

## Local authorities and Gypsies and Travellers: a guide to responsibilities and powers





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## Summary

1. The Government's objective is that Gypsies and Travellers and the settled community should live together peacefully.
2. Creating and sustaining strong communities is at the heart of the Government's policies. Decent homes are important for the health and well-being of the people living in them. Poor housing helps an area to get a bad reputation. That makes it an unpopular place to live, which in turn may lead to the breakdown of communities.
3. Everyone should have the opportunity to have a decent home. Government is aiming to make all council and housing association housing decent by 2010. The Government also wants to improve conditions for vulnerable households in privately owned housing, particularly those with children.
4. Decent homes are a key element of any thriving, sustainable community – this is true for the settled and Gypsy and Traveller communities alike. This means:
  - adequate provision must be made for authorised sites: at the moment there are no authorised pitches available for a quarter of caravans. This means there are unauthorised sites, many of which are a source of friction between the two communities
  - the planning system and property rights must be respected and effective enforcement action must be taken promptly against problem Gypsy and Traveller sites
  - the small minority of people, whether Gypsies or Travellers or members of the local settled community who indulge in anti-social behaviour must be dealt with promptly and effectively before they cause further harm to relationships between the two communities.
5. The overall scale of the need for Gypsy and Traveller accommodation is small in comparison to wider housing needs, but it is one that can no longer be overlooked.
6. The Housing Act 2004 and Planning Circular 01/2006, *Planning for Gypsy and Traveller Caravan Sites*, has put in place a framework which means every local authority has to identify land for the sites that are needed in its area. The Secretary of State has powers that can ensure that those sites are identified, and local authorities should be proactive in doing so. The provision of these sites removes a major cause of friction between the two communities – unauthorised sites and illegal camping.
7. Local authorities and the police already have strong powers to deal with Gypsies and Travellers who camp on other people's land without permission. Some are effective in using these powers; others are not.

The key to effective enforcement is knowing how to use the powers and having plans and liaison arrangements in place which enable decisive action to be taken as soon as a problem arises. A breakdown of the powers available in relation to unauthorised camping is set out later in this booklet.

8. There are also powers to prevent unauthorised development. Temporary Stop Notices now provide the means for local authorities to halt the development of land owned by Gypsies and Travellers if they don't have planning permission. The authority can then consider whether further enforcement action is necessary. We are consulting on further changes which will allow Temporary Stop Notices to stop the use of land as a residential caravan site as long as an alternative authorised site is available. Again, the key is knowing how to use the powers and having the necessary arrangements in place to make them work effectively.
9. There are also broad powers to deal with anti-social behaviour which apply to Gypsies and Travellers and the settled community alike; local authorities should use these effectively whilst also working to tackle the causes of anti-social behaviour.
10. The Government's Gypsy & Traveller Task Group on Site Provision and Enforcement, chaired by Sir Brian Briscoe, draws together central and local government, the police and other agencies to:
  - address the wide variations in the use of enforcement powers
  - investigate the barriers to site provision; and
  - champion best practice.
11. The Task Group act as expert advisers to the Department for Communities and Local Government and the Home Office.
12. This booklet sets out what needs to be done to ensure more effective enforcement, alongside the provision of more authorised sites. It is illustrated with case studies.



## History

13. Romany Gypsies have lived in Britain for around 600 years and people have travelled from community to community for even longer. Irish Travellers also have a long tradition of visiting Britain having travelled and lived here for generations. Wherever they have gone, Gypsies and Travellers have fiercely maintained a separate identity – indeed this pride in their difference is an integral part of their culture. More recently, other people known as new travellers have also pursued a nomadic lifestyle.



## The facts

14. There are around 16,000 Gypsy and Traveller caravans in England. Around three quarters of these caravans are on authorised sites. Many of these sites are well-managed and are an accepted part of the local community. In 1994 the duty on local authorities to provide sites was removed and since then under-provision of authorised sites has resulted in Gypsies and Travellers camping on land that they do not own (unauthorised encampments) or developing their own land without planning permission (unauthorised developments). While the number of caravans on unauthorised encampments has started to decline, the number of caravans on unauthorised developments has increased. The average size of an unauthorised development is around 4 caravans, and private sites with planning permission have an average of 6 caravans.

## Site provision

15. The key to a reduction in unauthorised camping is to increase the supply of authorised sites. The Government is committed to significantly increasing site provision, linked to firm but fair use of enforcement powers against unauthorised sites and anti-social behaviour.
16. The approach provides for:
  - local authorities to take the lead in assessing the accommodation needs of Gypsies and Travellers alongside those of their settled population
  - the locally assessed needs of Gypsies and Travellers to be incorporated into the Regional Spatial Strategy
  - each local authority to play its part in meeting that need through the planning system by identifying appropriate sites in local plans.
17. The system will work as follows:
  - The Housing Act 2004 requires local authorities to assess the need for Gypsy and Traveller (including travelling showpeople) accommodation in

their areas at the same time as they assess the housing requirements of the rest of the population

- Local authorities must then develop a strategy which addresses the need arising from the accommodation assessment, through public or private provision
- The Regional Planning Body, on the basis of local authority assessed need (where available), will determine how many pitches should be provided across the region. It will then specify in the Regional Spatial Strategy how many pitches need to be provided in each local authority area, ensuring that collectively local authorities make provision in a way which is equitable and meets the assessed pattern of need
- Local planning authorities will be obliged to identify sites in their Development Plan Documents, in line with the requirement identified in the Regional Spatial Strategy. It will no longer be acceptable just to specify planning criteria for sites: local authorities will be expected to identify land
- Where there is a clear need, if local planning authorities fail to identify sites in their Development Plan Documents, the Secretary of State has the power to direct them to do so.

