



**OFFICE OF THE
DEPUTY PRIME MINISTER**



Home Office
BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

Managing
Unauthorised
Camping
Operational
Guidance

Consultation Paper

housing

This consultation draft was prepared by Pat Niner of the Centre for Urban and Regional Studies at the University of Birmingham has been amended to take account of comments from ODPM and the Home Office, and from members of the Advisory Group:

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Comments are welcome on the proposed Operational Guidance – both generally and on points of detail. Comments and assistance are particularly sought where:

- Specific queries are indicated in the text [CAPITALISED AND IN SQUARE BRACKETS]
- Examples are requested to include in the various good practice boxes throughout the text.

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The closure date for consultation on this Guidance is 23 May 2003.



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Managing Unauthorised Camping Operational Guidance

April 2003

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CHAPTER 1

Introduction

- 1.1 Unauthorised camping has proved to be one of the most difficult issues to resolve. This is mainly because different and often conflicting sets of rights and responsibilities are involved. Local residents can find their normal day-to-day activities curtailed by an encampment on a local car park, park or playing fields, or may experience noise, anti-social behaviour and other nuisance from an encampment on nearby open land. Landowners and businesses can find their land being used entirely without their consent and in ways that lead to damage, disruption and costs. At the same time, Gypsies and other Travellers living in unauthorised encampments lack basic amenities and can find it hard to access health and education services for their families.
- 1.2 In developing policies on unauthorised camping, Government believes that certain basic principles should be followed:
- Unauthorised camping is unlawful; there is no 'right' for Gypsies and other Travellers (or anyone else) to stop where they want, for as long as they want or to behave without regard to others.
 - However, in the short term – until more authorised sites have been provided – unauthorised camping will still take place and policies should seek to manage encampments to minimise disruption for all concerned and ensure that any anti-social behaviour is tackled firmly. There are some sites where action should be taken to remove encampments as quickly as possible. Effective joint working between police and local authorities is likely to be judged on these most difficult cases.
 - Standards of behaviour expected of Gypsies and other Travellers at encampments should be those expected of the settled community, and enforcement should be based on uniform expectations – which should be effectively communicated to Gypsies and other Travellers.
- 1.3 In July 2002, the Office of the Deputy Prime Minister (ODPM) and the Home Office issued a joint press release outlining the Government's new approach to tackling unauthorised camping and signalling the intention to introduce stronger police powers to move on unauthorised encampments provided there was adequate site provision. This reflects the Government's view that the use of stronger enforcement powers and adequate site provision must be linked. The third round of Gypsy Sites Refurbishment Grant (2003/4) has been extended to include 100% funding for transit and emergency stopping place provision on a pilot basis. The Government has set out its broad policy towards unauthorised camping in its Framework Guidance on Unauthorised Camping, consultation for which closed on 28 February. The Framework Guidance will be published in April 2003.
- 1.4 In addition to this there have been a number of other developments since the previous guidance *Managing Unauthorised Camping: A Good Practice Guide* was issued in 1998.

- Amendments to DETR Circular 18/94 and to Chapter 5 of the *Good Practice Guide* were issued in July 2000. The amendments dealt with advice about 'toleration' of encampments and made clear that there will always be circumstances where an unauthorised encampment cannot to be allowed to remain and where prompt action is required.
- The Association of Chief Police Officers (ACPO) issued guidance to its members on Collective Trespass or Nuisance on Land (including unauthorised camping) in 1996, 1999 and again in August 2000 in parallel with the DETR/Home Office *Guide*.
- In 2001 the results of research monitoring the impact of the DETR/Home Office *Good Practice Guide* were published. The report, by Edinburgh College of Art/Heriot-Watt University in conjunction with the Universities of Bristol and Cardiff, concludes that the *Guide* has been fairly influential in how local authorities and police forces tackle unauthorised camping. The research also highlights some perceived inadequacies and gaps in the guidance which this new Operational Guidance aims to address.
- The Human Rights Act 1998 (HRA) came into force in October 2000, incorporating the European Convention on Human Rights into British law. The Act means that all eviction and enforcement decisions made by public authorities must be 'proportionate'. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny (see paras 5.7 – 5.9).
- The Race Relations (Amendment) Act 2000 has extended responsibilities given by the Race Relations Act 1976. Public authorities – including local authorities and the police – are under a positive duty to ensure non-discrimination on racial grounds and to promote good race relations. Both Romany Gypsies and Irish Travellers are now recognised as ethnic minorities against whom discrimination is unlawful.
- A new £17 million Gypsy Sites Refurbishment Grant (GSRG) challenge fund has been established with funding made available for three years from 2001/2. GSRG meets 75% of approved refurbishment costs for local authority Gypsy sites, with the aim of raising standards and helping to keep existing sites available for use – in part to help reduce the disruption of unauthorised camping. In its third year GSRG has been extended to provide 100% funding for provision of transit and stopping place sites.
- The National Policing Plan for 2003-2006 sets out the primary objective for the police service for the Plan's three year duration is to deliver improved police performance and greater public reassurance with particular regard to four priorities including tackling anti-social behaviour and disorder.
- In March 2002, the Government published a White Paper "Respect and Responsibility" which sets out the stand we are taking against anti-social behaviour. We will empower communities, public services and authorities to tackle anti-social behaviour. In return we expect everyone to play their part in setting and enforcing proper standards of behaviour. This guidance should be read in the context of that agenda.

Aims of the Guidance

- 1.5 This Operational Guidance takes account of all the changes outlined above. It represents the operational arm of the Government's approach. Its overall objective is to assist local authorities, police and others to tackle unauthorised camping to minimise the disruption it can cause. In doing this, it aims:
- to help strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsies and other Travellers;
 - to set out recommended courses of action which all local authorities and police forces should follow to provide an effective solution to unauthorised camping in their areas;
 - to encourage a more consistent approach across the country, building on current good practice and sharing experience;
 - to be practical yet creative in the face of a difficult reality; and
 - to show how to engage the settled and Gypsy/Traveller communities in order to achieve 'buy in' to the strategy, which is vital to ensure effective delivery.
- 1.6 The Guidance is primarily aimed at local authorities and police who share responsibility for managing unauthorised camping.

CHAPTER 2

Context

- 2.1 Gypsies and other Travellers are a feature of English life, and have been so for many centuries. They make up a very small minority within the wider population. Many Gypsies and other Travellers live in caravans or other vehicles and follow a lifestyle which is nomadic or semi-nomadic in that it involves travel during at least part of the year.
- 2.2 At present there are more Gypsy/Traveller caravans than there are 'authorised' legal places for them to stop. At any one time there are about 3,500 Gypsy/Traveller caravans on unauthorised encampments in England. Hardly any of these could be accommodated on existing authorised sites specifically provided for Gypsies/Travellers.
- 2.3 A group of caravans or vehicles camped on land without consent (or without planning permission in the case of owner-occupied land) is referred to throughout this Guidance as an 'unauthorised encampment', regardless of the number of caravans and vehicles involved.
- 2.4 Unauthorised encampments vary enormously
 - in size: from a couple of vehicles to groups with over 100 caravans;
 - in location: from the hidden away and unobtrusive to neighbours, to the highly visible and intrusive;
 - in behaviour of campers: from those where no-one on the encampment causes any nuisance to others, to those where many campers cause nuisance;
 - in impact on the site: from groups who leave a camping site tidier than they found it, to those who leave a site damaged and with mountains of fly-tipped trade waste and domestic refuse to be cleared by private landowners or the local authority.

Numbers and Scale

- 2.5 The twice yearly Gypsy caravan count is carried out by local authorities for ODPM. It gives an indication of the numbers of Gypsy caravans on authorised (public and private) and unauthorised sites on set dates in January and July. While the counts may not be completely accurate – not least because of the technical problems of counting all Gypsy caravans over a large area – they provide local authorities with useful information about the accommodation needs of Gypsies who reside in or resort to their areas on the count dates. They also provide authorities, the Planning Inspectorate and the Secretary of State with some of the background information required when planning matters (development plans, planning applications and planning appeals) are being considered.
- 2.6 The count has been carried out for over twenty years. Over this period the total number of Gypsy caravans has increased by some 70% while the number on unauthorised sites has

decreased by about 1,000 from 4,600 (as counted in July 1979) thanks to the growth of private and public authorised site provision. For the future, if total Gypsy caravans continue to increase in number, as might be expected due to population and household growth, an increase in unauthorised camping can only be avoided if places on authorised sites also continue to increase.

- 2.7 In July 2002, 14,202 Gypsy caravans were counted, of which 3,499 were on unauthorised sites. July counts consistently reveal higher numbers of Gypsy caravans on unauthorised sites. Over the past few years, on average, there have been 800 more Gypsy caravans on unauthorised sites across England in July than in January, reflecting a seasonal element in travelling patterns.
- 2.8 Geographically, the counts consistently show highest numbers of Gypsy caravans on unauthorised sites in Eastern, South East and South West regions. Some local authorities – for example South Gloucestershire and some districts in Cambridgeshire and Norfolk – consistently have large numbers on unauthorised sites. Very generally, the patterns reflect traditional areas of resort for Gypsies and other Travellers and – importantly – work opportunities for Gypsies/Travellers involved in various contracting (eg aspects of the building trade, garden and tree work), trading (eg carpets and furniture) and seasonal agricultural work.

Recent Research

- 2.9 Research for ODPM on the provision and condition of local authority Gypsy/Traveller sites in England carried out by the Centre for Urban and Regional Studies at the University of Birmingham has some important messages.
- There is some evidence of a trend towards greater ‘settlement’ among some Gypsy/Traveller groups. However, other individuals and families have no desire to ‘settle’ and will continue to travel actively. Other more ‘settled’ Gypsies/Travellers – or their children – may take up active travelling when personal or family circumstances allow it. Gypsies and other Travellers will continue to travel through the foreseeable future.
 - In order to accommodate the desire for nomadism, between 2,000 and 2,500 additional authorised transit/mobility pitches are estimated to be needed before 2007. At present there are only about 500 transit pitches provided on authorised local authority and private sites.
 - Gypsies/Travellers, police and local authority personnel acknowledged to the researchers the existence of a significant minority of ‘problem families’ among the Travelling community who – whether on sites or on the roadside – are associated with criminal and anti-social behaviour, damage to property and fly-tipping. Law-abiding Gypsies/Travellers fear that this very visible minority disproportionately affects settled community images and stereotypes of the Travelling community as a whole.
- 2.10 The general context and recent research suggest:
- while unauthorised camping is much more significant in some areas, almost any local authority is at risk of encampment and should be prepared to deal with encampment;

- unauthorised encampments vary widely. Local authorities, police and others dealing with unauthorised camping therefore need to be prepared to react to individual circumstances;
- getting to know local travelling patterns and groups is critical to building a sound strategy. Getting to know individuals and building trust at a personal level with regular Gypsy/Traveller visitors can prevent problems developing (see Box 1);
- the nature of travelling and consequent unauthorised encampment means it cannot be sensibly seen as a purely local phenomenon. An eviction in one area may have the effect of merely pushing the encampment over a local boundary for another authority to deal with;
- local authority or police force boundaries probably do not influence where Gypsies/Travellers camp, especially where they travel widely. Authorities and forces should work together across boundaries to assess needs and determine strategies in response to unauthorised camping over the wider area. At a minimum, authorities should work together at county level, ideally at regional or sub-regional level; and
- good preparation and planning can minimise the disruption of unauthorised encampment. For this, sound intelligence and good networking is essential between local authorities and police forces in an area to keep everyone informed of Gypsy/Traveller groups and their movements. At the least, neighbouring authorities should always be informed when a large encampment is to be evicted.

Box 1: Getting to Know Local Gypsy/Travellers

We would like to hear from local authorities that have developed good practice around gathering information about local Gypsy and Traveller populations and their migration patterns.

