

Local Development Plan evidence report – defining Gypsies and Travellers: analysis of responses to consultation

March 2023

Contents

1. Introduction	1
2. Responses to definition	2
Question 1a	2
Question 1b	3
Key Themes	3
Additional comments	4
3. How councils should support communities better	5
Question 2	5
Key themes	5
Additional comments	6
4. The impact on businesses	7
Question 3	7
Analysis	7
5. The impact on groups of protected characteristics	9
Question 4a	9
Question 4b	9
Analysis	9
6. Responses from in-person engagement sessions	11
Planning workshop – community event	11
On-site engagement sessions	12
Fife engagement session	12
South Lanarkshire engagement session	13
Clackmannanshire engagement session	14
7. Conclusions	15
Annex A: Online respondents to consultation	16

1. Introduction

This consultation sought views on a definition of 'Gypsies and Travellers' for the specific purposes of section 16B of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act"), as amended by the Planning (Scotland) Act 2019.

Local Development Plans (LDPs) set out how places should change into the future; where development should and should not happen. The Planning (Scotland) Act 2019 introduced a new stage in the preparation of LDPs - an evidence report. Under section 16B of the 1997 Act, planning authorities are required to produce an evidence report which, among other things, contains;

- a summary of action taken by planning authorities to meet accommodation needs of Gypsies and Travellers, and
- a statement on the steps taken by the planning authority in preparing the report to seek the views of Gypsies and Travellers.

The purpose of defining "Gypsies and Travellers" in regulations is to enable the Scottish Government and planning authorities to support the Gypsy and Traveller communities better. The Scottish Ministers will make regulations to specify the meaning of Gypsies and Travellers for the purpose of evidence reports. This consultation helped shape the definition included within regulations. This definition only relates to the requirements of section 16B of the Town and Country Planning (Scotland) Act 1997.

The consultation asked seven questions related to the Scottish Government's proposed definition of 'Gypsies and Travellers', the way councils should better involve the Gypsy/Traveller community in planning consultations and processes, and the impact of this (or any) definition on business and groups of protected characteristics to inform the associated impact assessments. In preparation of the consultation, Scottish Government officials participated in a planning workshop at a Gypsy/Traveller community event in November 2022. The Planning, Architecture and Regeneration Division took the opportunity of this event, which is part of a series hosted regularly to engage Gypsy/Traveller community members with government and third sector organisations, to have early engagement on the proposed draft definition and gain insight from communities. Once the consultation was published, Scottish Government officials also took part in a number of in-person engagement sessions to gain views on the proposed definition from Gypsy/Traveller community members.

There were 41 respondents to the online consultation. Of these respondents, 18 were individuals, 15 were planning authorities and eight were either third sector organisations, housing/planning related organisations, Gypsy/Traveller support charities or Travelling Showpeople representative bodies (Annex A provides a list of respondents). A total of 23 people participated in the in-person engagement sessions. An analysis of the discussions at these in-person engagement sessions can be found in section 6 of this report.

2. Responses to definition

Question 1a

Question 1a asks; "Scottish Government (Planning, Architecture and Regeneration Division) are considering the following statement to define the Gypsy/Traveller community for planning purposes. Do you agree with this statement?"

The statement is as follows;

"For the purposes of section 16B(14) of the Town and Country Planning (Scotland) Act 1997 (evidence report for preparation of local development plan), "Gypsies and Travellers" means-

