can influence decisions affecting my local area". The Scottish Household Survey provides data for this: it shows that in 2019, 17.8% of people agreed with the statement, down from 20.1% in 2018.

Participation is an important underlying principle in applying a human rights based approach. The consultation seeks to implement the provisions of the 2019 Act, which requires planning authorities to seek the views of the Gypsy/Traveller community when preparing the evidence report. This supports this indicator of influence over local decisions, and providing a comprehensive definition in regulations further embeds this influence for the community by allowing them to be visible, identifiable and empowered.

Engagement

The responsibility for the consultation lies with the Planning, Architecture and Regeneration Division and the proposals have been developed with the assistance of the Equality Unit within the Directorate for Equality, Inclusion and Human Rights.

Interim Equalities Impact Assessment, covering human rights

A town planner with professional experience of working with the Gypsy/Traveller community was seconded into Planning, Architecture and Regeneration Division. They supported the drafting of the consultation document, provided advice on engagement with the community and provided input to the interim impact assessments.

Initial Findings Summary

This is an interim EQIA and is not intended to be a definitive statement or a full assessment of impacts. It does however, present preliminary and indicative impacts that will require further consideration by the Scottish Government to inform the decision-making process on the definition of 'Gypsies and Travellers' after the consultation has taken place and prior to it being finalised.

In this interim EQIA we look at published evidence available and gathered so far under the protected characteristics as listed within the Equality Act 2010. It is important to note that the protected characteristics listed are not independent of each other and some people may have to deal with complex and interconnected issues related to disadvantage at any one time.

Initial reflections indicate that the proposal may potentially have an impact on the Gypsy/Traveller community in different ways. The level of impact differs based on the intersection of people's protected characteristics.

The evidence relation to age provides an initial indication that young Gypsy/Travellers often feel the least empowered in the decision making process within the planning system. Their needs in terms of access to transport for school, neighbourhood integration and play facilities lead to social exclusion and poor educational outcomes, that can have long impactful negative consequences for them in adult life. Gypsy/Travellers have a much younger age profile than other ethnic groups, thus young Gypsy/Travellers present a significant portion of this ethnic group whose needs must be addressed.

The evidence in relation to disability provides an initial indication that Gypsy/Travellers were more likely than the general population to have a limiting long-term health problem or disability (28 per cent compared to 20 per cent) despite the fact they had a much younger age profile. This indicates that provision of access to public transport and proximity to healthcare facilities are of increased importance.

The evidence relating to race provides an initial indication on how Gypsy/Travellers feel about their empowerment within the planning system. Research indicated that they want to be consulted about where sites should be, that they should be part of the planning process to allow a say on what type of sites and facilities are wanted, and there should be more opportunities to take part in decision making and for voices to be heard. Demographic evidence shows that this ethnic group are least likely to own a home, more likely to live in insufficient housing and face poorer health, education and housing outcomes than the rest of the population. In England, the definition of 'Gypsy and Traveller' has been challenged by members of the community for its perpetuation of exclusion to site provision.

Interim Equalities Impact Assessment, covering human rights

The evidence in relation to sex/gender for Gypsy/Travellers is limited but provides an initial indication that female Gypsy/Travellers are regarded as a more vulnerable group to domestic abuse. Evidence on the overall population provides an initial indication that whilst women can find it more difficult to engage in planning processes, they are slightly more likely than men to become involved, particularly in development management.

The evidence relating to sexual orientation for Gypsy/Travellers is limited. However, evidence regarding the overall population provides an initial indication that as a whole, this group had no special needs or requirements when it came to planning. However, more recent research and guidance suggests that our understanding of the needs of marginalised groups is developing.

The evidence in relation to religion/belief for Gypsy/Travellers provides no indication that this characteristic affects their positionality within the planning system.

Extent / Level of EQIA Required

The potential impact on each of the protected groups has been considered using the information in the Scottish Government's Equality Evidence Finder and other relevant sources.

Views on the interim EQIA and a request for additional information will be sought through the public consultation. This will inform further development of the Gypsy/Traveller definition for regulations and support continued regard to eliminating discrimination, promoting equality of opportunity and fostering good relations.

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
----------------	--	--------

Stage 2: Data and Evidence Gathering

<p>Age</p>	<p>‘We should be consulted about where sites should be’, ‘We should be part of the planning process to allow us to say what type of sites and facilities we want’, and ‘There should be more opportunities for us to take part in decision making and have our voices heard’. – Young Gypsy/Travellers discuss the United Nations Convention on the Rights of the Child.</p> <p>“our sites are very far away from everything: swimming pools, school [we don’t get transport provided anymore], cinemas, shops and places to eat”.</p> <p>A distinct lack of safe places to play and opportunities for older young people.</p> <p>The geographical location of sites and the lack of public transport are also barriers which restrict young Gypsy/Travellers access not only to education, but to social and recreational activities. Young Gypsy/Travellers rights to associate and play are also reported as being disproportionately affected due to the lack of safe and suitable spaces for children to play on sites.</p>	<p>Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People’s Evidence Bank</p> <p>I Witness: The UNCRC in Scotland</p> <p>Gypsy Travellers in Scotland - a resource for the media Equality and Human Rights Commission (equalityhumanrights.com)</p> <p>gypsy and travellers 2012.pdf (eis.org.uk)</p>
-------------------	--	--