CHAPTER 3

Developing a Strategy for Unauthorised Camping

- 3.1 It is often impossible to predict just where and when an unauthorised encampment will occur. However, a purely reactive response to encampments as they arise is likely to be both inefficient and ineffective. Local authorities, police forces and other bodies need to be clear how they will respond to an encampment, who will take the lead, who else will be involved and under what circumstances.
- 3.2 To be effective this information should be clearly set out in an unauthorised encampments strategy and protocol. The strategy must be developed through consultation with all key stakeholders if it is to be effective; and it must seek to balance the rights and responsibilities of the travelling and settled communities.
- 3.3 The stages in developing a strategy are: setting the aims and objectives; formulating the strategy (including determining its contents); implementing the strategy; allocating resources; communicating the strategy; and monitoring its effectiveness.

Aims and Objectives of an Unauthorised Camping Strategy

- 3.4 The key objectives in having a strategy for unauthorised encampments include:
 - being able to plan ahead to minimise problems and to avoid the need to deal with everything on a crisis basis;
 - ensuring that the needs and legitimate expectations of all parties, both Gypsies and Travellers and the settled community are considered;
 - setting a framework within which clear, consistent and appropriate decisions can be made on unauthorised encampments to minimise disruption;
 - linking the approach to unauthorised camping firmly to other strategies and policies affecting Gypsies and Travellers (health, education, housing etc);
 - directly involving all those with an interest in the process of developing the strategy so as to achieve maximum 'buy-in' and ownership;
 - reaching – as far as is possible – consensus on the strategy so that all relevant parties will sign up to the strategy and its implementation;
 - clarifying roles and responsibilities so all parties to the strategy know who will do what in different circumstances, within the realistic limits of what is possible;

- ensuring that policies and approaches reflect the human rights of both the settled and travelling communities, and are compliant with race relations legislation; and
 - ensuring the prevention of anti-social behaviour and effective enforcement against perpetrators.
- 3.5 Each local strategy will have its own objectives. Box 2 shows objectives from the draft policy developed by Dorset County Council.

Box 2: Objectives of a Local Policy on Gypsy and Traveller Issues

The objectives of the policy are:

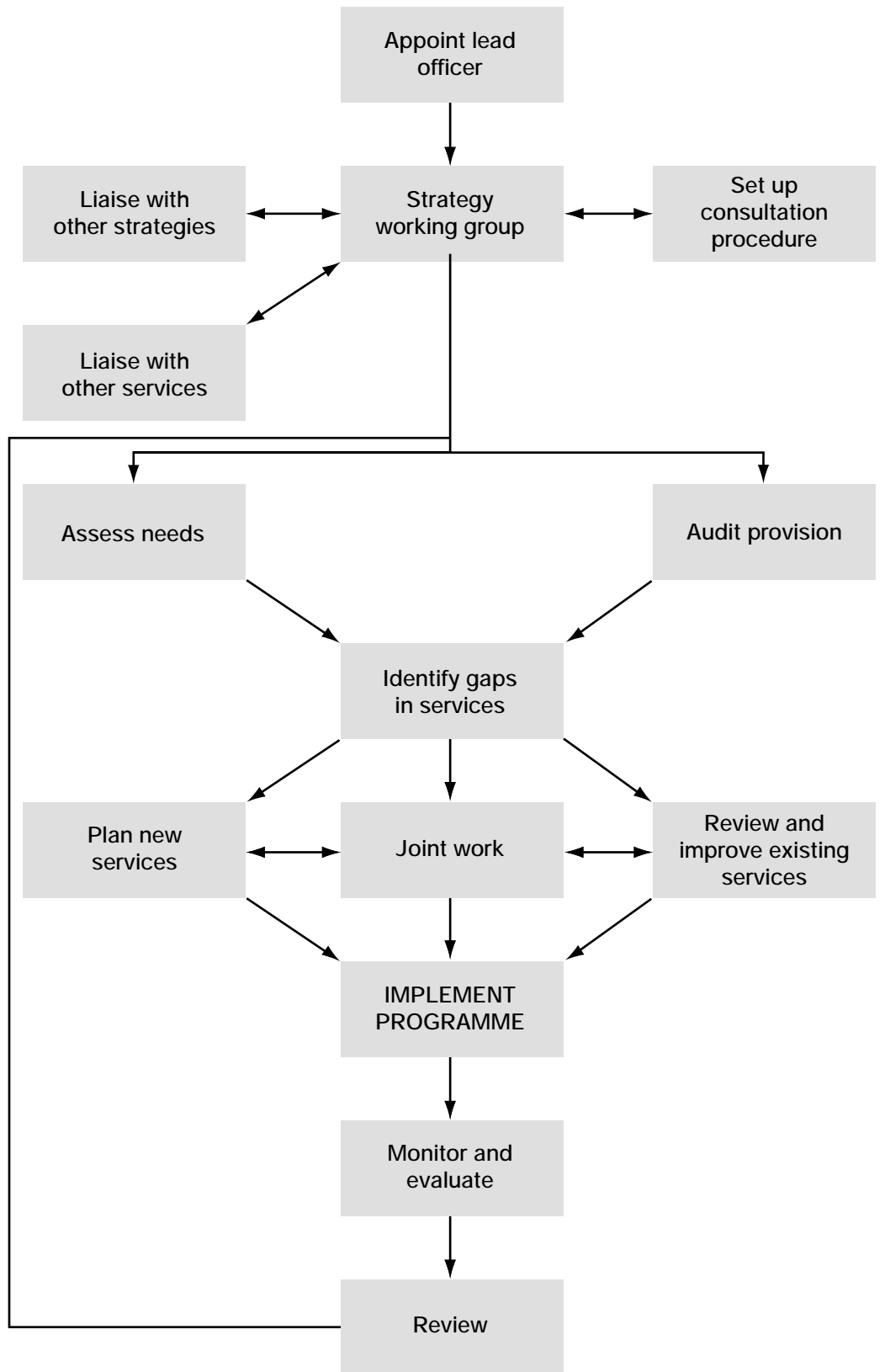
- to balance the rights and needs of resident communities with those of Gypsies and Travellers;
- to manage unauthorised encampments in an efficient and effective way taking account of the potential level of nuisance for local residents and the rights and responsibilities of Gypsies and Travellers; and
- to work with partners in other authorities, the voluntary sector and the Police to address issues of social exclusion amongst Gypsy and Traveller communities.

Formulating the Strategy

TAKING THE LEAD

- 3.6 It is appropriate that local authorities take the lead in formulating the strategy, and have responsibility for overseeing and monitoring its implementation. This means that local authorities have responsibility for ensuring that the process is driven forward and does not become bogged down in inter-organisational wrangles and unacceptable delays.
- 3.7 The process of producing a strategy involves a number of key stages (see Box 3), which must be planned out and time-tabled at the start. This essential task should be undertaken by a named officer of the local authority, with the task fully recognised in his/her job description.

Box 3: Key Stages in Developing a Strategy



WHO SHOULD BE INVOLVED?

- 3.8 While local authorities take the lead, it is essential that many others are involved in the process and are willing to sign up to the strategy when it is agreed and published. Generating commitment among participants is an important part of the strategy building process.
- 3.9 Key players should be closely involved, perhaps within a working party or steering group charged with moving the strategy process forward. Focus groups or consultative meetings could be used to engage other stakeholders. A designated local authority officer should be given overall responsibility for seeing the process through; he or she must have sufficient seniority to negotiate commitment from partners. Annex F shows stakeholders who might be involved and the ways in which they might be engaged; Box 4 provides examples of methods used to engage members of the public in consultation on approaches to Gypsy/Traveller issues.

Box 4: Public Consultation Methods used on Gypsy/Traveller Issues

We would like to hear from local authorities that have developed good practice around consultation with both the settled and travelling communities about Gypsy and Traveller issues.

Elements to be Included in the Strategy

- 3.10 There are ten essential elements to be thought through in any strategy for dealing with unauthorised camping:
- the legislative background for the strategy (see Annex E for a summary);
 - local information and data on which the strategy is based;
 - protocols for sharing information;
 - the approach to be taken on site provision (see Section 4);
 - the policy to be followed when unauthorised encampments arise, setting out clearly the alternative courses of action to be taken and the circumstances which determine that action (see Section 5);
 - working arrangements and protocols for the involvement of different agencies;
 - resources;
 - arrangements for communicating the strategy widely;
 - arrangements for monitoring the strategy and ensuring that it remains appropriate and is effective in practice; and

- involvement of other parts of the local authority, for example planning, education and social services, to ensure that there is a coherent authority-wide holistic approach to Gypsies/Travellers. In two-tier authorities this will involve both county and district councils.

3.11 The legislative background, site provision and the policy approach to unauthorised camping are dealt with elsewhere in the Guidance as noted. The other aspects are discussed below.

LOCAL INFORMATION FOR THE STRATEGY

3.12 The starting point for a local strategy must be sound information on the characteristics of Gypsies and other Travellers who reside in and resort to the area. Such information might include numbers, family structures, economic activity, travelling patterns, accommodation needs, health and education needs. Information on Gypsy/Traveller culture is relevant in helping to develop an effective strategy which will actually work.

3.13 Gypsy caravan counts provide a starting point. Other potential sources of information include monitoring of unauthorised encampments, planning applications and education records. Assessments of accommodation needs have been made in some local areas – for example, LB Southwark, Derbyshire and Wychavon – which used these sources and also drew on experience of local professionals and research with local Gypsies and other Travellers through interviews and discussions.

SHARING INFORMATION

3.14 Sharing information at county and sub-regional level can help particularly when looking at travelling patterns and considering site provision. Where information is shared between partner agencies working together, protocols may be developed to deal with issues of professional confidentiality and data protection.

WORKING ARRANGEMENTS AND PROTOCOLS – TOWARDS IMPLEMENTATION

3.15 A strategy needs to spell out working arrangements. The local authority should be the lead agency in managing unauthorised camping in its area, and the strategic working arrangements should reflect this. There will be circumstances – which should be spelled out clearly, for example when the police will take the lead using CJPOA s61 because urgent action is needed.

3.16 Named officers should be identified in each local authority and police basic command unit with clear responsibility for dealing with unauthorised camping. These officers need to be at a level which enables them to take on-the-ground operational and enforcement decisions. It is important that all key stakeholders – including Gypsies and other Travellers, elected members, members of the public and other local authority/police officers – know who these officers are.

3.17 The responsible officer in a local authority should establish procedures for reporting to and informing elected members about encampments. It is particularly important that local members are kept closely in touch with action affecting encampments in their wards. They can provide a valuable channel for communication between local authority officers and members of the public as a supplement to direct contacts.

- 3.18 Other organisations, departments and sections likely to be involved in dealing with unauthorised camping should be identified. These are likely to include Traveller education, social services, environmental health, housing and health services. It may be appropriate to include the RSPCA where Gypsies and other Travellers are known to have horses, dogs or other animals. Trading standards officers, Inland Revenue and Customs and Excise officers might also be included where trading activities are a cause for concern. Lists should be compiled of named contact officers in each stakeholder body with full contact details including telephone, fax and e-mail addresses; these lists must be kept up-to-date as people change jobs or responsibilities.
- 3.19 Responsibilities within the strategy for dealing with unauthorised camping must be recognised within the job descriptions and work loads of all these officers. While calls on their time will be variable and responsive to the number and nature of encampments arising, it is important to think through cover arrangements for their release from other duties when needed. Over time it should be possible to build up an estimate of the likely demands on their time.
- 3.20 Regular liaison meetings involving officers in all stakeholder organisations encourage good personal and working relationships to develop. People respond more easily to requests from people they know and trust. Liaison meetings provide an opportunity to discuss current issues and concerns and to review on-the-ground working arrangements in the light of experience.

Box 5: Examples of Liaison Groups and Agendas

We would like to hear from local authorities that have developed good practice in liaising with Gypsy and Traveller stakeholder organisations.

- 3.21 In some areas working relationships have been further cemented by joint training events where officers from different organisations, with different perspectives and professional interests learn together.

Box 6: Examples of Joint Training

We would like to hear from local authorities and police forces that have developed good practice in providing joint training opportunities.