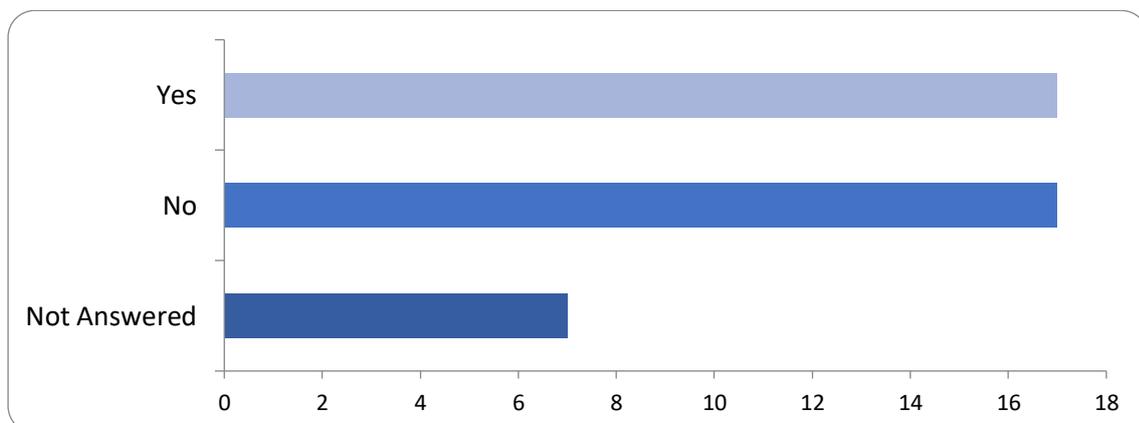
a) persons of or from a nomadic cultural tradition, whatever their race or origin, including-

(i) persons who have ceased to travel temporarily or permanently as a result of their own or their family's (including dependants) educational needs, health needs, or old age,

(ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such),

(iii) persons who require the provision of land for temporary or permanent living (including the use of caravans as defined in section 16 of the Caravan Sites Act 1968),"

There were 34 responses to this part of the question.



Option	Total	Percent
Yes	17	41.46%
No	17	41.46%

Not Answered	7	17.07%
---------------------	---	--------

Overall, these responses were mixed, showing an equal proportion of those who agreed with the definition and those who disagreed.

Question 1b

Question 1b asks, "If no, what changes would you seek?". There were 24 responses to this part of the question.

Key Themes

There was broad agreement among respondents that more emphasis should be placed on the distinctions between different Travelling communities to avoid homogenising their unique backgrounds, cultures and traditions. Three planning authorities, two organisations and six individuals expressed views on this key theme. In particular, there was a call to clearly identify between ethnic Gypsy/Travellers and Travelling Showpeople. This was from members of both communities as they recognise themselves as distinctly different, and there were recommendations to include ethnicity as its own category.

Eight of the responses highlight the need to make the distinction of ethnic Gypsy/Travellers as a separate group of communities to other Travelling communities, as their ethnic status maintains their protection under equality laws. Six of the responses also highlighted that Travelling Showpeople and circus people are their own distinct group, have different and unique planning needs to other Travelling communities, and should be seen as a separate community. Three of these responses expressed concern over the initial umbrella term 'Gypsies and Travellers' as this is not how Travelling Showpeople tend to identify. Two responses also emphasised the necessity to create the distinction that New Age Travellers are not ethnic Travellers and should be regarded separately.

There were some concerns that the reasons given for ceasing travel temporarily or permanently were too narrow and not reflective of the real and more complex reasons Travellers stop travelling. Three planning authorities, one organisation and two individuals expressed views on this key theme. General consensus was that this should be left more broad and open. One respondent highlighted that many racial/ethnic Travellers cease to travel for more societal reasons such as discrimination, lack of provision, and it being too difficult or dangerous. One respondent mentions that in the case of Travelling Showpeople, individuals may retire but still wish to be a part of the community. Three other responses mentioned the lack of adequate sites as another key reason for ceasing travel.

There were clear concerns over the inclusion of 'persons who require the provision of land for temporary or permanent living' and the use of the Caravan Sites Act 1968. Four planning authorities, three organisations and one individual expressed views on this key theme. Three responses stated that the Caravan Sites Act 1968 is unhelpful

for the purposes of this definition. Two responses stated that this clause could have implications for the development of housing on green belts. Five of these responses suggested that this clause can inadvertently include persons who are not Travellers but do want land in the definition, with one calling for this clause to be omitted due to the potential confusion it can lead to.

