

Joint Agency Protocol for responding to unauthorised Gypsy and Traveller Encampments.

Final version May 2011

Policy Statement.

- 1. It is recognised that Gypsies and Travellers are not the only groups to be involved in unauthorised camping. The intention of focusing this protocol on the Travelling community is to ensure that their needs are part of the solution to any problems arising from unauthorised encampment.**
- 2. There will be a joint agency approach to unauthorised encampment in Cumbria that will balance the needs of Gypsies and Travellers and the settled community, reflect compliance with applicable law and take account of Government guidance and the Equality and the Human Rights Commission.**
- 3. There will be Joint Agency Gypsy and Traveller Groups at practitioner level, including Gypsy and Traveller representatives, in each council area. These groups will meet twice a year, with additional meetings being called if any partner perceives a need.**
- 4. A county Joint Agency Gypsy and Traveller group, including Gypsy and Traveller representatives will meet to discuss issues related to the Protocol as need arises.**
- 5. Each agency signing this document has or will develop their own policies and practices which will sit beneath this protocol.**
- 6. The Protocol and associated policies and strategies will be equality impact assessed.**

Other associated documents:

Cumbria Constabulary Gypsy and Traveller policy

Cumbria Constabulary Unauthorised encampment policy

Cumbria Constabulary Additional Guidance to Unauthorised encampment

Gypsy and Traveller Culture guide

Cumbria County Six Districts Strategy

The Parties undersigned agree to the policy statement and the attached guidelines. The Policy and Guidelines apply to all unauthorised encampments by Gypsies and Travellers, including New Travellers, and to authorised encampments, whether temporary or permanent, where problems are identified.

Agency	Signature	Full name	Date
Cumbria Constabulary			
Cumbria County Council			
Copeland BC			
Allerdale BC			
Barrow BC			
South Lakeland DC			
Eden D C			
Carlisle City C.			
Cumbria PCT			
RSPCA			

Contents:

Aims	5
1. Who does the policy relate to?	5
2. The Introduction	6
2.1.1 Five key principles	6
2.1.2. Terms and definitions	6
2.1.3. Who takes the lead?	7
2.2. Background information	7
2.2.1. Accommodation available	7
2.2.2. Patterns of travel	7
2.2.3. Local support for Travellers	8
3.0. Recording decisions and information sharing	9
4.0. Site provision	9
5.0. What to do when an encampment occurs	11
5.1 Graded response	11
5.2.2 Making a decision to 'temporarily allow' or 'not allow'	13.
5.3. If the decision is to allow	14
5.3.1 A more detailed needs assessment	15
5.4. If the decision is to not allow	15
5.4.1 Removal of a group from a 'not allowed' site	16
5.4.2. Removal of a group from the highway	16
5.4.3. Use of Police powers	17
5.4.3 Enforcement action regarding waste	17
5.5 The media	18
5.6 Post eviction	19
5.7. Reassuring local communities	19
6.0. Expectations	20
7.0. Roles and responsibilities.	21

8.0. Resources and Constraints.	23
9.0. Strategy for Communicating the Protocol.	23
10. Monitoring the strategy	24
11. A Holistic Approach.	24
12. Summary.	25
Comments and Contact	25
Supporting information:	
(i). Legislative background	26
(ii). Risk assessments	31
(iii). Initial risk assessment and information form	33
(iv). Sites not normally acceptable	34
(v). Code of Conduct	35
(vi). FAQs	36
(vii) Needs assessment checklist	38
(viii) Flow diagram of process	40

Aims

- 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.
- To establish effective communication between partners, the settled community and Gypsies and Travellers.
- 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 Travellers.
- To set out recommended courses of action which local authorities, the police and other partner agencies should follow to provide an effective response to unauthorised camping in their areas.
- To develop a more consistent approach to unauthorised encampments across the county.
- To involve the settled and Gypsy/Traveller communities in the development of the Protocol.
- To improve records of unauthorised encampments.

1. Who does the protocol relate to?

This protocol relates to all travelling groups and all unauthorised encampments in Cumbria outside of Appleby Fair. The Multi Agency Co-ordinating group (MACG) works to resolve the issues associated with unauthorised encampments associated with Appleby Fair. Their principles are the same, but the detail is different.

The Protocol also relates to New Travellers. The issues raised by encampments are similar and the education welfare and homelessness duties are identical.

Travellers themselves have difficulty in providing an appropriate name for their whole group. The main groups are:

- The Romanies or 'Romany chals' of England and Wales;
- The Kale of North Wales;
- The Romanies who have come to the UK from Europe in the last hundred years;
- Irish Travellers;
- Scottish Travellers;
- Show and Fairground Travellers;
- Bargees and other families living in boats;
- New Travellers;

Some would prefer to be called Gypsies and others Travellers. The Equal Opportunities Commission recommends the terms Travellers or Gypsy, as an overarching title for all traditional, indigenous, hereditary Travellers. (Equal Opportunities Committee 1st Report 2001).