- 3.22 In many areas across the country working arrangements between relevant bodies have been formalised into protocols or service level agreements. These set out the respective responsibilities of signatories, lines of command and communication, and may include performance targets.
- Protocols commonly involve local authorities (county and district councils in two-tier local government areas) and police.
 - Protocols or service level agreements may also be relevant between lead local authority departments and education, health and welfare departments involved in making welfare enquiries at encampments. Such agreements set out the means of communication to be followed and provide targets for response times.

Box 7: Examples of Protocols between Local Authorities and Police

We would like to hear from local authorities and police forces that have developed good practice in drawing up joint working protocols.

- 3.23 In a few areas (for example Milton Keynes) arrangements for joint working between the local authority and police are still closer in a jointly-staffed 'unit'. Advocates refer to the consistency of approach possible through true joint working; it avoids unnecessary duplication of effort; it means that there is less possibility of people being referred backwards and forwards between organisations. In such a structure it is important that reporting lines and accountability arrangements are carefully thought through.

Box 8: Joint Working

We would like to hear from local authorities and police forces that have developed good practice in developing joint working arrangements.

RESOURCES

- 3.24 The Government believes that spending to achieve the pro-active approach towards site provision and managing unauthorised camping as set out in the Framework Guidance and this Operational Guidance represents better value for money than the current position. Spending now on site provision should reduce the costs of dealing with unauthorised camping.
- 3.25 Local authorities and police should seek to apply Best Value principles to their strategy for dealing with unauthorised camping. Box 9 sets out some of the actions which might be helpful in an area with extensive and/or frequent unauthorised encampments.

Box 9: An Application of Best Value Principle to Dealing with Unauthorised Camping

Best Value principles suggest that local authorities and the police should:

- Identify what they are spending at present on dealing with unauthorised camping. Few organisations keep accurate records which accurately identify all the costs involved in unauthorised camping, for example responding to complaints from the public.
- Estimate the costs borne by others, including local businesses and landowners. It may not be possible always to arrive at a monetary value, but attempting it ensures that wider implications of actions are clearer.
- Consider the indirect costs of unauthorised encampments in terms of, for example, additional costs to health and education services and others involved in fostering the greater social inclusion of Gypsies/Travellers.
- Compare these with the possible costs and benefits of taking a more pro-active approach to site provision and managing unauthorised camping on a partnership basis.

- 3.26 At present not all authorities have a budget for dealing with unauthorised camping, and staffing responsibilities are sometimes vague. Good practice suggests that all authorities should have a formal budget, based on past experience and best intelligence on future needs.

COMMUNICATING THE STRATEGY

- 3.27 The strategy for unauthorised camping should be published and widely disseminated to local businesses, local residents and Gypsies and other Travellers. Objectives in publishing and publicising the strategy include:
- making clear what can be achieved and over what time scales so as to mould realistic expectations among both the settled and Gypsy/Traveller communities; and
 - making clear who is responsible for what elements of the strategy and its implementation. For example, it is appropriate that members of the public should contact the police directly over matters involving crime associated with unauthorised encampments, while the local authority might be the appropriate point of contact for other issues. This means listing names, telephone numbers and addresses.
- 3.28 A number of local authorities already provide information leaflets or have material on their web-sites dealing with unauthorised camping. Box 10 shows examples. Use of web-sites to provide information on local policies accords well with the Government's local e-government strategy.

Box 10: Example of Information Leaflet on Unauthorised Camping

We would like to hear from local authorities that have developed good practice in producing information leaflets and web-based information systems.

- 3.29 A 'communications strategy' is itself an important element in the strategy towards unauthorised encampments. A positive and co-ordinated approach to managing communication is an important element of a comprehensive strategy. Many bodies are likely to be involved in dealing with unauthorised encampments and other Gypsy/Traveller matters. A key aim of this strategy is to assure the travelling and settled community that effective action is being taken where necessary.
- 3.30 Deciding a co-ordinated approach to media briefings will reduce confusion and the possibility of conflicting accounts. The Commission for Racial Equality has issued Guidance to journalists on *Travellers, Gypsies and the media* which local authorities may find useful in encouraging a positive, or at least neutral, local press coverage for local encampments and other Gypsy/Traveller issues (see Annex *).

MONITORING THE STRATEGY

- 3.31 It is important to monitor the strategy as it is implemented and review the need for change in the light of that monitoring.
- Monitoring arrangements need to be planned and resourced from the beginning. It would be appropriate for the local authority, as lead agency, to take responsibility, perhaps reporting back to a steering group including representatives of other key agencies.
 - Obviously monitoring should identify progress towards meeting the objectives of the strategy. Protocols and other arrangements for partnership working are other obvious areas to be monitored and reviewed. In all cases, monitoring should identify areas

which have worked well and less well in order to learn from the process in recasting the strategy and/or its implementation.

- Above all, monitoring is required to ensure that the strategy leads to action on the ground. The strategy should not be merely a paper exercise.
- 3.32 Sound information is essential to monitoring. The Government sees great merit in encouraging local authorities, along with their police partners, to develop improved standard records of unauthorised encampments. As a minimum, information should be collected and monitored on the location of encampments, the number of caravans/vehicles involved and the duration of each encampment. Standardisation of information would allow aggregated data to be assembled across a county or region and would facilitate the exchange of data about unauthorised encampments between different areas. A review of the Gypsy counts system is to be commissioned shortly.

A Holistic Approach

- 3.33 Unauthorised camping does not exist in a vacuum. Developing a strategic approach towards managing unauthorised camping provides an opportunity for local authorities and others to consider policies towards Gypsies and other Travellers in a holistic manner (if they have not already done so). Relevant policy areas are land use planning, housing, environmental health, health and education. Many general strategic approaches to dealing with local issues, crime and social exclusion are also very relevant and might refer to Gypsies and other Travellers. Under-pinning all such work is policy on diversity, equality and human rights – not just towards Gypsies and other Travellers, but towards the whole population of a local authority area.

Box 11: Example of Contents of a Policy on Gypsy and Traveller Issues

CONTENTS

1. Introduction
2. Objectives
3. Travelling Patterns in Dorset
4. Policies on Site Provision and the Management of Unauthorised Encampments
5. Site Protection
6. Land Use Planning
7. Housing
8. Education, Health and Welfare
9. Making Decisions on Unauthorised Encampments
10. Provision of Services for Encampments
11. Keeping People Informed
12. Strategic Background and Joint Arrangements
13. Staff and Other Resource Issues

Source: Dorset County Council

Box 12: Strategies and Partnerships Relevant to Gypsies and other Travellers

- Local strategic partnerships and community strategies
- Forthcoming Community Cohesion Policies
- Supporting People
- Homelessness strategies
- Children and Young People's Partnerships
- Sure Start and Early Years
- Connexions
- Primary Care Group Trust commissioning plans
- Crime and Disorder Reduction Strategies
- Race Equality Schemes
- Anti-poverty strategies

CHAPTER 4

Site Provision and Unauthorised Camping

- 4.1 Local authorities do not have a duty to provide sites for Gypsies. They do, however, have the power to do so (under section 24 of the Caravan Sites and Control of Development Act 1960). Local Planning Authorities essentially control the creation of new public and private authorised sites through development plan policies and development control.

A Range of Accommodation

- 4.2 Site provision is an essential element in any strategy. In a context where the number of Gypsy caravans exceeds the number of authorised places where they can stop – which is the case in England – provision of suitable accommodation for Gypsies/Travellers must be seen as a vital part of an approach to dealing with unauthorised camping. Family growth among Gypsies and other Travellers will fuel need for additional provision if unauthorised camping is not to increase in future.
- 4.3 All local authorities which have experienced unauthorised encampments should review the provision of sites for Gypsies and other Travellers. Site provision can be provided publicly or privately and take a variety of forms:
- residential sites providing long-term settled accommodation. Most current local authority site provision is residential. Many private sites also provide long-term accommodation for individual families on an owner-occupier basis or commercially;
 - transit sites are also provided both by local authorities and private owners, though much less frequently. Transit sites, with varying levels of amenities, provide for Gypsies and other Travellers who want to stay for a period of up to about three months in an area;
 - less formal stopping places are rarer still. These would be identified areas of land to which Gypsies and other Travellers could be directed when they come to an area, and where they could stop for a short time – perhaps up to a month; and
 - emergency stopping places would be locations where families have stopped which are judged suitable for a short stay. Facilities might be temporarily provided at such locations.
- 4.4 All local authorities experiencing unauthorised encampments should provide either transit sites or stopping places to cater for Gypsies and other Travellers moving within or passing through their area. This might be done on a collaborative basis between neighbouring authorities. Some provision could be made by private individuals at no cost to the local authority.

- 4.5 It is the Government's intention to link enhanced police powers for eviction to the adequate provision of transit sites and stopping places by local authorities. We plan to introduce a new stronger enforcement power to evict unauthorised campers. This will enable the police to evict unlawful encampments quickly, without the pre conditions set out in the existing legislation, where the local authority has made adequate provision for Gypsy and Traveller Sites in their area.

Site Provision and Land Use Planning

- 4.6 The Government's policy on Gypsy sites and planning is set out in DOE Circular 1/94 and it provides for a flexible approach. The Circular puts Gypsies on the same footing in planning law as everyone else. It is designed to ensure that applications for Gypsy caravan sites are treated in the same way as any other form of development. It places emphasis on local authorities identifying suitable locations for Gypsy sites in their development plans wherever possible. Failing this they should identify clear and realistic criteria for suitable locations as a basis for their site provision policies. Wherever possible, local authorities should encourage Gypsies to consult with them on planning matters before buying land on which they intend to camp and for which planning permission would be required.

Given the central importance of new site provision, if unauthorised camping is to be reduced, it is essential that local planning authorities look creatively and positively at their plans and at planning applications for sites, for example:

- Sites on traditional routes are likely to be well used and sustainable. It may be easier to gain acceptance for sites in areas where Gypsies and other Travellers traditionally stop and are a known part of the local community.
- Granting temporary planning permissions for sites in a planned sequence might make provision more acceptable to the settled community. This is particularly appropriate for stopping places where little fixed infrastructure may be involved. Temporary sites could be provided in advance of longer-term development proposals.

Authorised Sites and Managing Unauthorised Camping

- 4.7 If authorised sites are to contribute effectively to reducing the disruption caused by unauthorised camping, site management and management of unauthorised camping must be integrated. At the least:
- Officers dealing with unauthorised encampments should have information about vacancies on local authority sites within their area, and ideally in neighbouring areas. Ideally, officers should also be prepared to assist campers to find places on privately owned sites and in permanent housing.
 - There must be close working between site managers and officers dealing with unauthorised camping over allocations of pitches on sites. Site managers will be aware of issues around family compatibility which must be taken into account when allocating pitches on residential sites.

- Transit sites and stopping places must be managed to prevent Gypsies/Travellers staying longer than the maximum permitted stay. Site turnover must be maintained if such sites are to continue to cater for Gypsies/Travellers with a nomadic lifestyle.

Site Protection

4.8 Protection of land which is vulnerable to unauthorised encampment is a valid part of a strategy. Some authorities have undertaken protection works on their own land and/or have advised private landowners how best to secure their land.

- Site protection work is not cheap. A risk assessment should be carried out before investing, including consideration of risks of encampment, nuisance arising from encampment on that land, and cost of effectively protecting the site.
- Site protection and continuing development of open land can have the effect of forcing Gypsies and other Travellers to camp in prominent and still more unsuitable places including farmland and other private land, prompting complaints from the landowner. Site protection must be considered alongside the creation of transit sites and stopping places to ensure that there are places for Gypsies/Travellers to stop without causing disruption.

CHAPTER 5

Making Decisions on Unauthorised Encampments

- 5.1 This section deals with some of the considerations to be borne in mind by local authorities, police and others when making decisions about how to deal with unauthorised encampments as they occur. Its aim is to help:
- to make clear, consistent and appropriate decisions on unauthorised encampments;
 - to ensure that a balance is struck between the needs of all parties; and
 - to ensure that decisions taken will withstand challenge.
- 5.2 Sub-sections below cover the policy statement; carrying out welfare enquiries; and reaching decisions.