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>Young Gypsy Travellers experience inequalities from an early age. As a result of where they live, the relevance of service provision and/or their experiences of discrimination, children and young people often face:</p> <ul style="list-style-type: none"> • A lack of access to pre-school, out-of-school and leisure services; • Low participation in secondary education with negative experiences/bullying given as the reason for leaving at an early age; • Poor and declining educational attainment with low levels of literacy and numeracy; • Uncertainty around their accommodation and potentially their relationship with people living in the vicinity; • A sense that their needs and identities are not being reflected or met within mainstream services. <p>Substantial negative psychological impact has also been shown in children who experience repeated evictions, family</p>	

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>tensions associated with insecure lifestyles and ongoing hostility from the wider population.</p> <p>There is a general perception that Gypsy/Traveller pupils are more likely to be subjected to bullying and harassment in class and in the playground. Some of this is racist abuse and behaviour. Gypsy/Traveller pupils have indicated that their reluctance to come to school is often associated with the fear or reality of racism and bullying and harassment.</p>	
Disability	<p>Gypsy/Travellers were more likely than the general population to have a limiting long-term health problem or disability (28 per cent compared to 20 per cent) 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 per cent compared to 10 per cent).</p>	<p>Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census - gov.scot (www.gov.scot)</p>
Gender reassignment	<p>We have not been able to gather any information regarding this characteristic.</p>	
Pregnancy and maternity	<p>We have not been able to gather any information regarding this characteristic.</p>	
Race	<p>In 2011, Gypsy/Travellers in Scotland, compared to</p>	<p>Gypsy/Travellers in Scotland - A Comprehensive Analysis of the</p>

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>the population as a whole, were less likely to own their own home, more likely to live in a caravan, and more likely to live in overcrowded accommodation.</p> <p>Accessible, affordable legal representation and or mediation should be made available for members of the Gypsy/Traveller community so that they may gain equal access to decision making within planning processes/appeals.</p> <p>A number of studies have reported that Gypsies and Travellers continue to face high levels of racial discrimination, contributing to and exacerbating the inequalities they experience.</p> <ul style="list-style-type: none"> • 4 out of 5 (77%) of Gypsies, Roma and Travellers have experienced hate speech or a hate crime. This ranged from regularly being subject to racist abuse in public to physical assaults. • Despite the experience of prejudice being so common for Gypsies, Roma and Traveller (GRT) only 1 out of 5 (13%) sought help. GRT people said they felt the police or legal 	<p>2011 Census - gov.scot (www.gov.scot)</p> <p>Houses of Commons Library: Gypsies and Travellers</p> <p>Briefing: Accomodation issues facing Gypies and Travellers in England</p> <p>Discrimination - mygov.scot</p> <p>Tackling inequalities faced by Gypsy, Roma and Traveller Communities – Women and Equalities Committee</p>

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>professionals would not help them so saw seeking help “pointless”.</p> <ul style="list-style-type: none"> • Half of Gypsy, Roma and Traveller people have experienced discrimination in the workplace. This ranged from being fired once the company learned of their heritage to colleagues refusing to work with them because of their ethnicity. • The dominant coping mechanism Gypsies, Roma and Travellers used when trying to avoid racism was to try and hide their ethnicity (77% said they regularly attempted to hide their ethnicity). • 70% of Gypsies, Roma and Travellers said they had experienced prejudice in education, with teachers being mentioned most frequently in the context of perpetuating stereotypes and overlooking bullying and racism <p>There has been a long-term policy and practice failure to deliver and manage Gypsy and Traveller site in the UK. The resulting shortage of sites manifests itself in unauthorised</p>	

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>encampments, weakened community cohesion and expenditure on clearing up and eviction.</p> <p>More importantly these protected ethnic groups face poorer health, education and employment outcomes and feel marginalised in society. A mutually beneficial outcome would result from appropriate levels of site provision to meet needs. Good quality sites are provided in some areas, but historically a number of councils only use reactive enforcement measures against encampments. In other areas there may be sites, but they are so poorly managed that they are expensive and unsustainable.</p> <p>National policy and legislation has also not provided the impetus to deliver sufficient sites and is often not enforced.</p> <p>The change of planning definition of Gypsies and Travellers (in England) has excluded a significant number of Gypsies and Travellers from pitch needs assessments and future provision.</p> <p>Gypsy Travellers are recognised as an ethnic group. The Equality Act 2010 protects people who</p>	

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	<p>are recognised as a distinct ethnic group from being discriminated against on the grounds of ethnicity. The Scottish Government has made a commitment to make sure there is equality for Gypsy Travellers by integrating their needs into policies such as health, education and social services.</p> <p>Gypsy, Roma and Traveller people have the worst outcomes of any ethnic group across a huge range of areas, including education, health, employment, criminal justice and hate crime. Too often local authorities and public services fail to differentiate between different groups who have different needs. Our inquiry has found that, while many inequalities have existed for a long time, there has been a persistent failure by both national and local policy-makers to tackle them in any sustained way. This failure has led to services that are ill-equipped to support Gypsy, Roma and Traveller people to use services that they need and are entitled to</p>	
Religion/belief	Gypsy/Travellers were much less likely to identify as 'Church of Scotland' and much more likely to	Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census - gov.scot (www.gov.scot)