18. In some areas there is an urgent and known demand for authorised site provision. Local authorities do not have to wait until the end of the planning process described above to provide more sites.

19. The Government has produced detailed guidance on how this process will work in practice. Further information can be found at the end of this booklet.

## Gypsy and Traveller Accommodation Assessments

20. In February 2005, Communities and Local Government issued interim guidance on how to conduct accommodation needs assessments, which set out some key principles to be followed. The vast majority of local authorities have accommodation assessments completed or underway. The duty to conduct accommodation assessments came into force on 2 January 2007 and those local authorities that have not started to assess the accommodation needs of Gypsies and Travellers must do so now.



21. A definition of Gypsies and Travellers has also been laid down in regulations and now explicitly includes travelling showpeople. Those authorities that have already undertaken Accommodation Needs Assessments and have not included travelling showpeople in such assessments should consider whether they need to carry out additional work to identify the needs of this group.

22. The final version of the guidance will take into account experience and lessons learnt from those local authorities that have already undertaken accommodation assessments. The key principles needed to underpin any good quality accommodation assessment include:

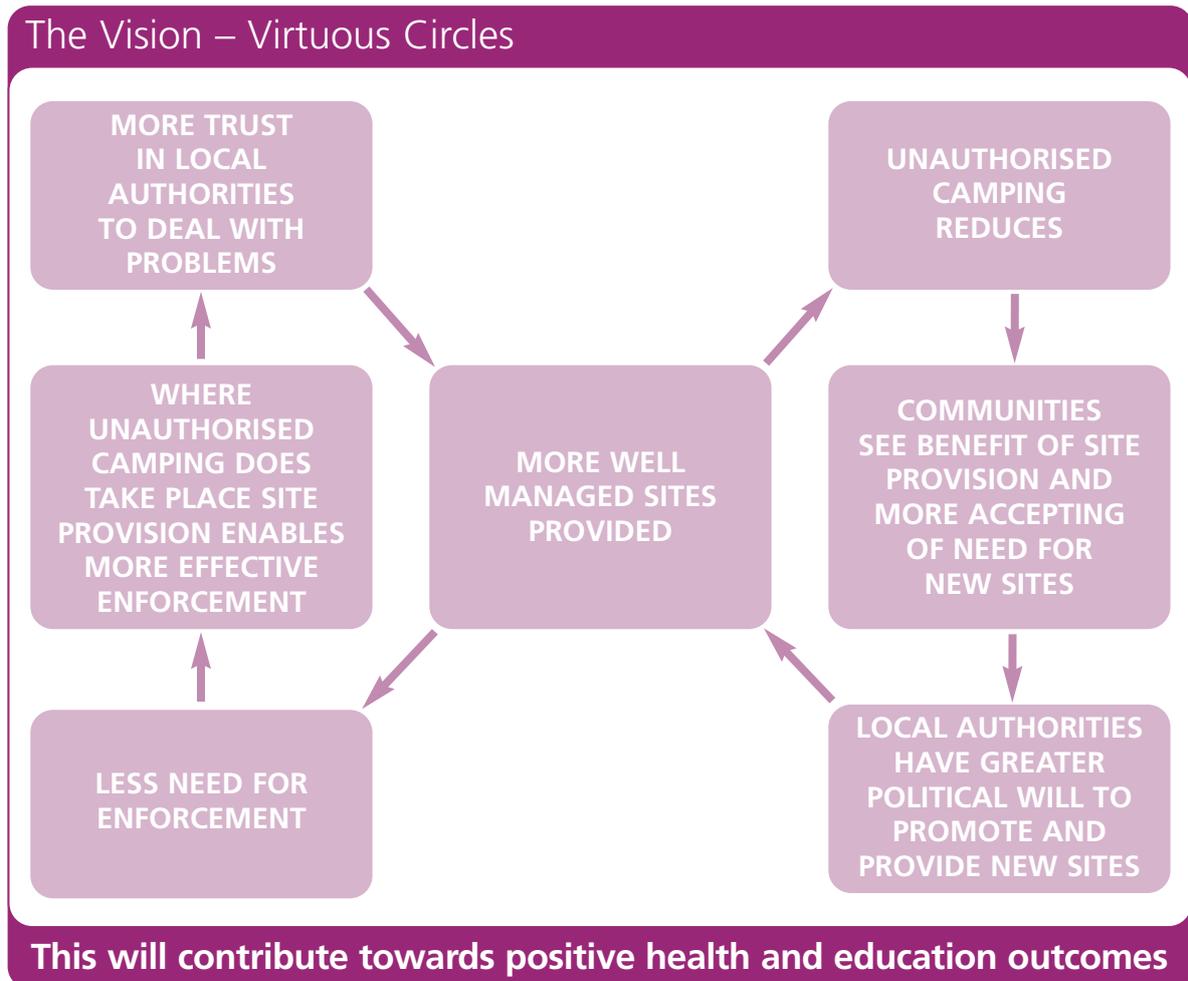
- the commissioning authority or authorities need to organise to act as client for the work
- a steering group should be set up which brings together key interests such as housing and planning, practitioners in the field and Gypsies and Travellers themselves
- the assessment must be founded on a credible evidence base drawn from primary data. There needs to be a survey of a representative and sufficiently large sample of the local Gypsy and Travellers population and they need to be interviewed face to face. Some early studies have been based on relatively small sample sizes which may not give a representative picture
- accommodation assessments need to look at both the current shortfall in accommodation – most obviously evidenced by the presence of unauthorised camping – as well as projections of future growth. There are real issues about overcrowding and suppressed household formation in the Gypsy and Traveller communities, just as with the settled community. The assessment should capture this
- estimates of household formation and population growth should be derived from the study group, rather than by applying national multipliers that may not be applicable to the particular local population; and
- the need to include Gypsies and Travellers themselves in the process, not just as respondents to interviews, but as consultees at every stage. This will improve buy-in.