A Policy Statement

- 5.3 It is important that the local authority produces a policy statement which includes:
- a statement of which travelling people the policy relates to. Many policies relate to all travelling groups including non-traditional Travellers since the issues raised by encampments are similar and the education, welfare and homelessness duties owed are identical;
 - identification of the action to be considered in respect of land not owned by the local authority;
 - the responsibilities of different authorities and agencies. This should set out which authority will act in specified circumstances where county and district councils share responsibilities (on highways for example), and the circumstances in which the police might take the lead;
 - the alternative courses of action to be taken. This should set out clearly the circumstances in which eviction processes would be instigated and the circumstances in which an encampment might remain for a short period;
 - the characteristics of encampment sites which would normally trigger rapid eviction proceedings;
 - the standards of behaviour expected from Gypsies and other Travellers on unauthorised encampments; and

- the circumstances in which an authority might provide rubbish storage and collection services, water supply or toilets to an encampment.

Box 13: Examples of Policy Statements

We would like to see examples of good unauthorised policy statements developed by local authorities.

Unacceptable Encampment Locations

- 5.4 All unauthorised encampments are unlawful. However, while there are insufficient authorised sites, it is recognised that some unauthorised camping will continue. There are locations, however, where encampments will not be acceptable under any circumstances. Each encampment location must be considered on its merits against criteria such as health and safety considerations for the campers, traffic hazard, public health risks, serious environmental damage, genuine nuisance to neighbours and proximity to other sensitive land-uses. The list in Box 14 of sites where an unauthorised encampment would not normally be acceptable is illustrative only and is not intended to be exhaustive.

Box 14: Some Examples of Sites where Unauthorised Camping would Normally be Unacceptable

- A Site of Special Scientific Interest where an encampment endangers a sensitive environment or wildlife
- School car park or playing fields (especially in term time)
- An urban park
- Car parks, including supermarket or leisure facility car parks
- An industrial estate
- Recreation ground and public playing fields
- A site where pollution from vehicles or dumping could damage ground water or water courses
- A derelict area with toxic waste or other serious ground pollution
- A village green or other open area within a residential area
- The verge of a busy road where fast traffic is a danger to campers' children

- 5.5 Wherever possible, local authorities and/or police should seek to prevent Gypsies/ Travellers from establishing an encampment in an unacceptable location. Where this proves impossible, they should attempt to encourage the Gypsies/Travellers to move to an authorised site where available. If the campers refuse to move, eviction processes should be commenced.
- 5.6 To be effective, such an approach requires a very swift response from the local authority and/or police, ideally within 24 hours of the encampment being established.

Welfare Enquiries

REQUIREMENTS TO MAKE WELFARE ENQUIRIES

- 5.7 Local authorities may have obligations towards members of an encampment under other legislation (regarding children, homelessness and education). Authorities should, where necessary and appropriate, liaise with other local authorities, health and welfare services who might have responsibilities towards the families of unauthorised campers. Some form of welfare enquiry is necessary to identify whether needs exist which might trigger these duties. The police and other public bodies who might be involved in dealing with unauthorised encampments do not have comparable duties but must still, as public servants, show common humanity to those they meet.
- 5.8 The Human Rights Act (HRA) applies to all public authorities including local authorities (including town and parish councils), police, public bodies and the courts. With regard to eviction, the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The human rights of members of the settled community are also material if an authority fails to act to curb nuisance from an encampment.
- 5.9 Case law is still developing with regard to the sorts of welfare enquiries which the courts consider necessary to properly-taken decisions in relation to actions against unauthorised encampments. Cases are testing the requirements under different powers, and the requirements placed on different agencies (authorities, police, other public landowners). Very generally, the outcomes of cases suggest:
- All public authorities need to be able to demonstrate that they have taken into consideration any welfare needs of campers prior to making a decision to evict.
 - The courts recognise that the police and other public bodies have different resources and welfare duties from local authorities. Generally the extent and detail of appropriate enquiries is less for police and non-local authority 'public authorities'.
 - In the case of local authorities, the onus of making welfare enquiries appears to be greater when using Criminal Justice and Public Order Act 1994 s77, where the use of the section can result in criminal sanctions, than when using landowners' civil powers against trespass. Local authorities should, however, make thorough welfare enquiries whatever powers they intend to use.
- 5.10 Because local authorities have appropriate skills and resources to enable them to make (or to co-ordinate) welfare enquiries, it is considered good practice for local authorities to respond positively to requests for assistance in making enquiries from the police or other public bodies.

PROCEDURES FOR MAKING ENQUIRIES

- 5.11 Speed of response is key to managing unauthorised encampments so as to minimise disruption. Arrangements should be put in place to ensure that all reports of new encampments reach the lead officer as quickly as possible. Passing on information rapidly should be part of protocols and joint working arrangements between agencies/departments

(see paragraph 3.22); staff on local authority switchboards should know how to handle calls from the public and to whom they should be referred.

- 5.12 An initial visit should be made to a new encampment within 24 hours of the authority becoming aware of it. An encampment should always be visited very rapidly if initial reports indicate exceptional problems. The initial visit has several functions:
- To check the accuracy of initial reports/complaints of an encampment, and to gather basic information on its location and size. This information provides the basis for checking issues such as land ownership.
 - Where an encampment location is likely to prove unacceptable (see paragraph 5.4), officers at the initial visit might try to encourage the campers to move to an authorised site where a place is available, or to a less immediately unacceptable location.
 - To collect basic information from the campers about the families and vehicles involved, and about past and intended future movement, anticipated length of stay and reasons for stay.
 - To collect initial information from campers on any perceived welfare, health or educational needs. Such information is the starting point for liaison with other relevant departments. Where school-age children are present, the Traveller Education Service should be notified. Similarly social services or health authorities should be notified where there seem to be social, welfare or health needs to be further assessed and met.
 - The initial visit should note the state of the camp site in terms of damage, rubbish accumulation and so on. This will provide baseline information from which subsequent behaviour can be monitored. Photographs can provide a useful record of potential health and safety issues; people should not be photographed.
 - Officers at an initial visit can also note any features of the encampment or its location which is likely to be particularly problematic or which might affect future decisions.
 - The initial visit is also an opportunity for giving information to Gypsies/Travellers about:
 - the standard of behaviour expected of them. Where a Code of Expected Behaviour has been developed (see paragraph 7.3 et seq), copies should be provided and explained clearly to avoid misunderstanding due to reading difficulties;
 - what is going to happen next, what procedures the authority or police are likely to follow and what this means for the Gypsy/Travellers; and
 - names and addresses of local services and sources of advice (see Box 15 for an example).

Box 15: Example of Information Leaflets Provided to Gypsy/Travellers

We would like to hear from local authorities that produced good examples of information leaflets for Gypsies and Travellers. We would also like to hear about other methods local authorities use to give information to Gypsies and Travellers.

- 5.13 Where an initial visit reveals serious problems from an encampment, welfare enquiries should be carried out as swiftly as possible.
- 5.14 It is vital that all information given and received during visits and enquiries is clearly recorded. This is helpful to the local authority, especially if different officers are involved at a later date. It will also form the basis of an audit trail for subsequent decisions in case of challenge. Pro formas have been developed by many authorities (see Box 16) to collect and record this initial information. Some authorities and police forces have developed scoring matrices as an aid to assessing risk and decision making (see Box 17).

Box 16: Example of a Pro-Forma used to Record Data on Encampments

We would like to hear from local authorities that have developed good examples data recording pro-formas. What information is collected on the pro-formas and why.

Box 17: Example of a Scoring Matrix used to Assess Encampment Risk

We would like to see examples of scoring matrixes used by local authorities or police forces for assessing encampment risk.

- 5.15 Information gathered in the course of visits and enquiries is subject to data protection legislation. Authorities should make clear the purposes for which information is being collected and give assurances about how it will be used and to whom it might be passed.
- 5.16 Local authorities have no powers to insist that information is given. Some information may be confidential and require the Gypsy/Traveller to give consent to follow up, for example medical records. A sensitive approach is necessary, and authorities should always bear in mind issues of confidentiality and data protection. Where information is refused, the fact that questions were asked and not answered should be clearly recorded to avoid any subsequent claim for failure to take some relevant consideration into account. If Gypsies/Travellers give reasons for not responding, these should also be noted.
- 5.17 Reasonable attempts should be made to get information from campers not present at the time of a visit. Other campers may sometimes be able to provide information. A letter or self-completion form may be left with clear instructions for its return (at no cost to the Gypsy/Traveller). All such actions should be clearly recorded, and if there is still no response, this should be noted.
- 5.18 Authorities should take sensible precautions to ensure the safety of their officers when visiting encampments. Jobs involving site visits should always be risk-assessed for health and safety issues which could lead to training or the issue of special equipment. Some authorities insist on joint visits to encampments; some routinely make visits accompanied

by police officers. Where officers visit sites alone, it is particularly important that procedures for notifying another officer of their whereabouts, checking in regularly and so on are always followed.

Reaching Decisions

5.19 Decisions about what action to take in connection with an unauthorised encampment must be made in the light of information gathered. Decisions must always be:

- ‘Proper’ – that is in line with local policy and procedures, taking into account relevant considerations and not taking into account the irrelevant.
- ‘Reasonable’ in the legal sense of not being perverse or irrational in the light of the evidence available.
- ‘Balanced’ in that they take account of the rights and needs of both the settled community and Gypsies and other Travellers.
- ‘Proportionate’ – what is proportionate will vary according to the precise circumstances of each encampment, including the nature of the location and the behaviour and needs of the campers.

MAKING DECISIONS

5.20 In order to delay eviction, welfare needs must be exceptional. Welfare needs do not give an open-ended ‘right’ for Gypsies/Travellers to stay as long as they want in an area. For example, the presence of a pregnant woman or school-age children does not, *per se*, mean that an encampment must remain indefinitely. The need must be more immediate and/or of a fixed term. Box 18 gives some examples of welfare needs to be considered by local authorities, although the list is not intended to be exhaustive. Good practice suggests that eviction should be delayed while such acute welfare needs exist and are being met; during this period the encampment should be pro-actively managed (see Section 7).

Box 18: Some Examples of Welfare Needs to be Considered in Eviction Decisions

Advanced pregnancy: a period shortly before and perhaps 6 weeks after birth in normal circumstances, longer on medical advice if there are complications.

Ill health: indicators might include a hospital appointment booked; in-patient treatment of a close family member; period during which a condition can be diagnosed, stabilised and a course of treatment started.

Educational needs: children in school if within 4 weeks of the end of term or if access to special education has been gained.

We would welcome comments on the above examples, and suggestions for others.

5.21 Where only one member or family in a larger group has a particular welfare need, it may be possible to exclude that person/family from eviction action and allow them to remain for a period. This must be sensitively handled to ensure that an individual is not isolated and unsupported which might actually increase need. In practice, groups may prefer to move on together.

ARRANGEMENTS FOR MAKING DECISIONS

- 5.22 Responsibility for taking decisions must be clearly identified within the authority's (and/or police) policies and procedures, whether delegated to officers or retained by elected members.
- 5.23 Some authorities have established special procedures for reaching decisions, for example:
- Structures which ensure that decisions are taken by officers who have not been directly involved in site visits or contact with the Gypsies/Travellers. It is argued that this increases the consistency, logic and objectivity of decisions. Since all evidence is presented to the 'authorising officer' in writing such a procedure ensures that there is a clear record of the decision and the issues considered.
 - Some authorities have arrangements for joint site visits and/or case conferences for reaching decisions on 'difficult' cases. Such procedures ensure that all parties are represented and have the opportunity to influence the decision. Case conferences could include representatives of the campers and the local settled community, although there would need to be clear 'rules' for making decisions in the absence of consensus.
- 5.24 It is important that decisions to pro-actively manage encampments for a period are kept under review. Circumstances can change quickly, for example if newcomers join the encampment and swell its size unacceptably or if behaviour deteriorates.

