

## Briefing note on Gypsies & the Race Relations Act 1976

Judgement in the case of Smith & Smith v Cheltenham Borough Council, Avery, Lambert, and Hogg (CN755478) was handed down by Bristol County Court in April 1999. It was an action brought by a Gypsy woman and her daughter against the Council for breach of contract and the Race Relations Act (RRA) 1976 sections 20 and 21 (discrimination in the provision of goods and services), and against individual police officers for breach of the RRA section 33 ('A person who knowingly aids another person to do an act made unlawful by this Act shall be treated for the purposes of this Act as himself doing an unlawful act of the like description').

The women had hired the Pittville Pump Rooms for the daughter's wedding reception, for around 150 people, and paid a deposit on the booking. They then went ahead with other wedding arrangements, including catering and the printing of invitations. Based on several allegations of disorder in recent years, and rumours about the upcoming wedding, the police became concerned that the Smith wedding celebrations might involve public disorder; they liaised with the Council, including the manager of the venue, to voice these concerns. The Council called the mother to a meeting and attached conditions to her hire of the venue, including a requirement that entry should be by ticket only, and that a further (hefty) deposit should be paid. Both women were very upset and booked an alternative venue (where the event took place without incident).

The judge at Bristol County Court stated: "I find that there is no foundation for the assertions of the police that the gypsy problems of 1997 were linked to the Smith family. The truth is that as soon as the word "gypsy" appears assumptions are made that large numbers will descend and cause trouble." He went on to comment that the mother had been given no opportunity to comment on allegations, that the council had made up its mind before it spoke to her, and they were in breach of contract as they had no right to impose extra conditions; he awarded damages. As to the RRA, he found that the women "were treated in an unfair and highhanded manner which seems to be in complete contrast with the way in which, for example, the organisers of the Hunt Ball, an event known to pose serious risks of disorder, were treated." He found the Council in breach of sections 20 and 21, and awarded damages.

In respect of the claims against the individual police officers, the judge held that "the police did not act well over this wedding", and that the women had cause for complaint against them. However, he found the police had not knowingly aided the Council to do an act made unlawful, as no officer was made party to the decision taken by the Council. This element of the judgement was then heard by the Court of Appeal (Hallam and Avery and Another, TLR, 7 February 2000) who upheld the judge's reasoning and decision, stressing the importance of the role of 'knowledge' under this section of the RRA.

The Commission for Racial Equality will use the decisions to encourage 'good practice' by local authorities and the police towards Gypsies, and are currently engaged in a case in which the question of whether Irish Travellers are a racial group will be considered. The Smith and Hallam decisions do not alter the law following on from the decision in CRE v Dutton ((1989) 2 WLR 17) in any way, but this is the first time that section 33 has been considered at this level. Imaginative practitioners may wish to consider the use of section 33 in appropriate circumstances; and also section 71 (duty on local authorities to carry out their functions with due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups). The latter section has not yet been considered in the higher courts.

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