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	identify as 'Other Christian'.	
Sex/Gender	<p>Gypsy, Roma and Traveller Women who are trying to leave abusive homes face barriers that go beyond those that non-Gypsy, Roma and Traveller women experience. Gypsy and Traveller women often lose their extended community network when a relationship ends. While this can be due to ostracisation, it is also likely that a woman will be living either on a site or very near to her extended family and, if she needs to leave her home, she will need to be housed far away for her own safety. Local authorities should ensure that Gypsy, Roma and Traveller women have access to a single, trusted contact who provides them with the information and support they need. Should this contact be from a charitable organisation, local authorities must ensure that the organisation has sufficient funding to sustain the necessary support.</p>	<p>Tackling inequalities faced by Gypsy, Roma and Traveller Communities – Women and Equalities Committee</p>
Sexual Orientation	<p>As a whole, this group had no special needs or requirements when it came to planning. However, more recent research and guidance including in the World Bank's Handbook for Gender-Inclusive Urban Planning and Design</p>	<p>World Bank Handbook for Gender Inclusive Urban Planning and Design (2020)</p>

Interim Equalities Impact Assessment, covering human rights

Characteristic	Evidence Gathered and Strength/quality of evidence	Source
	(2020) suggests that our understanding of the needs of marginalised groups is developing.	

Data gaps identified and action taken.

Interim Equalities Impact Assessment, covering human rights

Stage 3: Assessing the impacts and identifying opportunities to promote equality

This section considers the potential impacts – negative, positive and neutral – that the proposed definition might have on each of the protected characteristics. It has been undertaken using the evidence gathered to date. This is indicative of the potential impacts and will be subject to review following the consultation.

Interim Equalities Impact Assessment, covering human rights

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination, harassment and victimisation	x			The proposed definition is broad, covering 'persons of nomadic habitat of life' and is inclusive in specifying this includes those who on grounds of their own or family's or dependents educational needs or old age have ceased to travel. We have identified young Gypsy/Travellers as a key group to try and engage in the consultation which will allow them greater opportunity to make their views heard.
Advancing equality of opportunity	x			
Promoting good relations between different age groups	x			

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	The proposed definition is broad, covering 'persons of nomadic habitat of life' and is inclusive in specifying this includes those who on grounds of their own or family's or dependents educational needs or old age have ceased to travel. The definition sits within wider regulations that aim to support the needs and aspirations of disabled people through Local Development Plans.
Advancing equality of opportunity	x			
Promoting good relations	x			

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender Reassignment	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination				Not assessed
Advancing equality of opportunity				
Promoting good relations				

Interim Equalities Impact Assessment, covering human rights

Do you think that the policy impacts on people because of pregnancy and maternity?

	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination				Not assessed
Advancing equality of opportunity				
Promoting good relations				

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination	x			The proposed definition is broad and inclusive, covering 'persons of nomadic habitat of life whatever their race or origin'. Identifying this within regulations will provide clarity for planning authorities on whose views they are to seek in preparing the evidence report and therefore to have views heard, particularly in relation to accommodation needs. This engagement allows planning authorities to set up a permanent and progressive relationship with the community, encouraging them to participate in the planning system.
Advancing equality of opportunity	x			
Promoting good relations	x			

Do you think the policy impacts on people because of their religion or belief?

Religion/Belief	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination			x	The definition that seeks to identify Gypsy/Travellers does not make distinction based on religion for the purposes of LDP regulations. Whilst we don't have specific evidence that participation in planning is disproportionately low for people with this protected characteristic, we would suggest that there may be value in ensuring that participation forms part of a collaborative approach to community engagement.
Advancing equality of opportunity			x	
Promoting good relations			x	

Interim Equalities Impact Assessment, covering human rights

Do you think that the policy impacts on men and women in different ways?

Sex/Gender	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination			x	The definition that seeks to identify Gypsy/Travellers does not make distinction based on sex/gender for the purposes of LDP regulations. While research on the experiences of Gypsy/Traveller men and women is limited, Local Authorities are guided under the principles of the Planning (Scotland) Act 2019 to take into account those who may be directly, or indirectly impacted by proposals, and provide opportunities for a diverse range of people to express their views.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think that the policy impacts on people because of their sexual orientation?

Sexual Orientation	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination			x	Evidence indicated that as a whole, this group had no special needs or requirements when it came to planning.
Advancing equality of opportunity			x	
Promoting good relations			x	

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage/Civil Partnership	Positive	Negative	None	Reason for your decision
Eliminating unlawful discrimination				Not required.

Interim Equalities Impact Assessment, covering human rights

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	The interim review has identified at this stage a range of potential positive impacts. This is an indicative assessment and will be subject to review following consultation.
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact Analysis has shaped the policy making process

The proposed regulation and consultation seek to define 'Gypsies and Travellers' for the purposes of the LDP Evidence Report within Planning regulations. The overall approach has been to promote inclusion, equality and good relations with the Gypsy/Traveller community throughout the consultation to ensure the definition set out in regulations is comprehensive and beneficial to the community. Equality Impact Analysis has allowed us to consider the intersections by which impact differs and highlight these groups when identifying consultees.

Monitoring and Review

Evidence gathered during the consultation will help inform the full EQIA which will be completed when we finalise work on the regulations and guidance.

Stage 5 – Authorisation of EQIA

Please confirm that:

This Equality Impact Assessment has informed the development of this policy:

- **Yes X**
- No

Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)

Interim Equalities Impact Assessment, covering human rights

- Fostering good relations, tackling prejudice and promoting understanding.
- **Yes X**
- No

If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

- Yes
- No
- **Not applicable X**

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Local Development Planning Regulations and Guidance Consultation and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Approved by: Fiona Simpson

Position: Chief Planner

Child Rights and Wellbeing Impact Assessment

Introduction

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019, sets out requirements for planning authorities to involve the Gypsy and Traveller community in the early stages of preparing Local Development Plans (LDP). This includes providing a summary of the action taken to meet Gypsy/Traveller accommodation needs and providing a statement on the steps taken to seek views of the community, within the Evidence Report that will inform the preparation of the LDP. The Act refers that 'Gypsies and Travellers' has the meaning specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for LDPs. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specific in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out. A statutory formal definition will be included within regulations for the specific planning purpose of preparing the Evidence Report.