RECORDING DECISIONS

- 5.25 All decisions (including any decision to allow an encampment to remain for a period) must be fully recorded and documented. Damage and nuisance should be charted in writing; a photographic or video record might also be taken in support. Records should also be kept of all complaints received about the encampment, with comments as to their validity. Information passed to Gypsies/Travellers should be recorded, along with offers of assistance made – for example help with a housing application, offer of a pitch on an authorised site – and the response.
- 5.26 Records can provide valuable information on the number and nature of unauthorised encampments in an area and which sites are particularly prone to encampment. This information is useful in assessing the need for further site provision, site protection priorities and in setting budgets and appropriate staffing levels. It provides material on which a risk-based response to encampments could be developed drawing on past experience relating to the site or the group/family involved. Standard minimum information, to be collected in all areas, as suggested in paragraph 3.32, would facilitate information sharing and better planning.

CHAPTER 6

Going for Eviction

6.1 This section covers the eviction process itself. Once a decision to evict an unauthorised encampment has been properly taken, the aims should be:

- to act quickly and efficiently;
- to use powers most appropriate to the circumstances; and
- to reduce scope for challenge through the courts by ensuring that policies and procedures are properly followed so as to reduce cost and delay.

6.2 The first three sub-sections relate to eviction powers available to local authorities, police and other landowners.

Powers Available to Local Authorities

6.3 Local authorities have two main sets of powers to tackle unauthorised encampments:

- A landowner (including a local authority) can obtain a possession order in the civil courts requiring the removal of trespassers from property, including land. Under the Civil Procedures Rules Part 55 the claim must be issued in the county court in whose jurisdiction the property or land is situated. Exceptionally the claim may be issued in the High Court if there is substantial risk of public disturbance or of serious harm to persons or property which properly require immediate determination.
- The Criminal Justice and Public Order Act 1994 (CJPOA) gives local authorities in England and Wales powers to make directions to leave land being used by itinerant groups (s77). It is an offence to fail to comply with such a direction. If the direction to leave is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (s78). It is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable, or his re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency.

6.4 Box 19 summarises some of the main features of the two sets of powers, highlighting differences and similarities.

Box 19: Some Features of Civil and CJPOA Powers for Local Authorities	
Civil Powers	CJPOA ss77 and 78
Only on land in LA ownership	On private as well as LA land where encampment is without the consent of the occupier of the land
Possession orders are effective against anyone on the land, not necessarily those resident when the notice was first served	Only effective against people directed to leave. All newcomers must be served with directions to leave
Possession orders can be granted covering land in addition to that actually camped upon. To grant such an extension, the judge must be convinced of the danger of further encampment elsewhere by the Gypsies/ Travellers	Applies only to the land camped upon. Proceedings must be started again if the campers move only a short distance
If land is persistently occupied and the judge is convinced of the dangers and costs involved, an order can be given which outlaws future encampment of that land, regardless of the welfare circumstances of the campers	It is an offence for Gypsies/Travellers to return within three months to land they have been directed to leave; only applies to the same individuals
No criminalising effect	Can have the effect of criminalising Gypsies/Travellers who fail to move when directed to leave, a factor taken seriously by the courts. In practice, authorities normally proceed against the campers by way of complaint for an order requiring them to remove their vehicles from the land, and not for the criminal offence of contravening a direction to leave the land
County court bailiffs can be used; their services must be paid for and may lead to delay in enforcement	Responsibility for forced eviction lies with the local authority
Often seen as safe and relatively straightforward	Potentially quicker than civil powers, but greater risk of being effectively contested
Local authorities have responsibilities to make welfare enquiries when reaching eviction decisions, to take into account considerations of common humanity, and to honour the other statutory duties they may have towards the campers	
Gypsies/Travellers can attend and be represented at the court hearing	
Decisions can be similarly challenged by means of judicial review on the grounds that they have been reached improperly	

- Other measures may be available to local authorities:
- The Government believes that local authorities should always follow a route which requires a court order. As local authorities and public bodies, authorities cannot escape considerations of common humanity or other statutory duties, and must ensure that the human rights of campers are safeguarded.
- Local highways authorities have powers to evict unauthorised campers from highway land in certain circumstances under the Highways Acts. Such powers may be unsuitable where rapid eviction is called for.
- Local bylaws may have provisions for evicting campers from car parks, parks or other public areas.
- Planning enforcement measures may be relevant where encampments are on owner-occupied land or other land with the landowner's consent (where the CJPOA cannot be used).

6.6 There are no proposals at present to amend or add to powers available to local authorities for dealing with unauthorised encampments (other than the review of the planning enforcement system). However, local authorities will have an important role in the proposed changes to police powers through the provision of transit sites and stopping places (see paragraph 6.12).

Powers Available to the Police

6.7 Under s61 of the CJPOA, the police have discretionary powers to direct trespassers to leave land. The senior police officer present can direct trespassers to leave if reasonable steps have been taken by or on behalf of the occupier to ask them to leave and there are two or more people intending to reside on the land. Any one of three further conditions must be met:

- if any of those persons has caused damage to the land or to property on the land; or
- used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or
- those persons have between them six or more vehicles on the land.

Section 61 cannot be used on land on the highway.

6.8 The ACPO guidance refers to some of the circumstances in which it might be appropriate to use s61 against an encampment.

- The statutory conditions must obviously be met (see paragraph 6.7). Case law (Fuller) has determined that any notice period given to campers must have expired before s61 can be used. In other words, the campers must clearly have failed to respond to requests from or on behalf of the occupier of the land to leave before the police can act. Some police forces have streamlined this process by drawing up standard documents which, when signed by the owner/occupier of the land, give the police authority to act as their agents in dealing with the encampment.

- The fact that a landowner initially allows an encampment to remain does not preclude subsequent police action so long as it is clear that reasonable steps have since been taken by the landowner/occupier to get the campers to move, and that they have failed to do so.
- The fact that a local authority has started to make welfare enquiries cannot be taken as an indication that the encampment is being allowed to remain since this is an essential precondition for eviction action.
- The decision to use s61 is an operational one. Its early use should always be considered but especially where there is evidence of:
 - unacceptable Gypsy/Traveller behaviour at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction;
 - significant disruption to the life of the community;
 - serious breaches of the peace or disorder caused by the encampment.
- Where triggers such as the above are experienced, good practice suggests that police should be prepared to act as long as the statutory conditions are met. Police forces/commands should not adopt blanket policies or presumptions against the use of s61.

6.9 Home Office Circular 45/1994 says ‘The decision whether or not to issue a direction to leave is an operational one for the police alone to take in the light of all of the circumstances of the particular case. But in making his decision the senior officer at the scene may wish to take account of the personal circumstances of the trespassers; for example, the presence of elderly persons, invalids, pregnant women, children and other persons whose well-being may be jeopardised by a precipitate move.’ Case law has established that, while police officers do not have to undertake welfare enquiries as such, they must be aware of humanitarian considerations in reaching their decisions and must ensure that all decisions are proportionate. A decision may be taken to explicitly exclude individuals or families with serious welfare needs from a s61 direction to leave (although in practice the excluded person/family may choose to move on with the rest of the group).

6.10 Above all, s61 should be used within the framework of a jointly agreed strategy for managing unauthorised camping (see Section 3). Local authorities, police and other stakeholders should agree the sorts of circumstances in which s61 might be considered appropriate. It is also important that s61 should be used consistently within a local area. In some areas this has been assured by giving a single police officer primary responsibility for using s61.

6.11 Regular exchange of monitoring information on unauthorised encampments between police and local authority personnel is important. In particular, each party should keep the other informed about decisions taken and progress.

6.12 There are proposals for new powers to be given to the police to act against unauthorised encampments without any of the current pre-conditions found in s61 where the local authority has made adequate site provision. Section 61 and 77 will remain in force.

Powers Available to Other Landowners

- 6.13 Several government bodies are major landowners and their land may be subject to unauthorised encampment – examples include the Forestry Commission and the Highways Agency. Local authorities may be asked to assist public authorities with welfare enquires and it is good practice that local authorities assist with this.
- 6.14 Private landowners may obtain a possession order through the civil courts requiring the removal of trespassers from their land, using Civil Procedures Rules Part 55 in the county court. Private landowners have no welfare responsibilities towards Gypsies and other Travellers and would not be expected to take campers' needs into account when deciding to evict.
- 6.15 Some private landowners seek to avoid the expense and costs of going to court by using common law rights to recover land from trespassers using 'reasonable force' as necessary. Such action is lawful, and some firms of bailiffs have carried out many evictions effectively and without trouble. Good practice guidelines for common law evictions would seek to ensure that no more than necessary 'reasonable force' is used and might include:
- Police should always be notified of an eviction and called in to stand by to prevent a breach of the peace; and
 - If police advise that it is inappropriate to carry out an eviction, it should always be delayed until an agreed time.
- 6.16 There is a role for local authorities and police in managing unauthorised camping on private land.
- As a minimum, local authorities should advise private landowners about their rights to recover land from trespassers, through the courts or using common law powers. Authorities should remind landowners about the importance of using reputable bailiffs and only 'reasonable force'.
 - Within the overall strategy for managing unauthorised camping, the local authority might consider acting more directly against encampments when requested by a private landowner, particularly if the police are not prepared to use s61 to evict the encampment.
 - Police and local authorities should also take action if there are any criminal offences perpetrated during eviction action by bailiffs or private firms.

Some Procedural Points

- 6.17 This guidance is not concerned with detailed procedures involved in court actions for eviction. Some pointers to good practice for local authorities were noted in the Guide issued in 1998 and are still valid:
- Both main sets of powers for taking eviction action involve their own detailed procedures for serving notices, entering cases into court, providing affidavits (civil powers) or witnesses (CJPOA) for evidence and so on. There is advantage in drawing

up a detailed procedures guide as a check list that everything is done properly and no necessary action missed. Losing an eviction action through an avoidable mistake is a waste of resources, and threatens the credibility of the authority.

- In drawing up detailed procedures, the close involvement of a legal officer is essential. Day-to-day liaison for legal advice while dealing with a specific encampment is also desirable to avoid omissions and to ensure the most effective case for eviction is built.
- Most authorities will probably use in-house legal expertise for preparation and court work. In some circumstances it may be desirable to use an external solicitor which can be cost-effective where a local solicitor has special expertise.
- Good relations should be built with court officials to ensure a speedy service and to ensure that particularly urgent cases can be given priority when needed. The leaflet *Getting the best out of the court system: Claims for possession* issued by DTLR, the Court Service and the Welsh Assembly stresses the importance of establishing links with local courts. It is, of course, essential to establish what paperwork will be required by the courts and to ensure that it is always provided. It is also desirable to develop fast-track in-house processes to fit around court workings.
- It is important to be able to show that directions have been properly served if cases are to succeed at court. This normally means either personal service on the occupiers of each vehicle and/or attaching a copy of the direction to each caravan as well as posting the direction on the site. A verbal explanation of the direction should be given wherever possible as a supplement to the written documents to cater for possible reading difficulties.
- It is usual to proceed against unnamed persons occupying the land. This is specifically allowed in the CJPOA and may be the only practical course where Gypsies/Travellers are unwilling to give their names. Getting comprehensive information on vehicles is important for identification purposes.
- Most authorities will probably think it appropriate to use council personnel to serve notices and so on. Where external bailiffs or other agents are employed, the authority must be satisfied that their behaviour is at all times lawful.
- Serving directions, and site visits in general, can raise issues of personal safety for officers involved. Sensible precautions should be taken to avoid confrontation and personal danger. In certain circumstances, a police presence might be appropriate while notices are served.
- Local authorities have discretion to set notice periods beyond the legal minimum. For example, the direction to leave served under the CJPOA can require campers to leave in 24 hours, 48 hours or a longer period. Decisions about the length of notice given should be taken in the light of the circumstances of each encampment, with a view to being more generous where problems are not extreme.

Preparing for Eviction

6.18 Eviction proceedings should not be commenced unless the authority is able to go the whole way to forced eviction if necessary.