## Why should local authorities make this a priority?

### This is an issue that won't go away

23. Unless action is taken, the shortage of sites can only get worse, leading to an ongoing unmet need, more unauthorised sites and more community



tension. Lack of adequate site provision leads to a vicious circle of tension with the settled community. No local authority can afford to ignore this issue; there is a need to address it across local authority boundaries.

24. Any decisions taken by a local authority must follow proper consideration of the needs of Gypsies and Travellers balanced with the needs of the settled community. Local councillors must ensure that they are fully briefed on the issues and be prepared to lead some challenging debates and take difficult decisions. As elected members, local councillors have a duty to represent the interests of resident Gypsies and Travellers as well as the settled community. Working with neighbouring authorities and the Regional Planning Body to develop joint solutions is the only way to solve the problem of unauthorised sites in the long-term.



25. There is evidence that Gypsies and Travellers experience the worst health and education status of any disadvantaged group in England. Research has consistently confirmed the link between the lack of good quality sites for Gypsies and Travellers and poor health and education. The provision of more authorised sites will help contribute to better health and education outcomes in the area, as Gypsies and Travellers will have a stable base from which to access services. At present Gypsies and Travellers living on the roadside are unlikely to benefit from regular access to healthcare and preventative medicine, so are more likely to use acute services such as Accident and Emergency. Living on a settled site will place fewer demands on the NHS and improve access to preventative health advice thus reducing the incidence of chronic illnesses that can be a drain on NHS resources.

The social exclusion experienced by Gypsies and Travellers is highlighted by the following statistics:

- The average life expectancy is 12 years less for women and 10 years less for men than the settled population
- Of Gypsy and Traveller mothers, 17.6 per cent have experienced death of a child, compared to 0.9 per cent in the settled population
- In 2005, only 20.7 per cent of Travellers of Irish Heritage and 9.1 per cent of Gypsy/Roma pupils gained 5+ A\*–C including English and Maths compared to an average of 42.5 per cent.

## A co-ordinated approach to service provision

Doncaster Council is taking action to improve the way services are provided to Gypsy and Traveller communities across the borough, having looked extensively at the issues affecting these communities. The Council is developing an approach to ensure that all those who provide public services to Gypsies and Travellers work better together and that communication with Gypsies and Travellers is improved. This approach has been endorsed by local councillors and the elected Mayor, demonstrating strong leadership and a willingness to tackle challenging issues.

As a result of this new approach, organisations are sharing information and co-operating better, and welfare assessments are being carried out more effectively. Gypsy and Traveller families are getting quicker access to healthcare, education, welfare and advice providers than they were previously, partly because all agencies are now more aware of the roles of other stakeholders and where they fit into the larger picture of managing these concerns.

### Funding is available to help

26. Many Gypsies and Travellers will provide their own sites without the need for public subsidy. The costs to the local authority of providing private sites are negligible and may involve officer time in helping to identify sites suitable for development and advising Gypsies and Travellers on making planning applications (in the same way that they assist the settled community). This could well take less officer time than previously spent dealing with enforcement action and planning appeals.
27. However, other Gypsies and Travellers will not be able to provide their own sites. Local authorities and Registered Social Landlords can apply for funding to provide new sites, and refurbish existing sites, through the Communities and Local Government Gypsy and Traveller Sites Grant.
28. Funding for new sites is being routed through the Regional Assemblies as part of their regional housing pots. The Boards are responsible for recommending schemes for funding. The Government has made up to £56 million of funding available for the grant between 2006 and 2008.



29. Bids are subject to a two stage assessment process. They are first assessed by independent consultants against four key criteria: whether it meets an assessed need, the deliverability of the project, the sustainability of the site, and whether the bid represents good value for money overall. Regional Assemblies then consider how bids fit with emerging priorities for Gypsy and Traveller provision in their particular region.
30. Providing sites has been shown to reduce the cost of enforcing against encampments, as those who would previously have been travelling around a particular area will have the opportunity to settle on a local authority/Registered Social Landlord site. In a local authority area where pitches have been provided, the police can also use their extended powers under sections 62(a) to (e) of the Criminal Justice and Public Order Act to move on unauthorised encampments of Gypsies and Travellers, where there are pitches available on a public site in the area.



### It could save money – the business case for site provision

- As early as 2001, during an inspection of a Gypsy and Traveller service at a council, the Audit Commission reported that:

*“ the Council is involved in a continuous cycle of ‘moving on’ illegal encampments. Past activities have not provided a long-term solution to this wasteful use of resources.”*

31. Enforcement against unauthorised camping can be very expensive. Providing more sites should reduce the need for enforcement action and thereby save money. Residents of local authority authorised sites are required to pay rent and council tax, just like the settled population. In this way, such sites should pay for themselves.

### **A positive approach reduces enforcement costs**

Tewkesbury Borough Council currently manages three public sites on behalf of the County Council and a number of private sites are also located within the Borough. The Council has also made provision in its local plan for three additional sites. The Council was awarded Beacon status for community cohesion in 2003/4 for its work to reduce tension between Gypsies and Travellers and the settled community. Funding linked to the Beacon status has been used to produce a DVD which gives an insight into the Travellers' way of life.

The positive approach that Tewkesbury has taken in relation to Gypsy and Traveller issues has also benefited the Council in terms of time and money.