Additional comments

One individual response stated that the continuous reference to 'nomadism' in definitions related to planning can be exclusionary to Gypsies and Travellers that live in housing. This is echoed by an organisation's response that stated it is important that Travellers in bricks and mortar style housing still be considered.

One planning authority responded that they support the proposed definition but would find it helpful to have a consistent definition across policy areas. Two organisation responses also noted the issue of whether this definition may create conflicts with other existing definitions that include/exclude other groups.

One individual response recommended that maintaining the right for people to self-identify as Gypsies or Travellers can simplify the complex issue of identifying the correct individuals for the evidence report.

One planning authority recommended that the definition be in line with the legal tests that check if the planning authority has fulfilled its legal obligation to consult with these communities.

3. How councils should support communities better

Question 2

Question 2 asks “What do you think councils should do to better involve the Gypsy and Traveller communities in planning consultations and processes?”. There were 35 responses to this question.

Key themes

Responses brought attention to the advantage of using representative groups and organisations to facilitate consultation processes. Six planning authorities, four organisations and three individuals expressed views on this key theme. Some responses recommended that individual members of the Gypsy and Traveller communities be appointed to represent the wider communities in consultation processes, provided they are approved by communities. Several responses highlighted the information and connections provided by third sector and representative organisations like MECOPP (Minority Ethnic Carers of Older People Project) and how these could be useful tools for councils in collaborative processes.

The engagement techniques used in consultation processes were noted as a point for potential improvement. Five planning authorities, two organisations and four individuals expressed views on this key theme. Four of these responses highlighted face-to-face engagement as a key method of consultation. Responses also mentioned that engagement from councils to the communities should be direct, open, collaborative, transparent, flexible and built on trust.

Responses highlighted the importance of promoting accessibility when consulting with Gypsy and Traveller communities. Three planning authorities, two organisations and one individual expressed views on this key theme. Three responses highlighted that Gypsies and Travellers are disadvantaged groups and so greater care must be placed on the consultation processes by councils. Two responses encouraged promoting consultations to less-engaged age groups, such as the younger Gypsy and Traveller population. One response stated that consideration needs to be given to those of lower literacy skills.

The distinct need to engage with Travelling Showpeople was also an important note from respondents. One planning authority, one organisation and three individuals expressed views on this key theme. Three of these responses highlighted that Travelling Showpeople communities have unique needs to other Travelling communities and these should be considered alongside others. Two responses also suggested that councils consult with the Showmen’s Guild in their planning processes. One response also noted that there may be issues around cultural sensitivity when grouping these Travelling communities together in consultations.

Additional comments

Three planning authorities noted that they currently have a successful working relationship with the Travelling communities of their area.

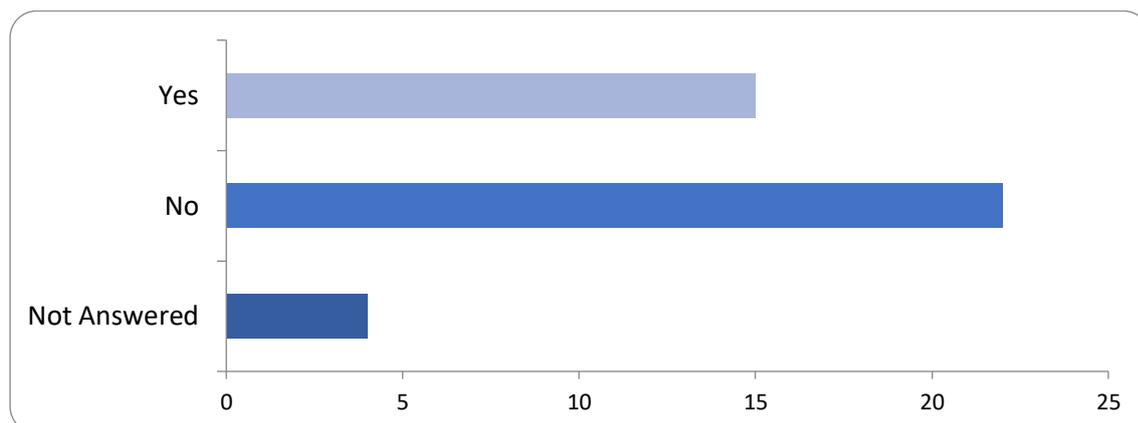
One planning authority noted that there is a challenge in contacting those who are nomadic and only pass through an area for a short period of time.