Consideration should be given to the choice of name for any particular group. In most cases and in communication it will be reasonable to use the term Traveller. In written communications the terms should be capitalised.

Unauthorised developments are outside the scope of this document.

2.0. Introduction

The first joint agency protocol was agreed in April 2004. This is the second revision. Key partners are the Highways, Children's Services departments of the County Council, district councils, the police, the Fire Service, health, the Cumbria Traveller Programme and Gypsies and Travellers. Many other agencies and groups have supported the Gypsy and Traveller joint agency work in the last 8 years.

Representatives of the Gypsy and Traveller community have been involved in developing this protocol.

2.1. Five key principles to be considered when responding to unauthorised encampments:

- The Joint Agency group recognises their statutory and moral responsibility to work together for the safety and well being of Gypsies and Travellers and the settled community.
- Gypsies and Travellers and the settled community are entitled to live free from crime, harassment and intimidation.
- Gypsies and Travellers should have equitable access to Services.
- A nomadic way of life is legitimate.
- Gypsies and Travellers who offend will be treated in the same manner as any one else who challenges the rule of law.

2.1.2. Terms and definitions

Gypsy and Traveller (EU definitions)-an overarching title for all traditional, indigenous, hereditary Travellers. (Equal Opportunities Committee 1st Report 2001)

Unauthorised Encampments -are considered to be those where a group of Gypsies or Travellers have established themselves:

- a) on any land forming part of the public road or
- b) on any unoccupied land without the consent of the landowner.
- c) Anywhere where an encampment is established with out planning permission.

Officer. In this document the word officer, unless qualified, is used to refer to an official from one of the co-operating agencies.

Unauthorised encampment: ODPM definition: trespassing by people on land which they do not own.

Local Authority: There is a two tier arrangement in Cumbria: The County Council and six district Councils. For the service considerations relevant to this document: the district councils have responsibility for assessing and meeting

housing/site needs and waste collection. The County Council have responsibility for strategic planning, adult and children's services and highways

2.1.3. Who takes the lead for each unauthorised encampment?

In line with the Government 'Guidance on Managing Unauthorised Camping guidelines', the 'local authority' will be the lead agency in managing unauthorised camping in its area and this will be taken to mean the District Councils. There will be circumstances where other agencies will take the lead. The police will take the lead where urgent action is needed e.g. in the use of the Criminal Justice and Public Order Act (CJPOA) s61.

Who ever leads this work, all agencies carry their own responsibility to respond appropriately to unauthorised encampments.

Each encampment location will be considered on its own merits against criteria such as health and safety considerations for the unauthorised campers, traffic hazard, public health risks, serious environmental damage, genuine nuisance to neighbours and proximity to other sensitive land-uses.

Wherever possible, local authorities and/or police will seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location.

2. 2. Background Information

2.2.1 Accommodation available for Gypsies and Travellers in Cumbria:

Private authorised sites with both permanent and transit provision;

- Fair Hill in Penrith, (residential and transit) and
- Hadrians Park near Carlisle (residential and transit).
- Schneider Road in Barrow (residential)
- Behind Lower Harker Dene contact Isaac Stewart (10 residential)

There is a local authority permanent site at Lower Harker Dene (formerly Ghyll Bank) near Carlisle.

There are authorised sites for Showmen in Carlisle, Wigton and Kendal.

No sites have been identified as allowed or tolerated.

2.2. Patterns of travel:

Associated with Appleby:

Appleby Fair is always in the second week of June. It is one of the largest horse Fairs in Europe and a very important event in the Gypsy calendar. The Royal charter for the fair dates back to 1685.

The population of Appleby ward in the last census was 1317. There are in excess of 96,000 visitors over the fair week end. There have been no official vehicle counts. It is estimated that 30,000 – 52, 000 vehicles go to Appleby on the Saturday of the Fair...so congestion and parking are serious issues. It is estimated that 10,000 people stay in the Eden area during Fair week. The fair is

mainly about horse sales, harness racing, flashing...or showing off the horses to there best advantage and grooming.

Associated with Brough Fair:

Brough Fair has grown in the last few years, but is still fairly small. It lasts for a week and takes place at the end of September. There are very few unauthorised encampments associated with this event which is held in a private field.

Other patterns:

There is some evidence to suggest that unauthorised encampments in the west of the county are by people from the North east and Lancashire visiting relatives. Some Travellers, notably Irish Travellers appear to be en-route through the county using the M6 corridor.