The Council's provision for Gypsy and Traveller sites has provided robust evidence in support of enforcement action against unauthorised development and as a result, the Council has been successful in the court action it has pursued. In addition the Council has led on a County-wide protocol that sets out a consistent and fair approach for local authorities and the police in dealing with unauthorised encampments.

### **Bristol City Council: Site provision saves taxpayers' money**

Bristol City Council was established as a unitary authority in 1996. At that time it had no publicly run Gypsy and Traveller sites, although the City has a long history of Gypsy residents. It experienced massive levels of unauthorised camping (20 or more encampments per year of up to 50 caravans each) resulting in huge spending on enforcement and clean up costs – up to £300,000 per year with an average of around £200,000 per year.

In 1998 the authority resolved to adopt a "spend to save" policy and decided to establish a residential and transit site using its own resources – Government grant was not then available. Later that year having identified some suitable sites it sought planning permission for a residential and transit site. The transit site got planning permission and cost around £425,000 to build. Following the provision of the site the council's enforcement costs reduced to around £5,000 per year. As such, with a saving of over £190,000 per year in eviction costs, the cost of developing the transit site has already paid for itself.

In addition, the Council continued to look for alternative sites to locate their proposed residential site and bought suitable land in 2000. The Council got £1.5 million from Communities and Local Government's Gypsy and Traveller Sites Grant and the South Liberty Lane was opened in 2006.

## Local authorities have a duty to promote good race relations

32. Local authorities have a duty to promote good race relations, equality of opportunity and community cohesion in all of their policies and practices. This duty covers all racial groups, including Gypsies and Irish Travellers who are recognised ethnic groups. Planning, site provision and enforcement activity are highly relevant to this duty, because they impact on race relations generally and on the way in which services are delivered to this group. In developing policy and making decisions, local authorities need to ensure that their actions are consistent with this general duty.
33. In June 2006, the Commission for Racial Equality published *Common Ground – Equality, good race relations and sites for Gypsies and Irish Travellers*. The report looked at a number of aspects of Gypsy and Traveller policy and in the research they carried out found that –



*“While some authorities had made significant progress in making arrangements (as part of their Race Equality scheme) that benefited all racial groups including Gypsies and Irish Travellers, the overall picture was not positive. Few local authorities could see that the duty to promote race equality and good race relations, and the arrangements required under the Race Equality Scheme, had real implications for the way they provided services.”*

Overall the biggest barriers seemed to be:

- first, the failure to understand that the duty is not only about promoting race equality, but also about promoting good race relations; and
- second, the failure to see Gypsies and Irish Travellers as racial groups, with specific needs based on ethnicity rather than land use, which led to their omission from corporate work to promote race equality and good race relations, and the provision of effectively segregated services.

## Building understanding with Gypsies and Travellers to reduce tension

Fenland District Council experiences high levels of unauthorised encampments and developments. Many Gypsy and Traveller families wish to settle in the area. The Council has recognised that taking enforcement action alone will not solve the problem of unauthorised camping and development. Gypsies and Travellers who are seeking to settle in the area are invited to discuss their development proposals with the planning authority before submitting an application or buying land. If the site that they have in mind is not suitable, alternatives are discussed. To facilitate this process, the Council makes contact with families when they first arrive in the area to discuss their needs and intentions.

Planning officers work closely with the Council's Traveller and Diversity Officer and the Traveller Services Unit to build understanding with Gypsies and Travellers. The trust that this approach has built up helps ensure that planning applications are made at the proper time and are handled more effectively. Councillors and local residents are reassured that Gypsies and Travellers are abiding by the same planning rules as everyone else, which helps reduce tension between the two communities. Objections to the proposed new sites have been limited. The Council has observed a reduction in the incidence of unauthorised development in the area.

34. Councillors have a role in promoting community cohesion and this may be particularly relevant when a new Gypsy and Traveller site is proposed in the area. For example, a proposed new site often fuels local controversy and fears that crime levels in the area may rise. Local councillors can help dispel these myths. In fact, a study carried out by the Planning Exchange found that of those domestic householders interviewed before and after the creation of a site, most had no specific complaints and many acknowledged that their previous opposition had proved groundless.



## Site design and management

### Best practice guidance

35. It is essential that both new and existing Gypsy and Traveller sites are designed and managed in such ways as to make them desirable, effective and sustainable, offering a decent and safe environment in which these communities may live. The Gypsy and Traveller Unit is producing two guidance documents, primarily for local authorities and Registered Social Landlords, to help achieve this end.



### Site design and location

36. The Gypsy and Traveller Unit is working with the Housing Corporation on a joint project to produce guidance on best practice in site design. This will be primarily for local authority and Registered Social Landlord site accommodation providers, but will also have broader application. The guidance will describe good practice in a range of sites, including permanent sites, transit sites and emergency stopping places, for Gypsies, Irish Travellers, new travellers and travelling showpeople, using case study examples to illustrate different approaches that may be taken to ensure the needs of these communities are best met.
37. In considering the location of sites, local planning authorities need to be aware that Gypsy and Traveller sites are considered as affordable housing where they are owned and managed by a local authority or Registered Social Landlord. Local planning authorities may therefore negotiate s106 agreements with developers to include Gypsy and Traveller sites in new developments, ensuring that mixed communities are created from the outset.

### Site management

38. Site provision on its own is unlikely to be effective if not backed by good quality site management. The Gypsy and Traveller Unit is producing guidance to help those in local authorities and Registered Social Landlords with their site management responsibilities. This will help ensure that their arrangements are appropriate and consistent with best practice, and help ensure residents receive the same standards of management and support as are available to tenants in other forms of social accommodation. It will cover all areas of site management best practice, including the admission of new residents to a site, how to maintain a proper and effective landlord-resident relationship, site repair and maintenance arrangements, liaison with essential service providers and more.

