



FAO: Dr Ian Wilkinson
Oldham Clinical Commissioning Group
Ellen House
Waddington Street
Oldham
OL9 6EE

November 2015

Dear Dr Wilkinson,

RE: Ensuring Equality in Access to Healthcare for Migrant Roma Communities

I write to you on behalf of the Equal Rights Trust, to share with you the findings of consultation meetings which we have undertaken with members of the migrant Roma community¹ in the Oldham area, and to make recommendations for how the Clinical Commissioning Group could better meet its obligations under the Equality Act 2010. These consultations have revealed the existence of significant barriers which prevent members of this community from accessing health services on an equal basis with others. Through this letter we seek to bring these issues to your attention, given your obligations under the Equality Act 2010.

We invite you to consider the information presented below in light of the Clinical Commissioning Group's obligations under the Act and specifically obligations under the Public Sector Equality Duty, which requires you to have due regard to the need to eliminate discrimination and promote equality of opportunity in access to health services.² This letter makes specific recommendations for how the Clinical Commissioning Group could better meet its obligations under the Public Sector Equality Duty. We would be grateful if you would respond to this communication to set out the steps which the Clinical Commissioning Group is taking, or intends to take, to address these recommendations, and any other measures which you are taking to ensure that Roma persons in Newham are able to access health services on an equal basis with others.

Background

The Equal Rights Trust is an international non-governmental organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. The Trust is undertaking a project in the United Kingdom entitled "Equal Rights for Roma, Gypsies and Travellers Programme – Immigrant Roma", the purpose of which is to increase the awareness of migrant Roma communities of the rights afforded to them by the

¹ The term "Roma" as the Council of Europe defines it refers to a wide range of communities, including Gypsies and Travellers, who do not necessarily identify as Roma. The UK Government uses the term Roma "for people of Roma origin who have come to the UK in recent years, particularly following the end of the Cold war and successive enlargements of the EU in 2004 and 2007". This letter adopts the latter definition.

² Equality Act 2010, section 149.

Equality Act and other laws, and thus enable them to access public services on an equal basis with others.

The Roma community is constituted of a diverse group of individuals and communities, brought together by a distinct and common culture, language and history. Within the United Kingdom, the term 'Roma' is largely synonymous with migrants typically arriving from Central and Eastern Europe. Currently, there are an estimated over 10 million Roma people living in Europe³ and they are considered one of the largest ethnic minorities in the region. Since the 1990s, increasing numbers of Roma families and individuals have migrated to the United Kingdom. Today, there are an estimated 197,705 migrant Roma living in the United Kingdom.⁴ However, the exact number is difficult to ascertain, due to a lack of accurate data held by the government⁵ and the fact that many Roma avoid declaring their ethnicity, using their nationality instead, because of fears of discrimination and racism.

Despite a relatively robust framework of law, policies, institutions and practices designed to ensure the enjoyment of the right to non-discrimination on grounds including ethnicity, the Roma remain deeply marginalised in the United Kingdom. The situation of the Roma in the United Kingdom has been exacerbated by a sharp rise in anti-migrant Roma xenophobia in reaction to the lifting of restrictions for Bulgarian and Romanian workers in January 2014. The absence of reliable data related to immigrant Roma and the confusion in the public mind of Roma and Romanians feed into the amalgam of anti-Gypsyism and anti-migrant racism. Thus, the Roma are living in an increasingly hostile environment, experiencing exclusion from many areas of life and often unable to access public services such as housing, healthcare and social assistance on an equal basis with others.⁶ Many Roma in the United Kingdom work for low wages and their distinct vulnerabilities are often exploited⁷.

Our work with the Roma in the United Kingdom is focused on increasing their understanding of the rights available to them under the Equality Act 2010 and increasing the understanding of public bodies and service providers of the specific needs of the Roma. In the course of this project, we have worked in partnership with the Roma Support Group (London), Clifton Learning Partnership (Rotherham), Roma Community Care (Derby) and the University of Salford (Greater Manchester) to convene consultative workshops with the Roma communities in four of the regions of the United Kingdom with the largest migrant Roma populations: Greater London, South Yorkshire, Greater Manchester and the East Midlands. We have also facilitated forums in which members of the Roma community and local service providers in these areas can discuss the challenges faced by migrant Roma in accessing basic services and how service providers can meet their obligations under the Equality Act to promote equality of opportunity in access to these services. This letter presents information gathered through these consultations and forums.