One response noted that the improvement of planning consultation processes must be grounded in discussions over resourcing.

4. The impact on businesses

Question 3

Question 3a asks “Do you believe that this (or any) definition will have an impact on businesses?”. This question was set to consult on matters related to the final Business and Regulatory Impact Assessment (BRIA) associated with the local development planning regulations. There were 37 responses to this part of the question.



Option	Total	Percent
Yes	15	36.59%
No	22	53.66%
Not Answered	4	9.76%

Most responses believed that this (or any) definition would not have an impact on businesses.

Question 3b asks, “if so, do you imagine this to be positive or negative and why?”. There were 20 responses to this part of the question. Of these responses, four suggest a potential negative impact, four suggest a potential positive impact, and 12 suggest that the impact could go in either or both direction, or they were unsure of the impact.

Analysis

Of the respondents who suggest a negative impact, one was a planning authority and three were individuals. Two suggested a negative impact on the rights and safety of businesses. One response suggested a negative impact on Showpeople if an unclear definition creates misunderstanding. One response suggested that an unclear definition can increase legal challenge, costs and delays.

Of the respondents who suggest a positive impact, two were planning authorities, one was an organisation and one was an individual. All responses suggested the

potential to break down barriers, increase communication and collaboration, and therefore enable Gypsy and Traveller communities to more easily meet their needs to run their own businesses or contribute to the economy.

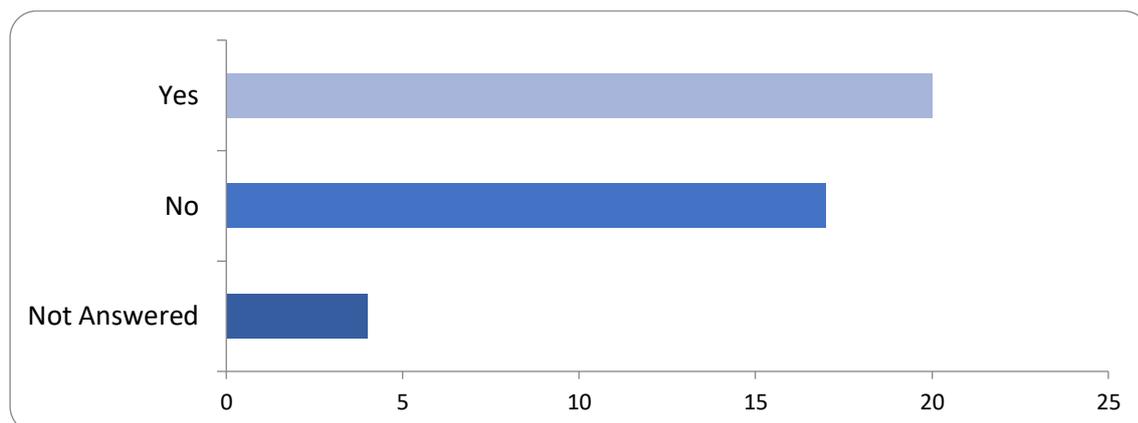
Of the respondents who suggest mixed, limited or uncertain impact, three were planning authorities, four were organisations and five were individuals. Two of these responses emphasised that the actual impact would depend on the final definition and how clear it is. Most other responses reported uncertainty or limited impact.

These responses will inform the final BRIA related to local development planning regulations.

