

TAT NEWS

No. 57 October 2021



Newsletter of the
Travellers Advice Team
at Community Law Partnership

National telephone helpline for
Gypsies and Travellers

0121 685 8677

Monday - Friday
9am - 1.00 pm

No operator service.
Get straight through to an expert.

In your October issue...

- Police, Crime, Sentencing, and Courts Bill: Latest
- A victory for boaters
- The definition of Gypsy and Traveller
- Wide Injunctions
- Report into experiences of Gypsies and Travellers caring for family members with dementia
- CRT New Terms and Conditions of Boat Licence
- Future of Legal Aid
- European Court of Human Rights
- Colin Dick, Artist

ART WORK

We would very much like to publish art work and photographs of Gypsy and Traveller life.

Please send any items you would like to be considered to office@communitylawpartnership.co.uk and mark them for the attention of 'TAT News Team'.

Many thanks,
TAT News Team

TORIES IGNORE TRAVELLERS AND PRESS ON WITH BILL

Ignoring the dedicated lobbying of Gypsy and Traveller organisations, Priti Patel and the Tory government have refused to listen and are pressing ahead with their Bill criminalising trespass.



The Police, Crime, Sentencing and Courts Bill has concluded its first stage in the House of Commons and is now progressing through the House of Lords.

Some great lobbying work has been carried out to date by Gypsy and Traveller organisations and others with regard to Part 4 of the Bill which relates to the criminalisation of trespass.

The Joint Committee on Human Rights has released a report on Part 4. The

report is extremely critical of the criminalisation of trespass. You can find a very useful article on this JCHR report on the Friends, Families and Travellers website at:

<https://www.gypsy-traveller.org/news/parliamentary-report-calls-on-government-to-change-anti-trespass-proposals/>

As this Government has a very large majority, it is quite likely (despite the great efforts of Gypsy and Traveller campaigners and others) that Part 4 will be enacted as it stands or very much as it stands.

A group of Gypsies and Travellers have set up a campaign against Part 4. See *Drive2Survive*:

<https://twitter.com/drive2survive3?lang=en>

The Travellers Advice Team are VERY INTERESTED in hearing from any Gypsies and Travellers who will be affected by the criminalisation of trespass.

We think it is almost inevitable that a legal challenge will have to be brought forward in due course once Part 4 is enacted. If you will be affected and want to talk to us about possibly joining such a challenge, please contact us on our Advice Line:

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A VICTORY FOR BOATERS

Council backdown after CLP lodge Judicial Review

The 14-day moorings at Mead Lane on the River Avon are extremely important to live-aboard boaters who use the River and the Kennet & Avon Canal. The riverbank is owned by Bath & North East Somerset Council. The Council closed the moorings between the beginning of November 2020 and the end of February 2021.

We were instructed by a live-aboard boater and lodged a judicial review challenge. Following CLP's challenge, the 14-day moorings will also be opened for the winter period. There will then be a further consultation concerning the moorings during 2022.

For a full article on this case, see our website at :

<http://www.communitylawpartnership.co.uk/gypsy-and-traveller-cases/boat-cases/mead-lane-moorings>





THE DEFINITION OF GYPSY AND TRAVELLER

Lisa Smith is a Romani Gypsy. She lost her planning appeal because the Planning Inspector decided that she did not come within the current definition of Gypsy and Traveller in the *Planning policy for traveller sites* (2015).

Ms Smith took a High Court challenge against this decision and we were instructed by four Gypsy and Traveller organisations to intervene in that challenge.

Unfortunately, the High Court Judge, Mr. Justice Pepperall, decided against Lisa Smith. Ms. Smith is now seeking permission to appeal to the Court of Appeal, and we continue to act for the Interveners.

For a full article on this case please see our website at:

<http://www.communitylawpartnership.co.uk/news/definition-of-gypsy-and-traveller>

WIDE INJUNCTIONS: KEEPING UP THE FIGHT

12 local authorities concerned have appealed against the Judgment and the final hearing of the appeal will take place in the Court of Appeal on 30 November to 2 December 2021.

Across England there is a completely inadequate number of stopping places for Gypsies and Travellers to live their traditional nomadic way of life.