- Every effort should be made to avert forced eviction.
- Authorities should think, in general terms at least, about options for forced eviction. Plans should be formulated on such matters as which personnel would be involved and which towing contractors would be used. An in-principle agreement should be reached with the police about where towed vehicles would be put.
- Other services should be alerted prior to a forced eviction. This should include warning social services (who may need to provide temporary care for children in the rare cases where parents are arrested and held in custody), Traveller education services and homelessness officers, and could also involve finding accommodation for horses and dogs.
- Many authorities do not employ council staff in forced evictions. Where bailiffs or other agencies and contractors are employed, a code of expected behaviour should be drawn up.
- A senior local authority officer should always attend forced evictions to ensure that codes of behaviour are followed by all agents. The officer should attempt to encourage the campers to move voluntarily wherever possible.
- Police should be involved at a very early stage in planning a forced eviction. They will be able to advise on personal safety issues. In addition, forced evictions could have implications for traffic management and the like.
- Elected members and other local stakeholders should be notified in advance of forced eviction. It is also appropriate to routinely inform neighbouring local authorities and police areas since the displaced Gypsy/Travellers may look for other encampment sites locally.
- The respective roles of the local authority, police and other agencies in forced eviction should be clearly established in the local strategy for managing unauthorised camping. Since this is an area where good practice is hard to establish, it is particularly important that all agencies should monitor and evaluate local instances of eviction and learn from that experience.

CHAPTER 7

Managing Unauthorised Encampments

- 7.1 Although unauthorised camping is unlawful, it is likely to continue while there are insufficient spaces to accommodate Gypsies/Travellers on authorised sites. While more places are being provided it is vital that local authorities, with their police and other partners, pro-actively manage encampments to minimise the disruption caused. The principles involved are:
- to enforce the same standards of behaviour by Gypsies/Travellers as expected of the settled community. These standards may be set out in a Code of Expected Behaviour;
 - to respond rapidly to any deterioration of behaviour and growing disruption;
 - to facilitate access to services for Gypsy/Traveller campers; and
 - to keep all parties informed of decisions and actions.
- 7.2 The section also covers the special issue of dealing with mass gatherings by Gypsies and other Travellers.

Gypsy/Traveller Behaviour at Encampments

- 7.3 Many local authorities have drawn up Codes for Gypsies/Travellers, detailing both locational and behaviour expectations. Box 20 gives an example of a Code. Unacceptable behaviour, in relation to Codes, might take the form of:
- Large encampments where Gypsies/Travellers refuse to split up into smaller groups which could be accommodated with less disruption.
 - Aggressive and threatening behaviour towards local authority and/or police officers or members of the public.
 - Failure to control dogs and other animals.
 - Persistent noise which disturbs others, especially at night, for example from work on the camp, vehicles, generators, dogs or music.
 - Littering and/or fly-tipping on or near the site so as to cause a build-up of rubbish which is unsightly, hazardous and/or expensive to clear.
 - Damage either to the site encamped or the surrounding area or nearby property.
 - Criminal activity on the part of campers.

Box 20: Example of a Code of Expected Behaviour

We would like to hear from local authorities that have developed good examples of Codes of Expected Behaviour and the methods used for developing them.

- 7.4 In drawing up a Code of Expected Behaviour, local authorities should consult Gypsies and other Travellers, local businesses and other landowners and other members of the settled community in an attempt to reach consensus on behaviour standards it is appropriate to demand.
- 7.5 As noted above, a basic principle in establishing a Code of Expected Behaviour is applying the same standards as would be applied to members of the settled community. It is important also to identify and tackle unacceptable behaviour towards encampments on the part of members of the settled community.
- 7.6 Tackling unacceptable behaviour requires – as outlined in Section 5 – both a rapid response to an encampment, regular monitoring and determination to take appropriate enforcement action as necessary.

Dealing with Crime and Anti-Social Behaviour

- 7.7 The Government is clear that criminal and anti-social behaviour is not acceptable from Gypsies/Travellers, just as it is not acceptable from members of the settled community. In our recently published White Paper “Respect and Responsibility” we set out the stand we are taking against anti-social behaviour. We will empower communities, public services and authorities to tackle anti-social behaviour. In return we expect everyone to play their part in setting and enforcing proper standards of behaviour. This guidance should be read in the context of that agenda.
- 7.8 Dealing with criminal behaviour of unauthorised campers is properly the responsibility of the police. Other enforcement agencies may be involved depending on the nature of the crime, including Trading Standards Officers, Inland Revenue and Customs and Excise enforcement officers where there are indications of fraudulent trading, tax or excise evasion. A co-ordinated approach to enforcement is the key.
- 7.9 Good practice suggests that no group should be above the law, and certainly there should be no blanket presumption against enforcing against members of the Travelling community on grounds of expediency. Where law enforcement agencies demonstrate a commitment to taking action where appropriate and are clearly determined to tackle crime, it is probable that some Gypsy/Traveller campers will avoid that locality and others may amend their behaviour. A pro-active approach taken in one area may increase unauthorised camping in an adjoining area where a less active approach is taken. Consistency of approach is desirable.
- 7.10 Anti-social behaviour (see Box 21) can also arise at unauthorised encampments. Both police and local authorities have a role here. Under the Police Reform Act 2002, the Government introduced improved measures for tackling anti-social behaviour (ASB) including allowing ASBOs to be made following conviction for a criminal offence and allowing the orders to prohibit specified acts of anti-social behaviour across any geographical area up to and including the whole of England and Wales (which may help counter displacement of anti-social behaviour). Orders can also be made in the county court (from 1 April) where the defendant is the principal party in related proceedings such

as possession proceedings or eviction notices where the persons to be evicted from the area are named individuals. These changes were accompanied by Home Office guidance published in November. The white paper “Respect and Responsibility” strengthens these and outlines new measures which are to be introduced. Once again, it is important that authorities and police seriously consider the possibility of using ASBOs against Gypsies/Travellers and/or negotiating Acceptable Behaviour Contracts. The use of either measure would represent an opportunity to discuss behaviour with Gypsies/Travellers, defining for them what is and is not acceptable.

Box 21: Tackling Anti-Social Behaviour

The Crime and Disorder Act 1998 introduced Anti-Social Behaviour Orders (ASBOs) to tackle persistent anti-social behaviour (ASB). The scope of the orders was extended by the Police Reform Act 2002 which was accompanied by Home Office guidance on ASBOs and ABCs.

ASB: is defined in the CDA 1998, Section 1 as behaving in ‘*a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household*’

ASBOs: are available to local authorities, police (including the British Transport Police) and Registered Social Landlords (RSLs) by application at a magistrates’ court or on conviction in criminal proceedings. On the 1st April 2003 orders will be available in the county court where the person is the Defendant in related proceedings. Interim orders can also be obtained. To obtain an ASBO it is necessary to show that the person(s) concerned have acted in an anti-social manner and an order is necessary to protect others from further anti-social acts by the individual(s). The rules of evidence are civil but a standard of proof equivalent to the criminal standard (beyond reasonable doubt) should be applied. The order must be negative, prohibiting the individual(s) from specified actions (which can include a general prohibition of acting in an anti-social manner) in specified areas which can be any defined part of or the whole of England and Wales. Breach of an ASBO is a criminal offence and has to be proved to the criminal standard of evidence beyond reasonable doubt. Conviction for breach carries the normal maximum sentence in the Magistrates’ Court (6 months in prison, a fine or both) and five years plus a fine in the Crown Court.

Acceptable Behaviour Contracts: have been developed, initially by Islington Council, as an informal way of dealing with low-level ASB and nipping it in the bud. They can be used with adults and young people and are tenure-neutral although they have been used mainly against teenagers in social rented housing. The perpetrator is interviewed by a council officer in the presence of parents and police, and is asked to sign a ‘contract’ agreeing not to engage in specified anti-social acts. The ABC principles might be adapted for use in relation to Gypsies/Travellers and unauthorised encampments. An ABC is not legally binding but it can be cited in proceedings such as for an ASBO at a later date.

Other measures: are available which can be used against specific forms of ASB, including:

- Environmental Protection Act 1990 where a problem is judged prejudicial to health or a statutory nuisance – normally enforced by the local authority environmental health department
- Noise Act 1996 – normally enforced by the local authority environmental health department
- Protection from Harassment Act 1997 – if ASB or camper behaviour constitutes harassment, police could prosecute under this Act, or the person to whom harassment has occurred may claim damages and an injunction
- Public Order Act 1986
- Criminal Damage Act 1971

- 7.11 Measures to tackle crime and ASB must be set within a strategic framework. Dealing with criminal and anti-social behaviour associated with unauthorised encampments should be considered by local Crime and Disorder Reduction Partnerships as part of their mandatory strategies (see Box 22).

Box 22: Crime and Disorder Prevention Partnerships

The Crime and Disorder Act 1998 requires the police and local authorities – together with police authorities, health authorities and probation committees – to work together, in partnership with other agencies, to develop and implement a strategy for reducing crime and disorder in each district and unitary local authority area. County councils are to be involved in all strategies within their area. The Act also requires local authorities to have regard to crime and disorder when considering all other matters.

Police and local authorities (and other partners) must follow a three year cycle:

- Conduct and publish an audit of local crime and disorder problems, taking into account the views of those who live and work in the area
- Determine priorities for action
- Devise and publish a strategy which tackles these priority problems, including objectives and targets
- Monitor progress, fine tuning the strategy as required

Dealing with Waste Disposal and Fly-tipping

- 7.12 Accumulations of rubbish and waste – including human waste, domestic and trade refuse – represent one of the most common problems associated with unauthorised encampments. Accumulations can be visually unpleasant, smelly, hazardous and costly to clear up. Preventing a build up of waste and/or removing it is a central element in a policy of proactive management of encampments.

PREVENTING WASTE

- 7.13 Local authorities have an important role in preventing accumulation of waste by ensuring that Gypsies and other Travellers keep encampments clean and tidy:
- Many authorities provide supplies of plastic sacks and arrange regular collection of bagged refuse. This can work well with Gypsies/Travellers who want to conform to a Code of Expected Behaviour, and will reduce the costs of cleaning up after the encampment has left. Regular removal of domestic refuse should deter tipping by members of the settled community.
 - Some groups of Gypsies/Travellers are willing to use skips for domestic and trade waste. Again, provision and removal may be cost-effective if the alternative is a build-up of refuse acting as a magnet for other fly-tipping. Local authorities should check that skips would be used before providing them. It is good practice to seek to recover costs from the campers.

- Public defecation is a difficult and sensitive issue. The practice is clearly a nuisance and a public health hazard and the police have powers to deal such behaviour. However, Gypsies and Travellers have strict codes about hygiene and it is considered unclean to use toilet facilities in a caravan or to share facilities. When managing unauthorised sites, local authorities should liaise with campers. They should make plain that public defecation is not acceptable behaviour and discuss what form of toilet provision the local authority can assist with to prevent it.

7.14 Regular monitoring visits to encampments should reinforce messages about keeping the site clean and tidy. Gypsies/Travellers need to realise that, under a pro-active approach to managing unauthorised encampments, failure to keep the site clean and tidy in breach of a Code of Expected Behaviour is likely to lead to rapid eviction. Some local authorities which have adopted such an approach and shown a determination to encourage acceptable behaviour have found that Gypsy/Traveller behaviour has improved, and in some instances groups which previously left camp-sites in very poor condition are now much tidier. This is extremely cost-effective in reducing the need to spend large sums on cleaning up sites.

ENFORCEMENT ACTION

7.15 Dealing with illicit waste disposal and fly-tipping is difficult – whether the culprits are Gypsies/Travellers or members of the settled community. There are enforcement measures available (see Box 23). Collecting sufficient evidence for successful prosecution requires – as with the measures for countering crime and ASB outlined above – determination and partnership working from the agencies involved. The examples in Box 24 show that action can succeed.

Box 23: Measures for Enforcing against Pollution, Littering and Fly-tipping

Water Resources Act 1991 (as amended by the Environment Act 1995) gives the Environment Agency powers to prosecute those found illegally depositing waste into controlled waters and causing a pollution offence.