5. The impact on groups of protected characteristics

Question 4a

Question 4a asks “do you believe that this (or any) definition will have an impact on certain groups of protected characteristics?”. This question was set to consult on matters related to the final Equalities Impact Assessment (EQIA) associated with the local development planning regulations. There were 37 responses to this part of the question.



Option	Total	Percent
Yes	20	48.78%
No	17	41.46%
Not Answered	4	9.76%

Overall, more respondents believe that there would be an impact on groups of protected characteristics.

Question 4b

Question 4b asks, “if so, do you imagine this to be positive or negative and why?”. There were 22 responses to this part of the question. Of these responses, seven suggest a potential negative impact, seven suggest a potential positive impact, and eight suggest that the impact could go in either or both direction, or they were unsure of the impact.

Analysis

Of the respondents who suggest a negative impact, two were organisations and five were individuals. These respondents reported concern that the proposed (or any) definition can have harmful consequences to ethnic Gypsy/Travellers due to the cultural sensitivities of defining multiple communities. One response also highlighted concern for Travelling Showpeople, particularly the elderly population.

Of the respondents who suggest a positive impact, three were planning authorities, two were organisations and two were individuals. These respondents believe that this (or any) definition can enable a wider reach of community members to have their needs met, encourage consultation, and create tailored solutions for Gypsies and Travellers of old age, disabilities and poorer health.

Of the respondents who suggest mixed, limited or uncertain impact, three were planning authorities, two were organisations and three were individuals. Four of these responses emphasised that the actual impact would depend on the final definition and how clear it is. Other responses reported uncertainty or limited impact.

These responses will inform the final EQIA related to local development planning regulations.

6. Responses from in-person engagement sessions

In preparation for this consultation, the Scottish Government ran a planning workshop at a Gypsy/Traveller community event in Edinburgh in November 2022. The Planning, Architecture and Regeneration Division took the opportunity of this event, which is part of a series hosted regularly to engage Gypsy/Traveller community members with government and third sector organisations, to have early engagement on the proposed draft definition and gain insight from communities. Given the nature and format of the event, a detailed record of individuals taking part in the planning workshop was not made. Approximately 10 to 15 individuals took part in the discussion. As part of this consultation, the Scottish Government also hosted three face-to-face engagement sessions with members of the Gypsy/Traveller community on the proposed definition of 'Gypsies and Travellers'. These sessions were held on three different Gypsy/Traveller sites in Fife, South Lanarkshire and Clackmannanshire from the 9th to 11th February 2023, and a total of 23 participants attended across all three sites. Most of these participants identify as 'Gypsy/Travellers', but the sessions also included a small number of local authority staff.

Planning workshop – community event

Participants believed that in clause (i) the reasons stated for ceasing to travel should not be limited to 'educational needs, health needs or old age' as this does not reflect the experiences of participants and members of their communities as to why they stop travelling. Most participants indicated that they do not live in a society or system that accommodates the travelling lifestyle, and therefore are ultimately forced to stop travelling. Participants also highlighted that the proposed reasons suggest that ceasing travel is a personal choice and not a result of systemic limitations. Instead of including additional reasons to this clause, participants believed it would be more inclusive to leave this broad with no example reasons as this would mean that no Gypsy or Traveller would have to prove the reasons they stop travelling to local authorities.

Participants also suggested the inclusion of an additional clause that adds a distinction for ethnic Gypsy/Travellers, similarly to how 'Travelling Showpeople' are explicitly mentioned. While they recognise that they would technically fit under the umbrella term of 'nomadic cultural tradition', they did not want to feel homogenised under a broad category. Furthermore, a couple of participants stated that they recognise themselves as Gypsies and Travellers more on the basis of ethnicity and history than by culture and tradition, and therefore would like to see that reflected.