This consultation aims to establish a definition of 'Gypsies and Travellers' to inform local authorities on who to consult in preparing the Evidence Report. By consulting members of the community and other relevant bodies, the desired outcome is an accurate and inclusive definition that enables the planning system to better support the needs of Gypsies and Travellers.

The Child's Rights and Wellbeing Impact Assessment (CRWIA) is used to identify, research, analyse and record the impact of proposed legislation on children's human rights and wellbeing. The impacts can be direct or indirect; short, medium or long-term; and positive, negative or neutral.

The public consultation will seek views on the proposed definition and seek views on this interim CRWIA. An interim Business and Regulatory Impact Assessment (BRIA), Equalities Impact Assessment (EQIA), Island Communities Impact Assessment (ICIA) and Fairer Scotland Duty Assessment have also been undertaken and will be consulted on.

1. Which articles of the UNCRC does this policy/measure impact on?

This interim impact assessment relates to the proposals for a definition for Gypsies and Travellers that will be part of secondary legislation on development planning. This interim impact assessment considers how the proposals relates to the relevant [Articles of the United Nations Convention on the Rights of the Child \(UNCRC\)](#) in particular in relation to Articles;

2 – non discrimination. The Convention applies to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or any other status, whatever they think or say, whatever their family background.

Interim Child Rights and Wellbeing Impact Assessment

3 – best interests of the child. The best interests of the child must be a top priority in all decisions and actions that affect children.

12 – respect for the views of the child. Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.

27 – adequate standard of living. Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development. Governments must help families who cannot afford to provide this

30 – children from minority or indigenous groups. Every child has the right to learn and use the language, customs and religion of their family, whether or not these are shared by the majority of the people in the country where they live.

It considers;

- any impacts the proposals may have on children in general and / or on any specific group or groups of children;
- how the proposal may contribute to the wellbeing of children and young people based on the relevant SHANARRI indicators;
- if the proposals better or further effect the implementation of the UNCRC in Scotland; and
- the evidence base used to inform the assessment.

We consider that of the eight wellbeing indicators (Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included (known by the acronym SHANARRI)), the legislation relates to:

- Included: Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.
- Respected: Given a voice and involved in the decisions that affect their wellbeing.
- Responsible: Taking an active role in their schools and community.

The results of this assessment demonstrate that there are likely to be no potentially negative impacts of the proposed definition. There are specific sections within the 2019 Act, and reiterated within the draft LDP guidance, which require children and young people to be actively engaged in the LDP preparation process and for their views to be listened to.

2. What impact will your policy/measure have on children's rights?

This interim CRWIA concludes that the proposed definition will have a positive impact on children's rights within the Gypsy/Traveller community.

3. Will there be different impacts on different groups of children and young people?

Due to the scope of this definition, the impact will solely apply to children and young people within the Gypsy/Traveller community.

Interim Child Rights and Wellbeing Impact Assessment

4. If a negative impact is assessed for any area of rights or any group of children and young people, can you explain why this is necessary and proportionate? What options have you considered to modify the proposal, or mitigate the impact?

No negative impact is assessed.

5. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?

The views of children and young people within the Gypsy/Traveller community indicate that they want to be involved in local decision making and be engaged with the planning process.

The needs of young Gypsies/Travellers are unique compared to the rest of the community, as opportunity to play, proximity to educational facilities and access to transport are key in their wellbeing and development. While this definition is to be used solely to inform planning local authorities about whose views to seek in preparing the Evidence Report, creating a comprehensive definition that can identify the whole community will allow young Gypsies/Travellers to put their needs forward so that Local Authorities.

The Evidence Report must include a statement on how the planning authority has sought particular stakeholders' views, including children and young people, and how these views are taken into account in the report (section 16B(4) of the 1997 Act).

6. How have you consulted with relevant stakeholders, including involving children and young people in the development of the policy/measure?

Responses to the NPF4 Position Statement (2021) called for action to address inequality of opportunity to participate, with specific calls for a greater voice for children and young people and groups such as Gypsy/Travellers.

A public consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specified in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out. The proposal received positive responses, particularly from local authorities.

7. What evidence have you used to inform your assessment?

This assessment was informed by a range of sources, including government census data and third sector publications specialising in young Gypsy/Traveller views and experiences;

[Article 12 – Young Gypsy/Travellers](#)

[Educational Institute of Scotland \(EIS\) Equality](#)

[Gypsy Travellers in Scotland - a resource for the media | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

[Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census](#)

[I Witness: The UNCRC in Scotland](#)

[Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People's Evidence Bank](#)

Interim Child Rights and Wellbeing Impact Assessment

8. How will the impact of the policy/measure be monitored?

Evidence gathered during the consultation will help inform the full CRWIA which will be completed when we finalise work on the definition for regulations.

9. How will you communicate to children and young people the impact of the policy/measure on their rights?

We will consider the comments received when finalising the definition of 'Gypsies and Travellers' within overall development planning regulations. We will then finalise the assessment in response to comments received and publish a revised assessment online with the finalised regulations and guidance.