## Enforcement

39. Many unauthorised sites are not contentious and are trouble-free. In these circumstances, some authorities choose not to take enforcement action. However, a 'toleration' approach does not negate the need for local authorities to allocate land for authorised sites. Some unauthorised sites can be highly damaging to the settled community and Gypsies and Travellers alike. They bring uncertainty and disruption, damage trust in the planning system and strain community relations. The cost of enforcement and repairing damage that may be caused by unauthorised sites is often high and enforcement action can take a long time.

An *unauthorised encampment* is where the Gypsies and Travellers camp on land that they do not own without the owner's permission. An *unauthorised development* is where the Gypsies and Travellers own the land but do not have planning permission or where Gypsies and Travellers have consent from the owner to occupy the land but the development does not have planning permission.

40. A negotiated solution which avoids confrontation is often the best way to manage a situation and works well for many authorities. However, there are strong and wide ranging powers available to deal with unauthorised developments, unauthorised encampments and anti-social behaviour. These powers apply to the whole population: Gypsies and Travellers should be treated the same as everybody else. When enforcement action is used, it works most effectively when the agencies involved have clear responsibilities, share information and co-ordinate action.

## Unauthorised encampments – land not owned by Gypsies and Travellers

41. Where Gypsies and Travellers camp on land that they do not own without the owner's permission, they are 'trespassers'. Many encampments can be dealt with through negotiation but where this is not possible action can be taken to remove them from the land. Private landowners, local authorities and the police all have powers to deal with unauthorised encampments.

For example:

- Landowners (including local authorities) can go to court and gain a **possession order** which can be enforced by court bailiffs if necessary



- Local Authorities can use **s77 of the Criminal Justice and Public Order Act 1994** to direct unauthorised campers to leave. If unauthorised campers fail to comply with a s77 direction, local authorities can use **s78 of the Criminal Justice and Public Order Act 1994** to go to court and get an order which allows the removal of campers
- The police have a power to direct trespassers to leave land under **s61 of the Criminal Justice and Public Order Act 1994**; The police have a further power to direct trespassers to leave land under **s62 A–E of the Criminal Justice and Public Order Act 1994** where there is a suitable pitch available.



42. These powers can only be used in certain circumstances which are explained in more detail below.
43. **Police powers to deal with unauthorised encampments may be used as an initial remedy for unauthorised camping, or where the private landowner or local authority has taken action but the trespassers are refusing to move.**

### Private landowners

44. The tort of trespass provides that landowners can ask a trespasser to move and, if they refuse, may use reasonable force to remove them. Landowners may, for example, privately employ bailiffs for this purpose.
45. Alternatively, a landowner can regain possession of their land by pursuing a claim for possession through the County Courts under Civil Procedure Rules 55. County Court bailiffs can be used to remove trespassers from the land once a possession order has been granted.

### Local authorities

#### Trespass on **local authority land** (eg public car parks and recreation grounds)

46. In addition to the above powers Local Authorities can also regain possession of land by pursuing a claim for possession through the County Courts. Again, County Court bailiffs can be used to remove trespassers from the land once a possession order has been granted.

#### Trespass on local authority land (or **privately owned land** where the encampment is without the consent of the owner)

47. The Criminal Justice and Public Order Act s.78 allows a local authority to apply to a magistrate's court for an order (when a direction under s. 77 has not been complied with) requiring the removal of vehicles, property and people from the land. Responsibility for eviction lies with the local authority. The local authority must give the owner and occupier 24 hours notice of their intention to enter any occupied land unless they are unable, following reasonable inquiries, to ascertain the names and addresses of the owner and occupier. Obstruction of the local authority exercising their power under the order is an offence, punishable by a fine of up to £1,000.
48. **Powers to remove unauthorised campers:** the local authority may issue a direction to leave under Criminal Justice and Public Order Act (Criminal Justice and Public Order Act) s.77. Failure to move from the land, or returning to the land within a period of three months are both criminal offences, punishable by a fine of up to £1,000.

### Norfolk County Council's multi-agency approach

Norfolk County Council has a joint protocol with all its District Councils and the local police, setting out the roles and responsibilities of each partner in responding to an unauthorised encampment in the county. The County Council regularly holds round-table events to discuss Gypsy and Traveller issues.

For example, following the arrival of a young Gypsy mother and child in South Norfolk last year a case conference was called. Whilst the encampment was small, it was situated in a conservation project car park and its presence prevented work from going ahead. It was further complicated by the fact that an arson attack had recently been made against the caravan, when the mother and child were inside.

The case conference gathered representatives of the parish, district and county council, Police, Traveller Health, Traveller Education and the Traveller herself.

The outcome was that the Traveller made an application to be accepted by the Council as statutorily homeless. The Agencies agreed that the family should remain on the car park while the application was processed.

### The Police

49. **Powers to remove trespassers on land** under the Criminal Justice and Public Order Act s.61. The police may direct trespassers to leave any land, if two or more people are trespassing with intent to take up residence and if reasonable steps have been taken by the landowner to ask them to leave. This is a discretionary power and any one of three further conditions must be met:
- any of the persons has caused damage to the land or property on the land

- any of the persons has used threatening, abusive or insulting behaviour towards the occupier, a member of his family or an employee or agent of his
- that those persons have between them six or more vehicles.