³ Council of Europe, "*Human rights of Roma and Travellers in Europe*", 2012, available at: https://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf, p. 31.

⁴ Brown, Scullion and Martin, "*Migrant Roma in the United Kingdom*", 2013, available at: http://www.salford.ac.uk/sustainable-housing-and-urban-studies-unit/downloads/Migrant_Roma_in_the_UK_final_report_October_2013.pdf.

⁵ Council of Europe, "*Council conclusions on an EU Framework strategy for Roma integration up to 2020: Great Britain and Northern Ireland*", 2012, available at: http://ec.europa.eu/justice/discrimination/files/roma_uk_strategy_en.pdf.

⁶ The AIRE Centre, "*Roma Rights*", 2015, available at: <http://www.airecentre.org/pages/roma-rights.html>.

⁷ See above, note 4.

Consultation Findings

During consultation meetings in Oldham, participants provided testimony indicating the existence of discrimination in the field of healthcare against members of the Roma community. Roma individuals and representatives of organisations working with the Roma community gave examples of problems faced by Roma individuals in accessing healthcare services which would amount to direct and indirect discrimination and harassment. We also found evidence that the Department is not taking sufficient action to meet its obligations to enhance equality of opportunity in access to healthcare, as required by the Public Sector Equality Duty.

The significant majority of complaints we heard concerned General Practice (GP) surgeries, with participants stating their view that Roma individuals were not treated in the same way as other patients when attending their GP. Roma participants at our meetings claimed they had been unfairly refused medical assistance because they did not have the required documentation. For example, one participant in Oldham claimed that he was denied medical treatment because he only had a Romanian National Insurance number, even though he had lived in the UK for four years. The application of requirements such as these on a selective basis targeted at Roma or other ethnic minorities would constitute direct discrimination.⁸ The application of such requirements to all health service users but with a disproportionate impact on Roma would constitute indirect discrimination, if this could not be duly justified as a proportionate means of achieving a legitimate aim.⁹

In addition, many persons stated that they had been asked to provide excessive amounts of documentation in order to access GP assistance. Such documentation included, in addition to proof of address (such as a recent council tax bill or utility bill), the name and address of previous GP. While it is not, in principle, problematic for healthcare providers to request documentation related to a person's medical history, the circumstances of Roma individuals and families mean that many were unable to provide one or more of these pieces of documentation. Again, where requirements to provide such documentation has the effect of denying or limiting access to health services to a group of persons who share a protected characteristic – such as ethnicity in the case of Roma individuals – this may constitute indirect discrimination where the requirements cannot be justified as a proportionate means of achieving a legitimate aim.¹⁰

A number of participants also gave examples of cases where health service staff had exhibited stigma and racism towards Roma patients. As service providers, all healthcare providers have an obligation not to harass a person requiring or receiving a service by engaging in unwanted conduct related to a protected characteristic which has the purpose or effect of “creating an intimidating, hostile, degrading, humiliating or offensive environment”.¹¹ We were also told that Roma individuals did not feel able to complain about harassment or discrimination in health services, because they felt concerned about victimisation by service providers.

Another significant issue identified through our consultations was in relation to language and translation services. Although, in general, interpretation services are provided by healthcare providers at a local level, our consultations found that insufficient regard has been given to the individual and specific needs of the Roma community. The Equal Rights Trust found that the lack

⁸ See above, note 2, section 9(1).

⁹ *Ibid.*, section 19,

¹⁰ *Ibid.*

¹¹ *Ibid.*, sections 29(3) and 26(3).

of adequate language facilities in the healthcare sector has created a serious barrier in access to healthcare for Roma communities, particularly in relation to general practice and primary care services. In some cases, no interpretation services are provided. In Oldham, one Roma person told the Trust that when she was pregnant and in severe pain, she tried to make an appointment for a general practitioner to visit her. She stated that when she asked for interpretation assistance during the appointment, she was told that no interpreter could be provided. Further, throughout this consultative process, concerns were raised about the quality of interpretation services provided. Participants stated that interpreters did not know correct and accurate terminology in respect of different physical and mental health problems in the Romani language.