Since 2015, 32 local authorities have made this bad situation worse by effectively banning Gypsies and Travellers from large swathes of land. They have done this using so-called 'Wide Injunctions'.

We believe that most of this land is the only land Gypsies and Travellers would be able to stop on in that area. Our concern has always been that if all the local authorities follow suit, *where in the country do they expect the Gypsies and Travellers to go?*

As regular readers will know, the final Judgment of Mr Justice Nicklin was handed down on 12 May 2021 with regard to the very important case of *London Borough of Barking and Dagenham and Others -v- Persons Unknown and Others*.

In that Judgment, Mr Justice Nicklin made it clear that, when it comes to a final hearing in such a case, only those parties who have either been named or who have been properly identified would be bound by any final order that was made (if a final order was made).



To become parties to the proceedings, the Defendants would need to be served either by direct service (if they were a named Defendant) or by what is known as 'alternative service'.

For alternative service it must be shown that it could be reasonably expected that this method of service would bring the proceedings to the attention of the Defendant. In those circumstances it is unlikely that attaching the Claim Form and other Court papers to a tree or a post or a fence on the land in question would bring it to the attention of anyone other than any Gypsies and Travellers who might happen to be on the land at the time.

At paragraph 230 of the Judgment, Mr Justice Nicklin stated:

'if these established principles and limits they impose on civil litigation are not observed, the Court risks moving from its proper role in adjudicating upon disputes between

parties into, effectively, legislating to prohibit behaviour generally by use of a combination of injunctions and the Court's powers of enforcement'.

The Judgment also makes it clear that any wide injunction order granted at the final hearing only applies to those who have become parties to the proceedings. It does not apply to 'Newcomers' i.e. Gypsies or Travellers on the land who are not parties to the proceedings and who have come onto the land in question at a later date.

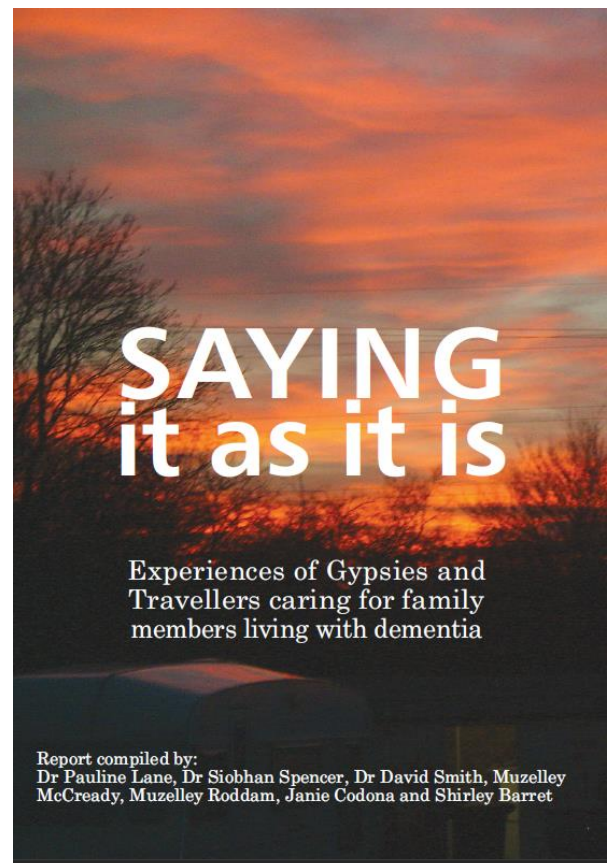
Following this extremely important Judgment, 12 local authorities concerned have appealed against the Judgment and the final hearing of the appeal will take place in the Court of Appeal on 30 November to 2 December 2021.

We continue to act for some of the Interveners in this matter namely: London Gypsies and Travellers; Friends, Families and Travellers; and Derbyshire Gypsy Liaison Group (who have taken the place of The National Federation of Gypsy Liaison Groups as an Intervener). Our Counsel in the matter are Marc Willers QC, Tessa Buchanan and Owen Greenhall.