50. It is an offence to fail to comply with a direction to leave or to return to the land within three months, punishable by up to three months imprisonment and/or a fine of up to £2,500.
51. The Criminal Justice and Public Order Act s.62 allows the police to seize and remove vehicles if a direction under s.61 has not been complied with or the trespassers have returned to that land with a vehicle within a period of three months from the date of the direction under section 61.
52. **Power to remove trespassers where a suitable pitch is available** under Criminal Justice and Public Order Act ss.62(a)-(e).
- Can be used by the police where all of the following conditions are met:
- at least two persons are trespassing
  - the trespassers have between them at least one vehicle on the land
  - the trespassers are present on the land with the common purpose of residing there for any period
  - the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.
53. It is a criminal offence for the trespasser to fail to leave the land as soon as reasonably practicable or enter any land in the local authority area in order to reside there as a trespasser within three months of the direction being given. The penalty for this offence is up to three months imprisonment and/or a fine of up to £2,500.



## Guidance

54. Guidance on managing unauthorised encampments is found in a joint Home Office/ODPM document, Managing Unauthorised Camping. It was issued in 1998 and updated in February 2004. A supplement to the guidance was issued on 7 March 2005 to provide guidance on the Anti-social Behaviour Act powers. The documents can be accessed at: [www.communities.gov.uk/gypsiesites](http://www.communities.gov.uk/gypsiesites)

55. Communities and Local Government has also produced a plain guide to enforcement giving detailed step by step guidance on how to use the powers outlined above. This is also accessible via the web address above.

## Unauthorised Developments

### – land owned by Gypsies and Travellers or land occupied and developed by Gypsies and Travellers with consent from the owner.

55. Where land is developed without planning permission, the local planning authority has a range of enforcement powers available.

For example, it can:

- Issue a **temporary stop notice** to stop any further development. The authority does not need to go to court: it can issue the notice immediately. The notice stops further development for 28 days
- Issue an **enforcement notice** to both stop the development on a longer term basis and to require the site to be reinstated to its previous condition. Again the authority does not need to go to court. However, enforcement notices can be appealed against and an appeal suspends the effect of the notice. It is therefore wise for an authority to also:
  - issue a **stop notice** at the same time as an enforcement notice to prohibit further development pending the outcome of an appeal against any enforcement notice. Stop notices can be issued without going to court;
  - apply to the court for an **injunction** against someone to prevent them from continuing with or beginning to carry out development. An injunction can be sought at any time but in most cases is likely to be most effective if other planning powers have been used first.

57. More detail on the main powers for use against unauthorised development is set out below.



### Temporary Stop Notice

58. Local planning authorities can issue a Temporary Stop Notice where they believe there has been a breach of planning control and it is important that the breach is stopped quickly. The Temporary Stop Notice requires the breach of planning control to stop for 28 days while the local authority decides whether to take further enforcement action.



59. In some cases, Temporary Stop Notices can require the removal of caravans from land, even where they are being used as a main place of residence. Temporary Stop Notices can be used to require caravans to move off land where the risk of harm in allowing them to remain is so serious as to outweigh any benefit. A Temporary Stop Notice can be used to prevent further caravans from moving onto land because this would constitute further development which the Temporary Stop Notice prohibits. Communities and Local Government is also consulting on changes to the Temporary Stop Notice which would allow it to be used to require the removal of residential caravans where there is an alternative site on which the caravans can be stationed.
60. If a Temporary Stop Notice is breached, the maximum penalty in the Magistrates' Court is £20,000 and there is no upper limit on the penalty which the Crown Court may impose on conviction. There are no direct action powers available to local planning authorities to remove caravans from unauthorised developments except at the end of an enforcement appeal. However, they can seek an injunction for this purpose – see below.

### Effective use of a Temporary Stop Notice

North West Leicestershire District Council has used Temporary Stop Notices to halt unauthorised development including that on Gypsy and Traveller sites. In one case, additional caravans had moved on to the site in contravention of the terms of the Temporary Stop Notice, but departed once the owner of the site was informed that they would be prosecuted for breaching the Temporary Stop Notice. A planning application was subsequently submitted. In another case a Temporary Stop Notice successfully prevented additional Travellers, caravans and vehicles moving onto the site and further importation of materials and hard surfacing. Once the Temporary Stop Notice had expired, an injunction was issued by the courts to prevent further breaches taking place while a planning application was considered.

### Enforcement Notice

61. An authority can issue an enforcement notice when it appears to them that there has been a breach of planning control and it is important to stop the breach quickly. The authority must have evidence available to support the issuing of the notice and copies of the notice have to be served on specified persons who have an interest in the relevant land.
62. The notice must state amongst other things: the matters which appear to breach planning control; the steps which the authority requires to be taken to rectify the breach; or the activities which the authority requires to stop. It must also specify the compliance period within which any required action

should be taken. On conviction of an enforcement notice offence in the Magistrates' Court, the maximum penalty is £20,000. There is no upper limit on the fine that can be imposed in a Crown Court.

63. There is the right of appeal against an enforcement notice and the submission of a valid enforcement appeal suspends the effect of the enforcement notice. It is therefore advisable to issue a stop notice at the same time. At the conclusion of an enforcement appeal and any compliance period, where any steps required by the enforcement notice have not been taken, the local planning authority can enter the land and take the steps itself.

### Stop Notice

64. A stop notice prohibits carrying out, on land subject to an enforcement notice, any activity which is included in the scope of the associated enforcement notice. A stop notice can be served on any person who appears to them to have an interest in the land or to be engaged in any activity prohibited by the notice. There is no right of appeal against a stop notice although it can be challenged on the grounds that it was not properly authorised or was unreasonable. A stop notice remains in force until the end of the compliance period specified by the associated enforcement notice, or until that notice has been withdrawn or quashed on appeal. As with Temporary Stop Notices and enforcement notices, the penalties for contravening a stop notice are up to £20,000 in the Magistrates' Court and an unlimited fine in the Crown Court.