10. Sign & Date

Sign off: Fiona Simpson
Job Title: Chief Planner

Interim Island Communities Impact Assessment

Introduction

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019, sets out requirements for planning authorities to involve the Gypsy and Traveller community in the early stages of preparing Local Development Plans (LDP). This includes providing a summary of the action taken to meet Gypsy/Traveller accommodation needs and providing a statement on the steps taken to seek views of the community, within the Evidence Report that will inform the preparation of the LDP. The Act refers that 'Gypsies and Travellers' has the meaning specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specific in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out.

The Islands (Scotland Act 2018)

Scottish Ministers are required by the Islands (Scotland) Act 2018 to have regard to island communities in exercising their functions and in the development of legislation. An Island Communities Impact Assessment (ICIA) must be prepared where the policy, strategy or service is likely to have an effect on an island community which is significantly different from its effect on other communities. Guidance and a toolkit have been published to support this requirement.

The National Islands Plan (December 2019) provides a framework for action in order to meaningfully improve outcomes for island communities. It is underpinned by four key values: fairness, integration, environmental protection (green) and inclusiveness.

Objectives and Intended Outcomes

This consultation aims to establish a definition of 'Gypsies and Travellers' to inform local authorities on who to consult in preparing the Evidence Report. By consulting members of the community and other relevant bodies, the desired outcome is an accurate and inclusive definition that enables the planning system to better support the needs of Gypsies and Travellers.

Consultation and Engagement

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specified in regulations. This was to enable targeted involvement of

Interim Island Communities Impact Assessment

the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out.

Comhairle Nan Eilean Siar Council responded highlighting that where there is no established Gypsy or Traveller community currently present during the preparation of the Plan (as has been the case historically in the Outer Hebrides) it has not been a requirement to take such accommodation needs into account.

The proposed definition for regulations will be subject to public consultation and will be available on the Scottish Government website. We would anticipate the local authorities covering the islands to respond.

Assessment

The assessment process requires that the Scottish Government must determine whether in its opinion the policy, strategy or service is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities).

The proposed regulation is necessary to provide additional detail to the requirements set out in primary legislation. It would not create an adverse effect for island communities as they are only required to seek views of Gypsies and Travellers where they are present in their area.

Initial Conclusion

Local Authorities are required to consult with different groups within their area for the purposes of the Evidence Report for Local Development Plans. We do not envisage that the proposed definition for regulations will have significant, or different effects on island communities, though views are invited as part of the current consultation process.

Approved by: Fiona Simpson

Position: Chief Planner

Interim Fairer Scotland Duty Assessment

This Fairer Scotland Duty Assessment template should be used with the [guidance published on the Scottish Government website](#). This gives advice about applying the Duty, links to useful resources and a glossary of key terms.

Title of policy/practice/strategy/legislation etc.	Consultation on a proposed definition of 'Gypsies and Travellers' for the purpose of Local Development Plan regulations on Evidence Reports.
Lead Minister	Minister for Public Finance, Planning and Community Wealth
Lead official	Dr Fiona Simpson
Directorate Division team	Planning, Architecture and Regeneration Division

Interim Fairer Scotland Duty Impact Assessment

Summary of aims and expected outcomes of strategy, proposal, programme or policy

Background

The Town and Country Planning (Scotland) Act, 1997, as amended by the Planning (Scotland) Act, 2019, sets out requirements for planning authorities to involve the Gypsy and Traveller community in the early stages of preparing Local Development Plans (LDP). This includes providing a summary of the action taken to meet Gypsy/Traveller accommodation needs and providing a statement on the steps taken to seek views of the community, within the Evidence Report that will inform the preparation of the LDP. The Act refers that 'Gypsies and Travellers' has the meaning specified in regulations by the Scottish Ministers and requires that before making such regulations, Scottish Ministers must consult with such persons as they consider appropriate.

A consultation was carried out between December 2021 and March 2022 on proposed new regulations and guidance for Local Development Plans. That consultation proposed to hold a separate consultation on a meaning of 'Gypsies and Travellers' to be specific in regulations. This was to enable targeted involvement of the Gypsy/Traveller community and for the explanation of the specific matters associated with the requirement to be set out.

Objective

This consultation aims to establish a definition of 'Gypsies and Travellers' to inform local authorities on who to consult in preparing the Evidence Report. By consulting members of the community and other relevant bodies, the desired outcome is an accurate and inclusive definition that enables the planning system to better support the needs of Gypsies and Travellers.

Summary of evidence

Racial/ethnic inequalities

According to 2011 census data, Gypsy/Travellers in Scotland, compared to the population as a whole, were less likely to own their own home, more likely to live in a caravan, and more likely to live in overcrowded accommodation

A Houses of Common report on English Gypsies/Travellers highlighted how accessible, affordable legal representation and or mediation should be made available for members of the Gypsy/Traveller community so that they may gain equal access to decision making within planning processes/appeals.

4 out of 5 (77%) of Gypsies, Roma and Travellers have experienced hate speech or a hate crime. This ranged from regularly being subject to racist abuse in public to physical assaults.

Despite the experience of prejudice being so common for Gypsies, Roma and Traveller (GRT) only 1 out of 5 (13%) sought help. GRT people said they felt the police or legal professionals would not help them so saw seeking help "pointless".

Half of Gypsy, Roma and Traveller people have experienced discrimination in the workplace. This ranged from being fired once the company learned of their heritage to colleagues refusing to work with them because of their ethnicity.