Participants had concern on how local authorities would engage with this definition at the evidence report stage of LDP preparation, i.e. would community members have to prove their Gypsy or Traveller identification and can local authorities decide that they are not of the community despite self-identification. Conversely, participants also agreed that the definition is very broad and could risk local authorities engaging

with a small pool within these communities (e.g. just one or two New Age Traveller families) and use this as a means to claim they have consulted with all Travelling communities in their area.

Participants noted that 'nomadic cultural tradition' should be scrutinised to better understand whether this reflects all Gypsy and Traveller communities (i.e. New Age Travellers, Boaters) and whether this culture has to be historical and can therefore exclude New Age Travellers.

On-site engagement sessions

The three engagement sessions on Gypsy/Traveller sites were co-organised and facilitated by MECOPP to enable optimal engagement and collaboration between the Scottish Government and Travelling community members. These visited were hosted by one member from the Scottish Government and two members from MECOPP, and took the form of 2-3 hour site visits where residents had the opportunity to read and engage with the proposed definition and make their views heard.

Fife engagement session

There were some questions from participants on whether a definition needed to be written when processes are already in place where authorities consult with the Travelling communities of their area without the aid of a definition.

Most importantly, the protection of ethnic minority status for Gypsy/Travellers and therefore the preservation of their protected characteristics was paramount to participants. Participants wished to highlight that 'Gypsy/Travellers' are already established in case law as meeting the benchmark for a distinct ethnic group and therefore protected under the Equality Act 2010. Thus, their view is that the definition should reflect this distinction to preserve this status. Participants viewed the inclusion of Showpeople and circus people underneath the same heading as Gypsy/Travellers as too broad and a detriment of 'ethnic' Gypsy/Travellers. Participants recognise the necessity to include Showpeople and circus people as Travelling persons with planning needs but believe that a separation of subheadings for Showpeople and ethnic Gypsy/Travellers would be a more accurate distinction.

Participants also raised concern over the way this definition could impose on or restrict an individual's identity, as local authorities may use the wording of the definition to claim a Travelling person is not a 'Gypsy or Traveller' or to impose the term on those who do not see themselves as Travellers. Thus, the right to self-determination was highlighted by participants as key in mitigating these potential situations, and that it would be an infringement of international law to remove this right.

Participants believed that the outlined reasons for ceasing travel do not recognise that the real reasons are not always a positive or personal choice but often a consequence of the imposition of external factors such as the erosion of traditional

stopping places, lack of culturally appropriate accommodation and limited access to land.

Participants mentioned that the inclusion of 'persons with a cultural tradition of nomadism' without specifying any limitations or timescale to its practice could be misused – but ultimately participants agreed that there is no limit to self-identification and so the right to identify as a nomadic person should be respected and included.

Participants raised concern over the inclusion of clause (iii) that reads 'persons who require the provision of land for temporary or permanent living' as it is too broad and can include settled communities who require land. The recommendation from participants was to remove this section or rewrite it to be specific to Gypsies and Travellers.

South Lanarkshire engagement session

Participants were concerned that the proposed definition was homogenising ethnic Gypsy/Travellers with Travelling Showpeople and New Age Travellers, when in reality these are distinct and separate communities. Participants highlight that this can create confusion and detract from the protected ethnic status of these specific Gypsy/Traveller groups. The recommendation was to include a separate statement on 'ethnic Gypsy/Travellers' to maintain their distinct characteristics.

Participants suggested adapting or removing clause (i) that states the reasons for ceasing travel as they did not see a need to state any specific reasons. Participants believed this wording sends a negative message that one has to travel to be a Gypsy or Traveller, and for many of the participants it is their ethnic identity and therefore they are born to it regardless of travel patterns.

Participants believed that clause (iii) which includes persons who require the provision of land for temporary or permanent living is unclear as to who it relates to. They also believed that citing the Caravan Sites Act 1968 contributes to the idea that caravans are the only form of accommodation for Gypsies and Travellers and excludes the use of chalets and other forms of accommodation.