### Planning Injunction

65. An authority may apply to the court for an injunction to stop any actual or expected breach of planning control, regardless of whether they have used or are proposing to use any of their other powers. Where a breach is expected there must be evidence to support the belief that it is intended e.g. preparations being made to establish a permanent caravan site. Rather

then being directed at a piece of land, injunction proceedings are used to restrain a person or number of people, who must be cited by name, from carrying on the breach. Any person who fails to comply with the terms of an injunction is in contempt of court which could lead to imprisonment. An injunction may, at the court's discretion, include a requirement to remove caravans (including those used as a main residence) from the unauthorised development. However, the court may well be influenced by the availability of alternative sites.



*This picture shows the result of an arson attack on travelling families*



## Guidance

66. Further information on the use of these powers can be found in the Department of Environment, Transport and the Regions document *Enforcing Planning Control: Good Practice Guide for Local Planning Authorities*, 1997.

## Anti-Social Behaviour

67. Anti-social behaviour has a wide legal definition. To paraphrase the Crime and Disorder Act 1998, it is a behaviour which causes or is likely to cause harassment, alarm or distress to one or more people who are not in the same household as the perpetrator.
68. There are a number of tools and powers available to the police and local authorities to address the causes of anti-social behaviour, ranging from early intervention to court proceedings. It is for local agencies to decide on the most appropriate intervention based on their knowledge of what works best locally and agencies should be encouraged to adopt a tiered approach to tackling anti-social behaviour.
69. It may be appropriate to address the behaviour with a warning letter or an Acceptable Behaviour Contract or Agreement. If a child is the cause of the anti-social behaviour or if the parents are not ensuring that their children attend school or education, then parenting contracts and orders can be used. Local Authorities, the police and Registered Social Landlords (amongst others) all have the power to apply to a court to grant Anti-Social Behaviour Orders against the perpetrators of anti-social behaviour. Local authorities and the Environment Agency also have powers to deal with specific types of anti-social behaviour such as fly-tipping, noise and health nuisance. Details of some of the measures which can be used are set out below.

## Respect

70. One problem that Gypsies and Travellers may face is anti-social behaviour. Government initiatives have provided local authorities with a range of tools to deal with anti-social behaviour when it arises. These can be used to help Gypsies and Travellers who find themselves victims of anti-social behaviour.
71. Gypsies and Travellers are often isolated both geographically, and socially. They traditionally avoid involvement with Police and the Local Authorities, and do not see them as natural allies if they experience anti-social behaviour. Local Authorities and Police Forces should provide the same level of support for Gypsies and Travellers as they would for the settled community, and steps should be taken to promote support services amongst this community, in line with Race Relations Act requirements.

72. Conversely, there is a small minority of Gypsies and Travellers who are involved in serious anti-social behaviour, impacting on the settled community, as well as other Gypsies and Travellers. Serious anti-social behaviour is difficult to tackle in any group. Nevertheless, the Government expects the Police, local authorities, and other partners to take action against perpetrators, regardless of ethnicity or of the difficulties associated with enforcement when the perpetrator has a nomadic life style.
73. The Government has established 40 Respect Areas which have earned the right to be exemplars of the Respect programme by their strong track record in tackling anti-social behaviour, and a willingness and capacity to do more. The Department for Education and Skills has also backed this by investing a further £6 million for parenting classes in the 40 areas in 2007/2008.
74. New statistics show significant increases in the powers being used by local councils and police to clamp down on anti-social behaviour. The Government is also publishing a comprehensive Respect Handbook which reinforces the warning that there are no more excuses for local services not to take action and to send the message that it is time for them to 'face the people' and be held accountable by their public.

Examples of action taken include:

- Family intervention projects to tackle 'neighbours from hell'
- More parenting classes for parents struggling with troublesome children
- Face the People sessions where the police, local authorities and others can be accountable to their local public
- Keep up the relentless action to tackle anti-social behaviour by using the full range of tools and powers available
- Using the Respect Housing Standard to prevent and deal with any problems in social housing.

Some important tools are given below.

### Acceptable Behaviour Contracts

75. An Acceptable Behaviour Contract is a written agreement between a person who has been involved in anti-social behaviour, a local authority and others, for example, the police. Acceptable Behaviour Contracts are most commonly used for young people but may also be used for adults.



76. The contract specifies a list of anti-social acts in which the person has been involved and which they agree not to continue. Where possible the individual should be involved in drawing up the contract. This may encourage them to recognise the impact of their behaviour and take responsibility for their actions. Support to address the underlying causes of the behaviour should be offered in parallel to the contract. This may include diversionary activities (such as attendance at a youth project), counselling or support for the family.



### Anti-Social Behaviour Orders

77. Although it is a civil order, breach of an Anti-Social Behaviour Order is dealt with as a criminal offence with a maximum five year sentence for an adult. Anti-Social Behaviour Orders can be used against offenders living in any type of accommodation and to tackle anti-social behaviour in a wide range of situations and settings. Local authorities can apply for Anti-Social Behaviour Orders but must provide evidence to the court showing that the person accused has behaved in an anti-social manner. Anti-Social Behaviour Orders are civil orders made by a court which prohibit the perpetrator from committing specific anti-social acts and/or from entering defined areas on a map (exclusion zones). An order lasts for a minimum of two years.
78. Anti-Social Behaviour Orders are particularly useful in the Gypsy and Traveller context because they:
- can be specifically tailored to address the particular problem
  - could apply nationally if justified
  - would be registered on the national police database.