Interim Fairer Scotland Duty Impact Assessment

The dominant coping mechanism Gypsies, Roma and Travellers used when trying to avoid racism was to try and hide their ethnicity (77% said they regularly attempted to hide their ethnicity).

70% of Gypsies, Roma and Travellers said they had experienced prejudice in education, with teachers being mentioned most frequently in the context of perpetuating stereotypes and overlooking bullying and racism

There has been a long-term policy and practice failure to deliver and manage Gypsy and Traveller site in the UK. The resulting shortage of sites manifests itself in unauthorised encampments, weakened community cohesion and expenditure on clearing up and eviction.

More importantly these protected ethnic groups face poorer health, education and employment outcomes and feel marginalised in society. A mutually beneficial outcome would result from appropriate levels of site provision to meet needs.

Good quality sites are provided in some areas, but historically a number of councils have ignored the strategic issue and only use reactive enforcement measures against encampments. In other areas there may be sites, but they are so poorly managed that they are expensive and unsustainable.

National policy and legislation has also not provided the impetus to deliver sufficient sites and is often not enforced.

The change of planning definition of Gypsies and Travellers (in England) has excluded a significant number of Gypsies and Travellers from pitch needs assessments and future provision.

Gypsy Travellers are recognised as an ethnic group. The Equality Act 2010 protects people who are recognised as a distinct ethnic group from being discriminated against on the grounds of ethnicity. The Scottish Government has made a commitment to make sure there is equality for Gypsy Travellers by integrating their needs into policies such as health, education and social services.

Gypsy, Roma and Traveller people have the worst outcomes of any ethnic group across a huge range of areas, including education, health, employment, criminal justice and hate crime. Too often local authorities and public services fail to differentiate between different groups who have different needs. Our inquiry has found that, while many inequalities have existed for a long time, there has been a persistent failure by both national and local policy-makers to tackle them in any sustained way. This failure has led to services that are ill-equipped to support Gypsy, Roma and Traveller people to use services that they need and are entitled to.

Socio-economic disadvantages of young Gypsy/Travellers

'We should be consulted about where sites should be', 'We should be part of the planning process to allow us to say what type of sites and facilities we want', and 'There should be more opportunities for us to take part in decision making and have our voices heard'. – Young Gypsy/Travellers discuss the United Nations Convention on the Rights of the Child.

Interim Fairer Scotland Duty Impact Assessment

Evidence shows a distinct lack of safe places to play and opportunities for older young people. The geographical location of sites and the lack of public transport are also barriers which restrict young Gypsy/Travellers access not only to education, but to social and recreational activities. Young Gypsy/Travellers rights to associate and play are also reported as being disproportionately affected due to the lack of safe and suitable spaces for children to play on sites.

Young Gypsy Travellers experience inequalities from an early age. As a result of where they live, the relevance of service provision and/or their experiences of discrimination, children and young people often face:

- A lack of access to pre-school, out-of-school and leisure services
- Low participation in secondary education with negative experiences/bullying given as the reason for leaving at an early age
- Poor and declining educational attainment with low levels of literacy and numeracy
- Uncertainty around their accommodation and potentially their relationship with people living in the vicinity
- A sense that their needs and identities are not being reflected or met within mainstream services

Substantial negative psychological impact has also been shown in children who experience repeated evictions, family tensions associated with insecure lifestyles and ongoing hostility from the wider population.

There is a general perception that Gypsy/Traveller pupils are more likely to be subjected to bullying and harassment in class and in the playground. Some of this is racist abuse and behaviour. Gypsy/Traveller pupils have indicated that their reluctance to come to school is often associated with the fear or reality of racism and bullying and harassment.

Other demographic evidence

Gypsy/Travellers were more likely than the general population to have a limiting long-term health problem or disability (28 per cent compared to 20 per cent) 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 per cent compared to 10 per cent).

Local authorities should ensure that Gypsy, Roma and Traveller women have access to a single, trusted contact who provides them with the information and support they need. Should this contact be from a charitable organisation, local authorities must ensure that the organisation has sufficient funding to sustain the necessary support.

Interim Fairer Scotland Duty Impact Assessment

Sources

[Briefing: Accommodation issues facing Gypsies and Travellers in England Discrimination - mygov.scot](#)
[gypsy and travellers 2012.pdf \(eis.org.uk\)](#)
[Gypsy Travellers in Scotland - a resource for the media | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)
[Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census - gov.scot \(www.gov.scot\)](#)
[Houses of Commons Library: Gypsies and Travellers](#)
[I Witness: The UNCRC in Scotland](#)
[Tackling inequalities faced by Gypsy, Roma and Traveller Communities – Women and Equalities Committee](#)
[Young Gypsy/Travellers Discuss the United Nations Convention on the Rights of the Child - Children and Young People's Evidence Bank](#)

Summary of assessment findings

The Scottish Government is committed to reducing inequalities for Gypsies/Travellers, whom we regard as a particularly marginalised group.

The Scottish Government's Planning, Architecture and Regeneration Division has led on the preparation of the consultation. A collaborative approach has been adopted in developing the consultation package, with input from the Equality Unit and a secondee with experience working with the Gypsy/Traveller community.

The European Convention on Human Rights (ECHR) is a binding international agreement which sets out basic human rights. Key rights relevant to the proposed regulation and consultation relate to a right to free expression, a right to free association, and a right not to be discriminated against. The Human Rights Act (HRA) incorporates the ECHR rights into UK law.