Environmental Protection Act 1990 makes fly-tipping a criminal offence with a maximum penalty of a £20,000 fine and/or imprisonment up to 6 months (unlimited fine or imprisonment of up to 5 years if convicted at a Crown Court). Prosecutions can be taken by the local authority or the Environment Agency. The Government has asked the Environment Agency to vigorously prosecute, where they have the evidence, any person found to be illegally disposing of waste. The waste collection authority and the Environment Agency may remove fly-tipped waste and recover costs from those responsible for causing the offence. The Environment Agency has set up an emergency telephone hotline (0800 807060) for members of the public to notify them of fly-tipping (and water pollution incidents), and have established a Fly Tipping Forum with a number of national organisations.

Environment Protection Act 1990 (Part III) gives local authorities powers to act against statutory nuisances (prejudicial to health or a nuisance). Local authorities can serve an abatement notice, which can be appealed. Failure to comply with an abatement notice is an offence.

The Anti-Social Behaviour Bill intends to extend the range of powers available to local authorities for dealing with fly tipping, for instance, by giving them powers to stop, search and seize vehicles suspected of being used for fly tipping and to investigate incidents.

Box 24: Examples of Successful Action against Fly-tipping at Unauthorised Encampments

We would like to hear from local authorities that have developed good practice in managing fly-tipping at unauthorised encampments.

- 7.16 Regular site monitoring is essential if evidence is to be gathered for successful enforcement. Environmental health authorities, police and the Environment Agency need to work closely together. Surveillance to identify individuals responsible for fly-tipping is likely to be resource-intensive. Covert surveillance is now governed by the Regulation of Investigatory Powers Act 2000; the Home Office has issued guidance on the use of CCTV in relation to both the Human Rights and Data Protection Acts.

RAPID CLEAR-UP

- 7.17 Whilst the measures outlined above may help reduce the accumulation of rubbish, cleaning up will still be needed after some encampments.
- Sites should be cleared as soon after the departure of the Gypsies/Travellers as possible. Littered sites have a clear tendency to attract further rubbish, making the task harder and more expensive.
 - Where appropriate, responsibilities must be agreed between county and district councils for site clearance so that there is no delay due to uncertainty or dispute. Joint arrangements – including some apportionment of costs – must be set out in a joint agreement or protocol specifying speed of response.
 - Some refuse left may need special care in collection and disposal, including hazardous industrial waste, excreta and drug-related waste. Contractors should be warned accordingly.

RECORDING INFORMATION

- 7.18 The state of the site on departure and the clean-up cost are relevant factors to record in the encampment log. A group's previous behaviour may well inform the approach adopted if they visit the area again. If the sharing of standard information becomes more common, poor behaviour in one area may in future also inform the approach adopted in another area.

Facilitating Access to Services

- 7.19 It is an important objective of a pro-active approach to managing unauthorised encampments that Gypsies/Travellers are enabled to access services during the period of their stay. It is in everyone's interests that Gypsy/Traveller children are encouraged and enabled to complete their education.
- 7.20 Where Gypsies/Travellers conform to a Code of Expected Behaviour, local authorities should facilitate their access to health, welfare and education services. The local authority should act as main contact point for specialist service providers, with the welfare enquiries giving information on the services required.

A Robust Approach to Eviction

- 7.21 A pro-active approach to managing encampments involves keeping encampments under review. Police and local authorities should be prepared to review eviction decisions as circumstances change since the balance of interests will change as well. While a decision to evict might not have been 'proportionate' initially, experience of disruption to the settled community, crime or ASB may justify eviction at a later date. The fact that an encampment has been permitted to remain for a period does not preclude eviction proceedings – whether by the local authority or police using s61 – being started at a later date provided proper procedures are followed.

Keeping People Informed

- 7.22 As noted in Section 3, communications and publicity arrangements are an important element in any strategy for managing unauthorised camping. It is important that other agencies/departments, Gypsies/Travellers, elected members and members of the settled community are kept informed about what is happening and what can be expected to happen with encampments.
- 7.23 An agreed communications strategy between partner organisations in an area should determine which agency will lead on providing information. Normally this should be the local authority in its role as lead agency in dealing with unauthorised camping. Communications with the press and members of the public should be co-ordinated and consistent to avoid confusion. One aim of a communications strategy should be to increase understanding and tolerance between the settled and travelling communities.
- 7.24 Gypsy/Traveller campers should always be clearly informed about what is expected of them and what is going to happen. Information should normally be by word of mouth as well as written to avoid communication problems because of reading difficulties. Contact and communication should be at least weekly.
- 7.25 Any encampment is likely to be of concern to local residents and businesses. Elected members should be regularly briefed on encampments in their wards; they can pass information on to their constituents. In addition, the local authority should provide information to local residents, and especially to complainants, using resources of the internet and e-mail where appropriate.
- 7.26 Special arrangements may be appropriate for large and/or high profile encampments. In addition to the measures described above, these might include:
- Regular press briefings.
 - Well-publicised advice lines for the public to ring for information.
 - A special leaflet or newsletter to be distributed locally explaining background, events and plans for dealing with the encampment.
 - Links to regularly updated information through the council's web-site.

- 7.27 Such measures will obviously be costly in staff time. However, in the case of a major encampment, local authorities and police will have to deal with complaints and queries anyway and planning will make this easier. Being pro-active in this way should reduce scope for rumour and misinformation, and confusion. It could provide opportunities to manage the message to reduce inter-community tension. It could also be helpful in gathering evidence for fly-tipping or other ASB which could be used in enforcement action.

Dealing with Mass Gatherings

- 7.28 In the past few years a number of mass gatherings of Gypsies/Travellers have occurred, when several hundred vehicles and people have met up and camped for a period, as at Great Yarmouth (December 1999) and Bournemouth (December 2001).
- 7.29 Mass gatherings are not spontaneous events but are to some extent planned. The Government believe that it is not acceptable for large number of Gypsies and Travellers (or anyone else) to turn up in an area and cause severe disruption unless it is part of an authorised gathering such as Appleby Fair in Cumbria.
- 7.30 The responsibility for managing lawful gathering should lie with the Gypsies/Travellers themselves. Gypsies/Travellers, ideally, should provide advance notice of a mass gathering, and should themselves make arrangements for water, refuse and hygiene services. At the very least, Gypsy/Traveller 'leaders' at a gathering should be prepared to negotiate with local authority and police officers and to act in a co-operative manner so as to minimise disruption.
- 7.31 Local authorities and police can make advance plans for dealing with such mass gatherings (including those where 'leaders' do not co-operate fully):
- It would be appropriate to include handling a major gathering and encampment of Gypsies and other Travellers within the local emergency plan and local Crime and Disorder Plans.
 - In emergency plans, local authorities should think ahead about how they might prepare emergency accommodation, negotiate with farmers for the use of their fields, identify supplies of portable toilets, water supply, waste disposal etc. The authority's Chief Emergency Planning Officer might become involved in preparing and co-ordinating plans.
 - Close joint working between local authority personnel and police is key to managing mass gatherings. Dealing with hundreds of people and vehicles is likely to be beyond the resources of a single authority or police area. Local authorities and police have come together for joint planning at regional level in some parts of the country following recent experiences in order to be able to rapidly mobilise resources on a sufficient scale.
 - Joint planning should extend to sharing information and intelligence aimed at anticipating the size and location of gatherings.

Box 25: Example of Police and Local Authority Regional Planning

We would like to hear from local authorities and police forces that have developed good practice in regional planning.

7.32 Section 14 of the Public Order Act 1986 provides for the prevention of ‘trespassory assemblies’, or the imposition of conditions on the assembly. The CJPOA s71 creates a power for police to turn people away from trespassory assemblies when a banning order is in force. Box 26 gives more details. Acting to ban a mass gathering under these powers clearly requires close co-operation and agreement between the local police and local authority. This can only be contemplated when advance intelligence of the gathering is available sufficiently long in advance to allow the various procedures to be followed and approvals to be sought. Enforcing such a ban – if agreed by the Secretary of State – will obviously have major staffing implications.

Box 26: Preventing Trespassory Assemblies

Public Order Act 1986 s14A

A public assembly is a gathering of 20 or more people on land in the open air. A Chief Police Officer may take steps to prohibit such an assembly, provided that:

- The assembly must be on land to which the public has no right of access or limited right of access **AND**
- The assembly is likely to be held without the permission of the occupier of the land or to conduct itself in a way as to exceed the limits of any permission or limits the public’s right of access **AND**
- May result in serious disruption to life of the community.

If these conditions are fulfilled the Chief Officer may apply to the District Council for an order preventing trespassory assemblies for a specific period. This order may only be granted with the permission of the Secretary of State for the Home Department. The order may ban assemblies for up to 4 days within a radius of 5 miles. The order may be renewed.

It is an offence to organise such an assembly knowing that it has been prohibited, or to take part knowing it has been prohibited.

CJPOA 1994 s71

Creates a power for police to turn people away who are travelling towards trespassory assemblies. It is operative within the area covered by the banning order. A person who fails to comply is liable to arrest.

Public Order Act 1986 s14

A senior police officer is able to impose conditions on public assemblies. The officer may impose conditions if s/he reasonably believe that the assembly may result in:

- Serious public disorder **OR**
- Serious damage to property **OR**
- Serious disruption to the life of the community.

These conditions, which must be in writing, may be in regard to location, duration and maximum numbers attending. It is an offence to knowingly organise a public assembly in breach of the conditions, or to take part knowingly. These offences carry a statutory power of arrest.

- 7.33 When an illegal mass gathering is anticipated and likely to go ahead, emergency plans may need to be implemented. All relevant bodies, especially local authorities and police, should be on alert. Security (24 hour) may be appropriate to protect especially vulnerable and sensitive pieces of land. The case study in Box 27 illustrates how one mass gathering was handled, and the practical lessons learnt.
- 7.34 Should a mass gathering take place, enforcement action as detailed in Chapter 6 should be considered.

Box 27: Case Study of Dealing with a Mass Gathering

We would like to hear from local authorities and police forces that have an example where they have handled a mass gathering well.

CHAPTER 8

Evaluation of the Guidance

- 8.1 The Office of the Deputy Prime Minister and the Home Office are committed to evaluating the impact of this Operational Guidance to check:
- the extent to which local authorities and the police have adopted the Guidance; and
 - its effectiveness in bringing about improvements on the ground.
- 8.2 In the light of evaluation – and changing circumstances – further Guidance may be issued in future as appropriate. ODPM and the Home Office will be pleased to receive comments on the Operational Guidance and suggestions for ways in which it might be improved.

CHAPTER 9

Useful References and Contacts

Various pieces of guidance have been referred to in this Operational Guidance. These are listed below, together with other useful references ordered in the relevant Sections of the Guidance. Useful contacts are listed at the end.