Alongside the statutory definition, participants suggested that there be further guidance developed to support the implementation of this definition for local authorities.

To further improve the processes through which local authorities engage with Gypsies and Travellers, participants suggested that members of the communities be employed to support consultation and engagement with community members, especially to reach community members living in brick and mortar housing. Participants also believe that planning processes should be more straightforward and Gypsies and Travellers should be better supported within the process. For these participants in particular, they highlight that their planning needs are more in line with having access to private yards, not the development of large sites as a business proposition.

Clackmannanshire engagement session

Participants expressed concern that the inclusion of different types of communities who are not 'ethnically' Gypsies or Travellers in the proposed definition could cause confusion for local authorities about who they have to consult with. Thus, participants recommended that 'ethnic' Gypsy/Travellers have their own statement to be seen as separate from Showpeople and New Age Travellers. This distinction is important for local authorities to know when they are engaging with groups who are recognised ethnic minorities and therefore have protection under the Equality Act.

Participants felt that clause (ii) that states the reasons for ceasing travel as unrepresentative of the real reasons that Travellers are no longer travelling which are usually more structural in nature. Participants suggested removing this point altogether or not disclosing the needs for ceasing travel.

Participants wished to highlight that the planning needs for Showpeople and circus people and the planning needs for ethnic Gypsy/Travellers are usually different and should be regarded as such, as Showpeople may need access to land for more business-related endeavours while Gypsy/Travellers have their own accommodation needs.

7. Conclusions

While many respondents welcomed the idea of a definition to enable councils to more effectively seek the views of Gypsy and Traveller communities, there were mixed responses to the proposed definition that was initially set out by the Scottish Government.

The need to recognise Gypsies and Travellers in their multiple communities with distinct and different cultures, histories and planning needs was a consistent theme throughout the consultation questions. In particular, the recognition of ethnic minority Gypsy/Travellers and their protected characteristics was of great importance to respondents, both from the online survey and the in-person engagement sessions.

Respondents highlighted that Travelling Showpeople are to be regarded as a separate community with their own distinct planning needs, both within the definition and in councils' consultation processes.

While respondents welcomed the idea of a definition that is inclusive and broad to capture the many Travelling communities and include Travellers whether they are currently travelling or not, there were concerns that a definition that is too vague can consequently capture non-Travelling communities or create confusion and further misunderstanding to the identities of these multiple groups. This was perceived by online respondents and session participants.

Respondents broadly agreed that the way councils should involve Gypsy and Traveller communities in their planning processes should incorporate multiple engagement techniques, face-to-face consultations, and be accessible to all groups and individuals in the Gypsy and Traveller communities within that area.

Most respondents believe that this (or any) definition would not have an impact on businesses. Most respondents believe that this (or any) definition would have an impact on certain groups of protected characteristics.

Of those who do believe a definition would impact businesses and groups of protected characteristics, most believe the nature of the impact is dependent on the final definition, or they are unsure of the nature of the impact.

Annex A: Online respondents to consultation

Aberdeenshire Council

Alex James Colquhoun

Alexander Watt

Argyll and Bute Council

Chris Morton

East Dunbartonshire Council

Equality and Human Rights Commission

Fife Council

Glasgow City Council

Heads of Planning Scotland (HOPS)

Henry Meiklejohn

Highland Council

John Ringrose

MECOPP (Gypsy/Traveller Support Service)

Paul Short

Perth and Kinross Council

Professor Margaret Greenfields, Dr Eglė Dagilytė, Dr David Smith, Sophie Coker

RTPI Scotland

Scottish Borders Council

Scottish Human Rights Commission

Showmans Guild Scottish Selection

South Lanarkshire Council

The Law Society of Scotland

West Dunbartonshire Council

Willie Snooks

Thirteen individuals and three organisations requested their response or name not to be published.



© Crown copyright 2023

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: 978-1-80525-643-4 (web only)

Published by The Scottish Government, March 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1259062 (03/23)

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