2.2.3. Local support for Travellers in Cumbria

Children's Services-

for information about support available contact 01228 606060

The Cumbria Travellers Programme and Cumbria Voice

Contact Ann Taylor. Email: anne@equantic.org.uk. The staff may be available to support District Councils with visits to unauthorised encampments and Needs Essessments.

Travellers in Barrow

A small group of Travellers in Barrow are developing a community group. For more information please contact Cumbria Multicultural Service.

The County Council Multicultural service (CMCS)

CMCS is an advocacy service, providing information and advocacy support to people from all Black and Minority Ethnic backgrounds; including Gypsies and Travellers, through telephone, e-mail and face to face contacts in outreach surgeries, including Barrow, Carlisle, Penrith, Maryport and Windermere.

The service supports Black and Minority Ethnic people to have a voice and participate in public services.

The service is open 9.00am - 5.00pm, Monday to Friday and if you need a service, or wish to make a referral please contact –

Tel: 01229 833933 or e-mail: cms@cumbriacc.gov.uk

3.0. Recording Decisions and Sharing Information

Recording decisions

All decisions (including the rationale behind any decision to allow an encampment to remain for a period) must be fully recorded and documented. Any 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 unauthorised campers 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. Similarly it would be good practice to record the fact that an encampment was unproblematic and did **not** cause nuisance or damage. Any complaints received, including any from Gypsy/Traveller unauthorised campers, should be recorded. A summary of the information should be recorded on the form in appendix (iii).

This information will be 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

Sharing Information

Non personal information about Gypsy and Traveller unauthorised encampments will be shared at least bi-annually at Joint agency meetings: before Appleby Fair in April/May, and at the end of the summer after Brough Fair September /October.

As a minimum, information should include the location of encampments, the number of caravans/vehicles involved, the number of visible people recorded by age and the duration of each encampment.

The form for recording this information is in appendix (iii)

Local co-operation to share data between the police, the local council and the Cumbria Travellers project should enable partners to better understand the travelling patterns and service delivery needs of Travellers visiting Cumbria. This information is essential if accommodation needs are to be met. The local council will lead on this issue.

4. Site provision is the responsibility of the District Council.

The 'Assessment of Gypsy and Traveller Accommodation Needs' report

was published in 2008 and identified a need for 85 more permanent and 55 more transit pitches across Cumbria.

Lower Harker Dene (formerly Ghyll Bank) 15 pitches opened April 2010.

At the time of writing a bid has been submitted by Allerdale and Home Space on behalf of all the district council for more small family sites across the county. A draft County strategy is part of this bid. However, the new government has just announced that money for new sites is part of the cuts. The future of the bid is uncertain.

Types of provision

It is anticipated that site provision might be provided publicly or privately and take a variety of forms:

- Residential sites providing long-term settled accommodation.

- Transit sites, with varying levels of amenities, formal to informal, providing for Gypsies and Travellers who want to stay for a period of up to about three months in an area.
- 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.

The joint agency group recognises that Gypsies and Travellers should be involved in site planning and design to ensure that sites are well used, are safe and appropriate to the cultures and lifestyles of Gypsy and Traveller families.

Using the spaces available.

Local authority and police officers dealing with unauthorised encampments should have information about vacancies on local authority sites within their area, and ideally in neighbouring areas. Ideally, local authority officers should also be prepared to assist unauthorised campers without local accommodation to find places on privately-owned sites and in permanent housing if this is requested.

There should be close working between site managers and local authority and police officers dealing with unauthorised camping over allocations of pitches on sites. Site managers may be aware of issues around Gypsy/Traveller group and family compatibility, which must be taken into account when allocating pitches on residential sites.

More specifically, where police are seeking to use the new powers under s62A of the Criminal Justice and Public Order Act 1994 (inserted by the Anti-social Behaviour Act 2003), a police officer must consult the local authorities in whose area the encamped land lies about the availability of suitable pitches on relevant sites.

The Police will look to the local authority to identify temporary 'acceptable' sites. in circumstances where there are no available pitches on authorised sites.

Transit sites and stopping places will be managed to prevent Gypsies and Travellers staying longer than the maximum permitted stay. Site turnover must be maintained if such sites are to continue to cater for Gypsies and Travellers with a nomadic lifestyle. Reluctance to move from transit sites and stopping places may indicate a need for further residential site provision.

Unauthorised encampments are almost always, by definition, unlawful.

However, while there are insufficient authorised sites,

it is recognised that some unauthorised camping will continue.

5. What to do when unauthorised encampments occur

The relevant agencies should talk to each other as soon as an unauthorised encampment occurs

5.1. Graded response

There will be a graded response and these responses will involve consultation with all partners. Police powers will only be used in exceptional circumstances.