The failure to provide adequate and effective translation services for Roma persons accessing health services may constitute failure on the part of healthcare providers to have due regard to the need to “remove or minimise disadvantages suffered by persons who share a relevant protected characteristic”, or the need to “take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it”, as required by section 149(3)(a) and (b) of the Equality Act.

Recommendations

Our consultations identified examples of direct and indirect discrimination and harassment against Roma individuals seeking access to health services. While each individual case may give rise to a cause of action against the healthcare provider in question, evidence that such cases are part of a pattern gives rise to concerns about discrimination affecting access to healthcare for Roma persons in general. Therefore, in our view, the Clinical Commissioning Group’s obligation under section 149 of the Equality Act to have “due regard” to the need to eliminate discrimination in access to healthcare is engaged.

Therefore, the Equal Rights Trust calls upon the Oldham Clinical Commissioning Group to act in line with its obligations under section 149 of the Equality Act by: (a) conducting an investigation into discrimination against Roma persons in local health services, and taking such steps as are necessary to eliminate patterns of discrimination identified as a result; (b) issuing guidance for healthcare providers on their obligations to ensure non-discrimination in access to healthcare, including for Roma individuals; (c) issuing guidance for healthcare providers on the need to ensure that requirements to provide documentation do not put Roma individuals or other groups sharing a protected characteristic at a particular disadvantage in accessing healthcare; (d) issuing guidance for healthcare providers on the need to eliminate harassment against Roma or other groups sharing a protected characteristic.

The provision of appropriate and effective interpretation services is a key condition for Roma individuals to enjoy full access to healthcare services. Our consultations indicate that while interpretation services are provided by healthcare providers, these are frequently unsuitable to meet the needs of Roma individuals, with the effect that members of the Roma community cannot access health services on an equal basis with others. In our view, the Clinical Commissioning Group must consider, in line with its obligations under the Public Sector Equality Duty, the need to increase and improve the provision of interpretation services in the health service, in order to ensure equality of opportunity in access to healthcare. Government guidance has stated that the Public Sector Equality Duty requires a proportional approach and that while the provision of translation into commonly spoken minority languages may be a key means of ensuring equal access to services, translation into an excessive number of languages would be disproportionate response.¹² Which languages will be considered commonly spoken will vary according to region

¹² Government Equalities Office, *Equality Act 2010: Public Sector Equality Duty, What do I need to know? A Quick Start Guide for Public Sector Organisations*, 2011, p.8, available at:

and locality. In areas such as Oldham where there is a high concentration of Roma people, provision of translation services for the Romani language would be a proportionate response within the framework of the Public Sector Equality Duty.

Therefore, the Equal Rights Trust calls upon Oldham Clinical Commissioning Group, to take action in accordance with its obligations under section 149 of the Equality Act by: (a) issuing guidance for healthcare providers that the provision of appropriate and good quality interpretation services for Roma communities is necessary and proportionate to ensure equality of opportunity in access to health services for this group; (b) making available additional funds to support the development and provision of suitable interpretation services in areas with significant Roma populations.

Beyond the specific recommendations above, the Clinical Commissioning Group has a general obligation under the Public Sector Equality Duty to eliminate discrimination and promote equality of opportunity on the basis of race and other protected characteristics. As such, we are aware that the Clinical Commissioning Group may already be taking steps to ensure equality of access to healthcare for Roma and other minority ethnic communities. We would be grateful if you could also provide us with any information on any measures which the Clinical Commissioning Group has taken, and of the ways in which these measures are monitored. In particular, we would be interested to know how the Clinical Commissioning Group is working to ensure that General Practice Surgeries are meeting their obligations under the Equality Act, and how this is monitored. Any information which you provide will be disseminated, via our partners, to the affected communities, in order to ensure that they are fully informed about measures in place to assist them in accessing healthcare.

We hope that the information provided in this letter relevant and useful in respect of the Clinical Commissioning Group's obligations under the Equality Act 2010. Should you require further information or advice, the Trust would be very happy to assist. We look forward to hearing from you and to cooperating with you to address the issues identified in this letter.

Yours sincerely

Dr Dimitrina Petrova
Executive Director, Equal Rights Trust