

By: Oliver Mills, Managing Director, Adult Social Services  
To: Gypsy and Traveller Advisory Board – 30 November 2007  
Subject: **SECURITY OF TENURE ON PUBLIC SITES FOR GYPSIES AND TRAVELLERS**

Classification: Unrestricted.

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Summary: A report of Government proposed changes, their likely impact and implications for publicly-run sites in Kent and Medway and elsewhere.

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## **Background**

1. Security of tenure for those who live on publicly-run Gypsy and Traveller sites has been weaker than for those who live on other kinds of caravan sites since 1968, and it was the policy of Governments from then until 2004 to keep it weaker, because of the presumed greater mobility of Gypsies, and the need, it was felt, to make it easy for authorities to evict difficult site licensees.
2. In 2004, the UK Government lost a case in the European Court of Human Rights against a man called Connors, from a Leeds site, who showed that the ability of authorities to evict someone from a site with 28 days notice, and no reason within the site licence agreement, was a breach of the human rights of himself and others in the same position.
3. The Government improved security of tenure slightly by allowing challenge to eviction decisions through the county court, and ensuring that sites run by County Councils had a minimum 28 day notice requirement. Due to a legal anomaly, there had been no minimum period for such sites, up till then.
4. The Government still have to improve security of tenure further to comply with the Connors ruling and they are due to introduce changes in the Housing and Regeneration Bill in the current session of Parliament.
5. The letter from Iain Wright, Parliamentary Under-Secretary of State in the Communities and Local Government Department (Appendix 1), explains in outline how those changes will extend the protection of the Mobile Homes Act 1983 to public sites for Gypsies and Travellers.

## **In Kent**

6. The site licence agreements used on KCC sites have been substantially improved within the past couple of years, and it has been our practice for all the years we have managed sites not to seek to evict anyone unless there is sufficient reason to do so.
7. Despite the High Court now being asked to consider a judicial review case over some current cases on the Barnfield Park site in Sevenoaks, the new site licence has been signed up to by about 80% of our site licensees.

8. Recent legal advice has indicated that the new site licence does not give full security of tenure, because it does not specify (and say that it specifies) all the possible reasons why a licensee should have their licence terminated. But it does comply with the current law.

### **The future**

9. Once either the new security of tenure provisions have passed into law, following the passing of the Housing and Regeneration Act, or Government guidance (currently a draft, which we commented on before the August consultation deadline) is finalised on changing site licences, or both happen together, the plan is to consult on a new licence.
10. The new licence will contain a comprehensive list of the circumstances and reasons for any termination of licence, and could include similar provisions as would be within a standard social housing tenancy.

### **A further point on planning enforcement**

11. Currently, a site licensee (of any caravan or Park Home site, whether or not it is specifically for Gypsies or Travellers) does not have what is called “an interest in the land”, but only a right to occupy the land with a caravan.
12. What that means is that a planning enforcement notice cannot be validly served on such a licensee, but only on the owner or operator of the site.
13. The effect of this legal difference from social housing is that KCC has to be prepared to evict licensees from their pitches if they breach planning policy, and if they refuse to comply.
14. Representations are being made to the Communities and Local Government Department about the need for a law change in this area.

### **Conclusions**

15. KCC’s current site licence complies with the current law, but will need to be changed when the law changes.
16. Those changes will be consulted on with all KCC licensees, and could also be with licensees of any other socially rented sites in Kent that want similar updated licences.
17. A change in the law on planning enforcement notices, making them able to be served on those who rent caravan pitches, would be very welcome.

## **Recommendations**

18. Members are asked to endorse the approach outlined in this report.

*Background Papers: The following letter, attached as Appendix 1.*

**Bill Forrester**  
**Head of Gypsy and Traveller Unit**  
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**Iain Wright MP**  
*Parliamentary Under Secretary of State*

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**SECURITY OF TENURE ON LOCAL  
AUTHORITY GYPSY AND TRAVELLER SITES**

6 November 2007

**I am writing to inform you of our proposals for improving the security of tenure, and other rights and responsibilities, of Gypsies and Travellers on local authority sites.**

As you will be aware, the rights and responsibilities of Gypsies and Travellers on local authority sites are currently covered by the Caravan Sites Act 1968, which provides limited protection from eviction and harassment.

In particular, in order to evict a Gypsy or Traveller a local authority must give 28 days notice to terminate the licence under which the pitch is occupied, and obtain a possession order from the court. The court is unable to scrutinise any reasons for terminating the licence, or use discretion as to whether it is reasonable for a possession order to be made.

In the case of *Connors v United Kingdom* the European Court of Human Rights ruled in 2004 that the lack of procedural safeguards to the eviction of Gypsies and Travellers on LA sites breached article 8 of the Convention (the right to respect for private, family and home life).

The Housing Act 2004 provided additional protection for Gypsies and Travellers on local authority sites, by enabling the courts to suspend a possession order against them for up to 12 months.

The Mobile Homes Act 1983 provides further protection to Gypsies and Travellers on private sites, and to others living on residential caravan sites, such as park home sites.

It implies a number of terms in agreements between site owners and occupiers, and requires site owners to provide a written statement to the occupier including these implied terms, and any other express terms of the agreement.

In particular, the implied terms provide that in order to terminate an agreement, a site owner must satisfy the court that a term of the agreement has been breached, or that one of the other specific grounds is met, and that it is reasonable to terminate the agreement. The implied terms also enable occupiers to assign their agreement to occupy the pitch if they sell their caravan, or gift it to a family member, with the consent of the site owner.

The 1983 Act also enables a spouse or partner, or other family member, to succeed the occupier if they die, and for the courts to consider other questions that arise under the Act.

The Mobile Homes Act 1983 currently specifically excludes local authority Gypsy and Traveller sites. We propose to amend the 1983 Act to remove this exclusion, ensuring that all those occupying residential caravan sites have the same rights and responsibilities.

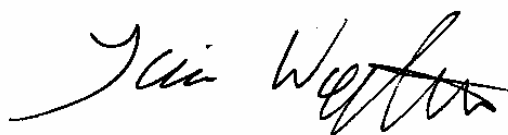
Officials in the Gypsy and Traveller Unit have been undertaking work on how this will affect local authorities and Gypsies and Travellers living on their sites, and we are keen to discuss this with stakeholders. We will be organising a number of events to discuss the proposals in more detail. Further information will follow shortly, and I hope that you will be able to be represented at these discussions.

The provisions of the Mobile Homes Act 1983 will apply both to Gypsies and Travellers already living on local authority sites, as well as those that move onto them after proposals are implemented. We will be consulting with stakeholders on how the provisions of the 1983 Act will apply to those already living on sites, to minimise confusion and administrative burden, and ensure a smooth transition.

“The Governance of Britain: the Government’s draft legislative programme” published on 11 July, outlined the Bills that the Government planned to introduce in the third session of Parliament (which begins in November 2007). These included a Housing and Regeneration Bill. Implementation of a European Court of Human Rights judgment on Gypsies and Travellers (*Connors*) was listed as an element of this Bill, alongside the establishment of a new Homes and Communities Agency, and implementation of recommendations of the Cave Review of social housing. The Queen’s speech on 6 November confirmed that there would be a Housing and Regeneration Bill in this session of Parliament.

If you would like further information about these proposals, please contact our Gypsy and Traveller Unit by e-mailing [melanie.sturtevant@communities.gsi.gov.uk](mailto:melanie.sturtevant@communities.gsi.gov.uk) .

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Iain Wright', written in a cursive style.

**IAIN WRIGHT**