[EACH CASE WILL BE REFERENCED IN FULL, INCLUDING INTERNET SOURCE WHERE APPROPRIATE]

[COMMENTS WELCOME ON WHETHER SUCH A LISTING IS USEFUL AND WHETHER ANY FURTHER DETAILS WOULD BE HELPFUL]

Section 1

Gypsy Sites Refurbishment Grant Third Round Bidding Guidance (2003/4)

Unauthorised Camping Framework document

Department of Environment, Transport and the Regions/Home Office (1998) *Managing Unauthorised Camping: A Good Practice Guide*, DETR; Revised Chapter 5 issued July 2000

Cowan, D, Donson, F, Higate, P, Lomax, D & Third, H (2001) *The Management of Unauthorised Camping: Monitoring the Good Practice Guide*, Research Paper 77, Edinburgh College of Art/Heriot-Watt University

Section 2

Counts of Gypsy caravans are published on the ODPM website at <http://www.housing.odpm.gov.uk/information/index14.htm#stats>

Niner, P (2002) *The Provision and Condition of Local Authority Gypsy/Traveller Sites in England*, ODPM

Section 3

Derbyshire Gypsy Liaison Group (undated) *Moving Base*, DGLG

Hopkinson, G, Ingram, M & Wishart, B (undated) *Where's the Real Choice? What are the accommodation needs of Travellers in Wychavon?*, Evesham & Pershore Housing Association

Southwark Housing (2000) *Needs of the Traveller Community in Southwark*, LB Southwark

Local e-Government Strategy

Commission for Racial Equality (2000) *Guidance for Journalists: Travellers, Gypsies and the Media*, CRE

DETR (2001) *Local strategic partnerships – Government guidance* www.local-regions.odpm.gov.uk/lsp/guidance

Community Cohesion Policies

DETR (2001) *Supporting People: policy into practice*

Children and Young People's Partnerships

Sure Start, see www.surestart.government.uk/home.cfm

Early Years

Connexions, see www.connexions.gov.uk

Primary Care Group Trust commissioning plans

Crime and Disorder Reduction Strategies, see www.homeoffice.gov.uk/cdact

Race Equality Schemes

Anti-poverty strategies

Department of Transport, Local Government and the Regions (2002) *Homelessness Strategies: A Good Practice Handbook*, DTLR

Section 5

Section 6

Home Office Circular 45/1994

DTLR, the Court Service and the Welsh Assembly *Getting the best out of the court system: Claims for possession*

Section 7

Guidance on ASBOs

Environment Agency: Fly-tipping Forum etc

Home Office (2001) *CCTV: Implications for Public Space Surveillance in the Light of the Data Protection Act 1998*, see www.crimereduction.gov.uk/cctv7.htm

Home Office (2001) *CCTV and the Human Rights Act*, see www.crimereduction.gov.uk/cctv13.htm

Useful Contacts

ADDRESSES TO BE COMPLETED

Advisory Council for the Education of Romany and Other Travellers (ACERT)

Friends, Families and Travellers

Gypsy Council

Gypsy Council for Education, Culture, Welfare and Civil Rights

Central Government:

ODPM, Gypsy Sites Branch

Home Office

Education

Health

Local government:

Local Government Association

National Association of Gypsy and Traveller Officers

National Association of Health Workers with Travellers

National Association of Teachers of Travellers

ANNEXES

- A: DoE Circular 18/94: Gypsy Sites Policy and Unauthorised Camping + Revision of Advice on 'Toleration' issued 26 July 2000
 - B: DoE Circular 1/94: Gypsy Sites and Planning
 - C: Revised ACPO Guidance on Unauthorised Camping
- [WE WOULD WELCOME COMMENTS ON WHETHER IT IS USEFUL TO HAVE THE FULL TEXT OF THESE DOCUMENTS REPRODUCED IN THIS OPERATIONAL GUIDANCE]
- D: Summary Points from Research Monitoring the Good Practice Guide on Managing Unauthorised Camping
 - E: A Summary of the Legislative Framework [DOES THIS ADD USEFULLY TO WHAT IS IN THE OPERATIONAL GUIDANCE ELSEWHERE?]
 - F: Interests to be Involved in Developing a Strategy for Unauthorised Camping

Annex D: Summary Points from Research Monitoring the Good Practice Guide on Managing Unauthorised Camping

In 2001 the results of research monitoring the impact of the DETR/Home Office Good Practice Guide were published¹. The research was carried out by Edinburgh College of Art/Heriot-Watt University in conjunction with the Universities of Bristol and Cardiff. It involved a telephone survey of 263 local authorities which explored the pattern of unauthorised camping. Some of the main findings relating to unauthorised camping are:

- Unauthorised camping is a widespread phenomenon – 92% of responding local authorities had experience of it in the twelve months before the survey.
- The average number of reported incidents of unauthorised camping in the past year was 22, although this varied widely and almost half of authorities reported ten incidents or fewer. A separate incident could be the same Gypsy/Traveller group moving onto different sites in the area. The speed with which an encampment is moved on is one factor in the number of separate incidents experienced.
- The average number of different locations in an authority area subject to unauthorised camping in the last year was 13, again with wide variation.
- Unauthorised camps involving 20 caravans and more were far less common than camps involving a dozen caravans or fewer. Only 8% of responding local authorities had experienced an encampment of 50 or more caravans in the past year.
- Local authority respondents said that most encampments were small scale and relatively unproblematic while a minority were extremely high profile and associated with crime, damage, dumping and other anti-social behaviour.
- Irish Travellers were most often reported as having camped on unauthorised sites in the past year (70% of authorities), followed by Gypsy Travellers (58%) and New Age Travellers (23%).

¹ Cowan, D, Donson, F, Higate, P, Lomax, D & Third, H (2001) *The Management of Unauthorised Camping: Monitoring the Good Practice Guide*, Research Paper 77, Edinburgh College of Art/Heriot-Watt University

- The most common sites for unauthorised encampments were vacant or derelict land, industrial estates, car parks and road sides or verges. Other types of sites, for example, parks and recreation areas, green lanes and bye-ways, farm land and wooded areas were used less often.
- The three main factors influencing unauthorised camping were seasonal travelling, work opportunities and visiting other Gypsies/Travellers in the area.
- Local authorities' experiences of changes over the past five years were mixed, with no clear trends emerging in terms of frequency of unauthorised camping, number of locations used, use of authorised sites or number of caravans in the groups.

Annex E: A Summary of the Legislative Framework

There are five main legislative fields which are relevant to a strategy for managing unauthorised camping. The most important provisions are noted here.

Site Provision

- The Caravan Sites and Control of Development Act 1960 s24 gives local authorities discretionary powers to provide caravan sites.
- While there is no duty on local authorities to provide Gypsy sites, DoE Circular 18/94 makes clear that authorities should maintain their existing Gypsy caravan sites, and should continue to consider whether it is appropriate to provide further permanent caravan sites for Gypsies in their areas.
- Government is currently reviewing policy on Gypsy site provision. Gypsy Sites Refurbishment Grant for 2003/4 makes limited funding available for provision of transit and emergency stopping places on a pilot basis.
- Private site provision is governed by planning legislation. DoE Circular 1/94 sets out the Government's policy on Gypsy site provision and urges local planning authorities to consider, and to look favourably, at applications for Gypsy sites in development planning and development control.

Dealing with Unauthorised Encampments

- There is no specific legislative duty placed on local authorities to deal with unauthorised encampments by Gypsies and other Travellers.
- Local authorities can take action as landowners through civil actions against trespass using Civil Procedure Rules Part 55, heard in a County Court.
- Local authorities have powers given by the Criminal Justice and Public Order 1994 ss77 and 78 (see Section 7). These require cases to be brought in the Magistrates' Court.
- Local authorities have other powers for dealing with unauthorised encampments.
- DoE Circular 18/94 provides guidance to local authorities on the exercise of s77 powers, and reminds them of their other duties towards Travellers in terms of education, children and homelessness legislation.

- Case law (starting with the judgement of Sedley J in *R v Wealden District Council ex parte Wales*) has developed and clarified the courts' expectations of the welfare enquiries and decision-making processes local authorities should adopt in making evictions under 1994 Act and other powers.
- Where Travellers encamp on land which they own or on other private land with the consent of the landowner, district councils may take planning enforcement action, or prosecute for running a caravan site without a site licence.
- The Police have parallel powers granted by s61 of the CJ&PO Act (see Section 7). Action under s61 is normally much quicker than under s77, and the welfare considerations less onerous although there are certain conditions in the legislation which have to be fulfilled before eviction can take place.
- New legislation is proposed to give enhanced police powers to deal with unauthorised camping where the local authority has made adequate site provision.

Other Enforcement Measures

- District authorities have powers to deal with statutory nuisance (which could include, for example, rubbish accumulation at unauthorised encampments) and noise (see Section 7 of this Guide).
- The Crime and Disorder Act 1998 places a duty on chief police officers and local authorities to work together to develop and implement a strategy for reducing crime and disorder. Section 17 imposes a duty on all local authorities (and others) to '*without prejudice to any other obligation imposed upon it ... exercise its functions with due regard to ... the need to do all it reasonably can to prevent crime and disorder in its area*'.

Service Provision for Gypsies/Travellers

- Gypsies and other Travellers are entitled to access health, housing, education and welfare services as citizens in the same way as members of the settled community.
- There is specific recognition of the needs of Traveller children in accessing education, with a Traveller Grant payable under s488 of the Education Act 1996.

Human Rights and Equalities

- The Human Rights Act 1998 incorporates the European Convention on Human Rights into British law. Several Convention rights are relevant in dealing with unauthorised camping, especially Article 8 (the *right to respect for private and family life, home and correspondence*); Article 14 (the *prohibition of discrimination on any grounds including sex, race, colour, language*); and First Protocol Article 1 (the *right to peaceful enjoyment of possessions*). Article 8 is the most obviously relevant. It is a qualified right in that Article 8.2 states '*there shall be no interference by a public authority with the exercise of this right [Article 8] except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals,*

or for the protection of the rights and freedoms of others. Case law has established that both eviction action against trespassers and planning enforcement potentially breach Article 8 rights. Authorities, and other public bodies covered by the HRA, must be able to demonstrate that all eviction and enforcement decisions are 'proportionate'. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny.

- The Race Relations Act 1976 and Race Relations (Amendment) Act 2000. Under these provisions, public authorities – including local authorities and the police – are under a positive duty to ensure non-discrimination on racial grounds and to promote good race relations. Both Romany Gypsies and Irish Travellers are now recognised as ethnic minorities against whom discrimination is unlawful.

Annex F: Interests to be Involved in the Development of a Strategy for Unauthorised Camping

Annex F: Interests to be Involved in the Development of a Strategy for Unauthorised Camping		
Organisation/party	Main topics of interest	Possible means of involvement
Local authority	Planning and information; race equality; site provision and land use planning; site protection; housing and homelessness; Traveller education; social services; refuse collection; unauthorised camping; communication and public relations	Lead development of Strategy development; key personnel involved in working groups or committees; others in ad hoc groupings and/or written consultation
Local politicians, councillors and MPs	All aspects including unauthorised encampment	Leadership and engendering support for the Strategy
Local Health Authority	Gypsy/Traveller health in all forms of accommodation and on unauthorised encampments; welfare assessments	Nominated officer to be consulted as Strategy develops; continuing involvement in implementation
Neighbouring local authorities	All aspects to inform own Strategies	Joint planning and shared working could be efficient and lead to a sub-regional approach
Police	Planning and information; race equality; dealing with crime, anti-social behaviour and threats to public order from unauthorised encampments; communication and public relations	Key player in developing the Strategy; continuing role in its implementation
Gypsies and other Travellers	All aspects including needs assessment; service delivery; advice on site provision and unauthorised camping	Through national, regional or local representative bodies; consultation with local Gypsies/Travellers on their needs and aspirations. Written material, conferences and individual personal contact
Parish and town councils	Site provision and land use planning; site protection; unauthorised camping; and communications and public relations	Consultation on perceived issues, priorities and ideas; consultation on draft and final Strategy. Written material and conferences
Settled community	Especially site planning and land use planning; site protection; and unauthorised camping	Consultation on perceived issues, priorities and ideas; consultation on draft and final Strategy. Written material and feedback arrangements. Citizen jury?

Annex F: Interests to be Involved in the Development of a Strategy for Unauthorised Camping (cont)		
Organisation/party	Main topics of interest	Possible means of involvement
Crime & Disorder Reduction Partnership, Local Strategic Partnerships	Dependent on nature of partnership	Exchange information and consultation to ensure consistency and shared priorities
Highways Agency	Unauthorised camping affecting major roads	Consult to agree respective roles in acting on unauthorised encampments
Environment Agency	Fly tipping and pollution associated with unauthorised encampments	Consult to agree respective roles in acting on unauthorised encampments
Forestry Commission	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
English Nature	Unauthorised camping as it affects Sites of Special Scientific Interest	Consult to identify key areas and agree respective roles in acting on unauthorised encampments
National Trust	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
Ministry of Defence	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
Local press and other media	All aspects of the Strategy; especially site provision and unauthorised camping	Regular media briefings and invitations to all public events to ensure full appreciation of the issues and to encourage balanced coverage

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