### Fly-tipping

79. Fly-tipping is defined as is the illegal deposit of any waste onto land, ie waste dumped or tipped on a site with no licence to accept waste. Section 33 of the Environmental Protection Act 1990 makes fly-tipping a criminal offence where:
- a person has deposited, caused or permitted waste to be deposited on land that does not have a waste management licence; or
  - a person has treated, kept or disposed of waste on land that does not have a waste management licence.
80. Under the provisions of the Anti-Social Behaviour Act 2003 which extended existing provisions, waste collection authorities (local authorities) as well as the Environment Agency have powers to:
- investigate fly-tipping incidents

- stop and search vehicles suspected of being used to deposit unlawful waste if a police constable is present
- seize a vehicle used to deposit unlawful waste after the issue of a warrant.

81. The powers to deal with fly-tipping were further extended by the Clean Neighbourhoods and Environment Act 2005 which mean that:

- fly-tipping is an arrestable offence with the maximum penalty for fly-tipping being £50,000 in the Magistrates' Court or an unlimited fine and/or five years imprisonment on indictment
- landowners and occupiers who have had to clear fly-tipped waste can also recover costs
- local authorities have more effective investigatory powers to catch fly-tippers
- local authorities will have the power to issue fixed penalty notices in certain circumstances.

82. Comprehensive guidance on all the available tools and powers to tackle anti-social behaviour and the support that is available can be found on the Home Office's Respect website:

[www.respect.gov.uk](http://www.respect.gov.uk)

or from the ActionLine on  
**0870 220 2000**

More information on fly-tipping can be found at:  
[www.defra.gov.uk/environment/localenv/flytipping](http://www.defra.gov.uk/environment/localenv/flytipping)

83. It is important that local authority officers and councillors fully understand the powers that are available and the circumstances in which they can be most effectively deployed. Local authorities need to establish arrangements to respond promptly to situations as they arise, which may usefully include protocols with other agencies, particularly the police. Such arrangements should make it clear how the responsible agencies will respond to an encampment, who will take the lead and how they will intervene.



## The use of an Anti-Social Behaviour Order

Following a prolonged period (more than 10 years) of anti-social behaviour associated with repeated unauthorised encampment by a particular family in the North Yorkshire area, North Yorkshire County Council as Highway Authority, in partnership with Ryedale District Council and North Yorkshire Police, issued an Anti-Social Behaviour Order against the four most senior male members of a 14-strong adult family in August 2005. The Order prohibited the four members in question from the following behaviour:

1. camping on the highway (including verges) so as to cause a danger or obstruction and in any event not for more than 21 days
2. camping on any private land without the landowner's express permission
3. returning to an area (whether highway or private land) within 1500 metres of a site previously occupied within last 12 months
4. allowing any horse to eat/damage the hedgerows or be tethered close to the road, or to be placed in private land without the owners permission
5. leaving any rubbish or litter in any place, either public or private, unless in properly secured bags and in designated refuse skips
6. causing or encouraging any other person to damage property belonging to another person
7. taking fencing and gate posts for firewood.

In addition, the most senior family member was prohibited from doing or saying anything threatening, intimidating or abusive to any person. The Order also excludes the four members (and therefore the whole family, due to their tendency to travel as a complete family unit) from a five-mile area around three villages. The Anti-Social Behaviour Order was issued after the family had persistently breached a high court injunction obtained two years previously for similar behaviour.

## Gypsy and Traveller Welfare – How can Supporting People help?

84. Gypsies and Travellers are of course one of the categories of people regarded as "vulnerable" in the context of the Supporting People programme. In general terms, the range of housing-related support traditionally funded by Supporting People for vulnerable people can be equally necessary for site-based Gypsies and Travellers, in particular where problems of illiteracy and a traditional wariness of outsiders is involved, for example in the interface dealings with state, local authority and agency providers. For example:
- helping people with budgeting
  - paying their bills

- completing benefit claim forms
- help in accessing health services
- education and employment opportunities.

85. There is of course no better way to identify what is needed than consulting the Gypsy and Traveller communities themselves, to see what they perceive their problems to be and to examine how current Supporting People projects for other vulnerable members of the community may need to be adapted to meet their needs.

86. The local Gypsy and Traveller communities may have no immediate knowledge of what the Supporting People programme is designed for, and will need this to be explained. In case of difficulty, the Gypsy and Traveller Unit may be able to advise on how to contact the Gypsy and Traveller communities in your area.

## What will the Government do?

87. The Government has established a Gypsy and Traveller Unit within Communities and Local Government. The Unit leads on policy development within Whitehall and work with local authorities and other agencies to deliver more accommodation for Gypsies and Travellers and encourage effective enforcement action. Government Offices for the Regions will support the work of the Unit at local and regional level.

88. Key objectives for the immediate future are to:

- increase site provision for Gypsies and Travellers in line with need and ensure that resources allocated by central government are fully taken up by good quality schemes
- ensure effective use of enforcement powers (including anti-social behaviour powers where appropriate) against unauthorised encampments

- minimise unauthorised developments and the problems they cause
- identify key priorities for action with other Government Departments to tackle inequalities in access to service provision experienced by Gypsies and Travellers.



88. To this end, the Government:

- has produced planning and housing guidance advising local authorities on how the system will work which can be found at:  
[www.communities.gov.uk/gypsiesites](http://www.communities.gov.uk/gypsiesites)
- has set up the Task Group on Site Provision and Enforcement, drawing together central and local Government, the police and other agencies to address the wide variations in the use of enforcement powers and champion best practice
- is consulting on the introduction of a new provision in relation to Temporary Stop Notices enabling local planning authorities to require caravans to leave unauthorised developments
- has produced site management guidance and published site design guidance
- will extend the series of practical step-by-step guides on the use of enforcement powers to include unauthorised development and anti-social behaviour.



## Further Information

For further information, please visit the Communities and Local Government website at [www.communities.gov.uk](http://www.communities.gov.uk), or contact the Gypsy and Traveller Unit at:

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