SAYING IT AS IT IS

An important report has been produced which deals with the experiences of Gypsies and Travellers caring for family members with dementia.



This has been a collaboration between Anglia Ruskin University, One Voice for Travellers and Derbyshire Gypsy Liaison Group. It is written by Dr Pauline Lane, Dr Siobhan Spencer, Dr David Smith, Muzelley McCready, Muzelley Roddam, Janie Codona and Shirley Barret.

You can find the report here:
https://www.dglg.org/uploads/2/4/7/5/24756021/saying_it_as_it_is_june_2021.pdf



NEW TERMS AND CONDITIONS OF BOAT LICENCE

We were instructed by National Barge Travellers Association to challenge the consultation method with regard to these new proposals and to challenge some of the proposals that NBTA were very concerned about.

Unfortunately Canal & River Trust (CRT) have refused to withdraw any of the new terms and conditions and have begun to introduce them from 1 June 2021 when liveaboard boaters and others renew their Licences.

You can find information about the new terms and conditions on the NBTA website:

<https://www.barge-traveller.org.uk/crt-makes-minor-concessions-on-boat-licence-terms-and-conditions/>

The Travellers Advice Team are very interested in hearing from any liveaboard boaters who are affected by these new terms and conditions or who were unable to properly take part in the consultation process.

If you will be affected and want to talk to us about possibly joining such a challenge, please contact us on our Advice Line:

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WHAT FUTURE FOR LEGAL AID?

The number of Legal Aid providers continues to dwindle and advice deserts around England and Wales continue to grow. Taking Social Welfare Law (which includes housing law), in the financial year 2009-2010 there were 422,703 Legal Help and controlled legal representation matter starts. By the financial year 2020-2021 this had dwindled to 17,385.

In the face of this catastrophic situation, the House of Commons Justice Committee have produced a report entitled *The Future of Legal Aid*. On civil Legal Aid the report states:

It is frustrating, and yet unsurprising, that many of the concerns raised over the operation of the civil Legal Aid system by our predecessor Committee in 2015, and by Government's post-implementation review in 2019, have been highlighted in evidence to this Enquiry on the future of Legal Aid in 2021. The Government should take a whole justice system approach to the reform of the civil Legal Aid framework. The provision of early advice can help to make the courts work more effectively

(paras 20 and 21 of the recommendations).

You can find the full report here:
<https://committees.parliament.uk/works/531/the-future-of-legal-aid/publications/>

EUROPEAN COURT OF HUMAN RIGHTS

On 1 August 2021 Protocol no. 15 to the European Convention on Human Rights came into force, following its ratification by all 47 State Parties. Among other changes, the Protocol shortens from 6 to 4 months the time limit within which an application must be made to the European Court (this is from the date on which the final decision was taken at the national level, when all domestic remedies have been exhausted).

For full details see here:

<https://www.gov.uk/government/news/european-convention-on-human-rights-protocol-comes-into-force>

HOUSING BENEFIT

In the case of *AB -v- Camden LBC* [2020] UKUT 158, the Upper Tribunal decided that AB was entitled to housing benefit to cover the fee for his "continuous cruising licence".

JUDICIAL REVIEW

There have been important amendments to the procedure for judicial review claims and these can be found in the Civil Procedure Rules 1998 Practice Directions 54A – 54D. These changes were brought into effect from 31 May 2021.

COLIN DICK

Colin Dick was a Coventry-based artist who painted several different subjects. Many of these involved depictions of Gypsies and Travellers. We have included several of his paintings in this issue of TAT News.







TRAVELLERS ADVICE TEAM

The members of TAT are Chris Johnson, Parminder Sanghera and Sharon Baxter.
Our TAT Administrator is the CLP Practice Manager, Emma Westwood.
Thanks to TAT Admin Team for putting together this Bulletin.

Until Next Time...

We hope you find our E-Bulletin useful.
All and any comments very welcome.

Don't forget our national self-funded advice line for Gypsies and Travellers:
0121 685 8677
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Keep up the good fight! Best wishes to all our readers.
Kushti bok!

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(5 – 15 partners)

**LEGAL AID
LAWYER**
OF THE YEAR AWARDS
WINNER 2017