Scotland's National Performance Framework includes the human rights outcome – 'We respect, protect and fulfil human rights and live free from discrimination'. One of the indicators of this relates to 'influence over local decisions' and is measured as the percentage of people who agree with the statement "I can influence decisions affecting my local area". The Scottish Household Survey provides data for this: it shows that in 2019, 17.8% of people agreed with the statement, down from 20.1% in 2018.

The requirement for Local Authorities to seek the views of Gypsies/Travellers when preparing the Evidence Report supports this indicator of influence over local decisions, and providing a comprehensive definition in regulations further embeds this influence for the community by allowing them to be visible, identifiable and empowered in decision making.

The evidence gathered during this assessment provides context for the socio-economic disadvantages that the Gypsy/Traveller community currently faces. It identifies housing disadvantages and site quality as a key factor in the overall inequalities that Gypsies and Travellers face, particularly for young people in the community as it impacts their educational attainment, wellbeing and ability to integrate. While this definition under consultation only applies to the Evidence Reports in preparation of Local Development Plans, it seeks to uplift and empower

Interim Fairer Scotland Duty Impact Assessment

Gypsies and Travellers to engage with the planning system and thus voice their housing needs to be fulfilled.

To identify any potential improvements, we are undertaking a consultation on the proposed definition. At the same time we are also consulting and inviting views on this Fairer Scotland Duty Assessment and associated impact assessments (covering other societal matters) and interim Business and Regulatory Impact Assessment.

We will consider the comments received when finalising the definition of 'Gypsies and Travellers' within overall development planning regulations. We will also finalise the assessment in response to comments received and publish a revised assessment with the finalised regulations and guidance.

Sign off: Fiona Simpson

Job Title: Chief Planner

Strategic Environmental Assessment

Strategic Environmental Assessment

Our pre-screening process has determined that a Strategic Environmental Assessment is not needed for the purposes of this consultation. A copy of the pre-screening the pre-screening judgement can be found on the [SEA Gateway](#).

Annex A: Statutory requirements of the Town and Country Planning (Scotland) Act 1997 relating to the Evidence Report and Gypsies and Travellers.

16B Evidence report for preparation of local development plan

(3) The evidence report is to—

(c) set out—

- (i) a summary of the action taken by the planning authority to meet the accommodation needs of Gypsies and Travellers in the authority's area,
- (ii) an analysis of the extent to which the action has helped to meet those needs,

(4) The evidence report is also to include a statement on—

- (a) the steps taken by the planning authority in preparing the report to seek the views of the public at large, including in particular the views of—
 - (ii) Gypsies and Travellers, and

(14) In this section—

“Gypsies and Travellers” has the meaning specified in regulations made by the Scottish Ministers.

(15) Before making regulations under subsection (14) specifying the meaning of “Gypsies and Travellers”, the Scottish Ministers must consult such persons as they consider appropriate.

Annex B: Local Development Plan Consultation – decision to hold separate consultation on the definition of Gypsies and Travellers

[Local development planning - regulations and guidance consultation: part B - proposals for development planning regulations](#)

18. Section 16B(14) of the Act provides the meanings of terms referred to in section 16. It refers that 'Gypsies and Travellers' has the meaning specified in regulations made by the Scottish Ministers. The supplementary delegated powers memorandum, prepared during the passage of the Planning Bill, indicated that there is no definition of Gypsies and Travellers in Scots law, and there had been no consultation with the community on a definition. It was therefore considered appropriate that a definition be provided in regulations, enabling engagement with the community on the definition to take place. We propose to hold a separate consultation on this matter. This will enable the targeted involvement of the Gypsies and Travellers community and explanation of the specific matters associated with this requirement.

[Local development planning - regulations and guidance consultation: part D - interim impact assessments](#)

54. A separate consultation will follow to inform the meaning of Gypsies and Travellers in relation to the requirements for the Evidence Report.

101. The 2019 Act provides for a meaning of 'Gypsies and Travellers' to be specified in regulations. The consultation indicates that we propose to hold a separate consultation on this matter. This will enable the targeted involvement of the Gypsy/Traveller community and the explanation of the specific matters associated with this requirement.

122. In considering the proposed regulations we have worked to the principle of keeping to the minimum necessary, given there is much process already outline in primary legislation. However, a new aspect to the LDP process has been introduced which requires new regulations – the Evidence Report. Primary legislation defines the meaning of a number of terms relating to this but provides for regulations to specify the meaning of 'Gypsies and Travellers'. Having considered this with colleagues in the Equalities Unit we propose to hold a separate consultation on this matter. This will enable the targeted involvement of the Gypsy/Traveller community and explanation of the specific matters associated with this requirement.

Annexes

Annex C: UNCRC Article Clusters (CRWIA)

[CRC Clusters \(unicef-irc.org\)](http://www.unicef-irc.org)

I General measures of implementation

[Article 4](#) implementation obligations

[Article 41](#) respect for existing standards

[Article 42](#) making Convention widely known

[Article 44\(6\)](#) making reports widely available

II Definition of a child

[Article 1](#)

III General principles

[Article 2](#) non-discrimination

[Article 3\(1\)](#) best interest to be a primary consideration

[Article 3\(2\)](#) State's obligations to ensure necessary care and protection

[Article 3\(3\)](#) standards for institutions services and facilities

[Article 6](#) the right to life, survival and development (see also: [VI Basic health and welfare](#))

[Article 12](#) respect for the views of the child

IV Civil rights and freedoms

[Article 7](#) right to name, nationality and to know and be cared for by parents

[Article 8](#) preservation of child's identity

[Article 13](#) freedom of expression

[Article 14](#) freedom of thought, conscience and religion

[Article 15](#) freedom of association and peaceful assembly

[Article 16](#) protection of privacy

[Article 17](#) child's access to information, and role of mass media

[Article 37\(a\) right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment](#)

V Family environment and alternative care

[Article 5](#) parental guidance and child's evolving capacities

[Article 18\(1\) and \(2\)](#) parental responsibilities and State's assistance

[Article 9](#) separation from parents

[Article 10](#) family reunification

[Article 11](#) illicit transfer and non-return

[Article 27\(4\)](#) recovery of maintenance for the child

[Article 20 children deprived of their family environment](#)

[Article 21 adoption](#)

[Article 25](#) periodic review of placement and treatment

[Article 19](#) protection from all forms of violence

[Article 39](#) rehabilitation and reintegration of victims of violence (see also: [VIII - Special protection measures](#))

Annexes

VI Basic health and welfare

[Article 6](#) right to life, survival and development (see also: [III - General principles](#))

[Article 18\(3\)](#) support for working parents

[Article 23](#) rights of disabled children

[Article 24](#) right to health and health services

[Article 26](#) right to social security

[Article 27\(1\)-\(3\)](#) right to adequate standard of living

VII Education, leisure and cultural activities

[Article 28](#) right to education

[Article 29](#) aims of education

[Article 31](#) right to leisure, play and participation in cultural and artistic activities

VIII Special protection measures

A - Children in situations of emergency

[Article 22](#) refugee children

[Article 38](#) children and armed conflict

[Article 39](#) rehabilitation of child victims (see also: [V Family environment and alternative care](#))

B - Children involved with the system of administration of juvenile justice

[Article 40](#) administration of juvenile justice

[Article 37\(a\)](#) prohibition of capital punishment and life imprisonment

[Article 37\(b\)-\(d\)](#) restriction of liberty

[Article 39](#) rehabilitation and reintegration of child victims (see also: [V Family environment and alternative care](#))

C - Children in situations of exploitation

[Article 32](#) child labour

[Article 33](#) drug abuse

[Article 34](#) sexual exploitation

[Article 35](#) sale, trafficking and abduction

[Article 36](#) other forms of exploitation

D - Children belonging to a minority or an indigenous group

[Article 30](#)

[Optional Protocol to the UNCRC on the Involvement of Children in Armed Conflict](#)

[Governments](#) should ensure that children under 18 who are members of the armed forces do not take a part in combat. Any recruitment of children under 18 must be voluntary and carried out with the full consent of the child's parents/carers. The UK Government has entered interpretive Declarations to this Optional Protocol. The UK would not exclude the deployment of under 18s who are members of the armed forces in direct combat if there is a genuine military need; it is not practicable to withdraw them before deployment; or doing so would undermine the operational effectiveness of their unit. The minimum age at which children may join the UK armed forces is 16 years, with parental consent required.

[Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography](#) [Governments](#) must prohibit the sale of children, child prostitution and

Annexes

child pornography, and recognise the vulnerability of child victims, protect their privacy, provide appropriate support services and ensure their safety.

Annex D: General Comments – UNCRC (CRWIA)

General Comments are non-legally binding interpretive aids issued by the UN Committee on the Rights of the Child to provide State parties with assistance regarding the interpretation of an article or issue relating to the UNCRC, and what actions governments should take to ensure its implementation. New General Comments appear at irregular intervals.

[Treaty bodies Search \(ohchr.org\)](#)

1. [The aims of education \(2001\)](#)
2. [The role of independent National Human Rights Institutions in the protection and promotion of the rights of the child \(2002\)](#)
3. [HIV/AIDS and the rights of children \(2003\)](#)
4. [Adolescent health and development in the context of the Convention on the Rights of the Child \(2003\)](#)
5. [General measures of implementation on the Convention on the Rights of the Child \(2003\)](#)
6. [Treatment of unaccompanied and separated children outside their country of origin \(2005\)](#)
7. [Implementing child rights in early childhood \(2005\)](#)
8. [The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment \(2006\)](#)
9. [The rights of children with disabilities \(2006\)](#)
10. [Children's rights in juvenile justice \(2007\)](#)
11. [Indigenous children and their rights under the Convention \(2009\)](#)
12. [The right of the child to be heard \(2009\)](#)
13. [The right of the child to freedom from all forms of violence \(2011\)](#)
14. [On the right of the child to have his or her best interests taken as a primary consideration \(2013\)](#)
15. [On the right of the child to enjoyment of the highest attainable standard of health \(2013\)](#)
16. [State obligations regarding the impact of the business sector on children's rights \(2013\)](#)
17. [On the right of the child to rest, leisure, play, recreational activities, cultural life and the arts \(2013\)](#)
18. [On harmful practices \(Joint General Comment with the Committee on the Elimination of Discrimination against Women\) \(2019\)](#)
19. [Public budgeting for the realisation of children's rights \(2016\)](#)
20. [Implementation of the rights of the child during adolescence \(2016\)](#)
21. [Children in street situations \(2017\)](#)
22. General principles regarding the human rights of children in the context of international migration ([Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families](#)) (2017)
23. State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return ([Joint General Comment with the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families](#)) (2017)
24. [General comment No. 24 \(2019\)](#) on children's rights in the child justice system
25. [General comment 25 \(2021\)](#) Children's Rights in relation to the digital environment.



© Crown copyright 2022

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-256-6 (web only)

Published by The Scottish Government, December 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1200842 (12/22)

W W W . g o v . s c o t