1.	A decision should be made as to whether police/local authority/County Council resources should be deployed to the site.
2.	If deployed to the unauthorised encampment, a 'site' risk assessment should be conducted. An 'acceptable behaviour' contract should be struck with the occupiers, if appropriate.
3.	If the site is deemed as 'temporarily allowed', no further action needs to be taken other than monitoring that the situation remains the same and reassurance of the local community may be necessary.
4.	If the site is deemed as 'not allowed', negotiations need to begin for the occupiers to leave the site.
5.	If negotiations fail, court action or the use of police powers should be considered.

5.2. Initial response to Unauthorised camping

-on the public highway

It is anticipated that all encampments on the highway will be unauthorised or 'not allowed'. There are no powers to authorise them and they are technically an obstruction although in most cases they pose little or no danger to vehicular, pedestrian or other traffic. **Each encampment will be considered on its own merits.**

At the County Council all complaints or enquiries will be handled by the Cumbria Highways Hotline Call Centre. The Hotline Call Centre should inform the appropriate Engineer of the County Council's Consultant for the area and the County Council's representatives on the local Joint Liaison Groups.

Depending on who takes the initial call, the Engineer, the Police and District Council should contact each other to share information about the encampment, arrange a joint visit to the site, discuss how the encampment will be managed and if children are involved decide who will notify Children's services 'Link officer' with the details of how the encampment is being managed so that any visit they might want to make is a planned event known about by all relevant agencies.

At the time of writing the Link Officers are:

Carlisle

Isobel Graham
Children's Services

3 Alfred Street
Carlisle
CA1 1PX
isobel.graham@cumbriacc.gov.uk
Tel: 01228 227028

Allerdale and Copeland;

Janice O'Neil
Children's Services
New Oxford Street
Workington
Ca14 2LW
janice.oneil@cumbriacc.gov.uk
Tel: 01900 706344

Furness

Paula West
Children's Services
Market Street
Barrow in Furness
LA14 2LH
paula.west@cumbriacc.gov.uk
Tel: 01229 407418

East and South Lakeland

Laura Fitzgerald
Children's Service
Condor Block
Busher Walk
Kendal
LA9 4RQ
laura.fitzgerald@cumbriacc.gov.uk
Tel: 01539713375

The Cumbria Travellers Programme is also available for support, led by Anne Taylor. Tel: 079666 491 57. Email: anne@equantic.org.uk. The Travellers may already be known to them from an encampment elsewhere in Cumbria and there may be useful information to share.

The purpose of the site visit is to;

- Confirm the location.
- Determine the number of vehicles and living units (photos if possible/practical).
- Establish contact and determine how long the group intend to stay.
- Make a judgement on the obstruction and whether or not this is simply technical or whether the encampment poses a danger to the volume and type of traffic likely to use the highway.

If in the judgement of the Engineer and the Police representative the site is an obstruction then the Police Communication Centre (Tel: 0845 33 00 247) should

be informed and formally requested to take appropriate action. All agencies need to know if action is to be taken otherwise plans to manage the encampment will be disrupted.

If the obstruction is technical then the County Council's representative on the local Joint Liaison Group should be informed and the information from the initial site visit passed on.

The Call Centre should be informed of the involvement of the Joint Liaison Groups and all subsequent calls or correspondence from the public passed to the Council's representative. It is the responsibility of the Joint Liaison Group which includes County Council representatives to co-ordinate a response to the encampment. They will do this through site meetings, assessing the needs of the Travellers, monitoring the encampment **as set out below**. This group will determine if or when a 'Direction to Leave' notice or letter requiring them to leave and warning of civil proceedings should be served. The Engineer should attend if road safety or obstruction is identified as an issue.

-other unauthorised encampments when an unauthorised encampment is reported: **the Police will notify the District Council and/or the County council as appropriate and vice versa, to share information about the encampment, arrange a joint visit to the site, discuss how the encampment will be managed**

If children are involved they will notify Children's services Link officer as above.

The Cumbria Travellers Programme are also available for support. Contact Anne Taylor. Tel: 079666 491 57. Email: anne@equantic.org.uk. The Travellers may already be known to them from an encampment elsewhere in Cumbria and there may be useful information to share.

- **A decision will be made as to whether a site visit is necessary.**
The response will be proportionate to the information reported. i.e. has there been any wrong doing, how many people or vehicles are involved, are there people trespassing or engaged in any form of anti-social behaviour etc.
- If necessary and practicable there will be an **initial joint visit** involving the police, district /County Council and if possible the landowner.
- When approaching the site, partner agencies present should engage in constructive discussion with all those involved in the unauthorised encampment and the landowner. Care should be taken to ensure those involved are treated with dignity and respect.
- It should be explained that in Cumbria the problems of unauthorised camping are managed through a co-ordinated approach from interested agencies. At no time should it be suggested that unauthorised encampment is the sole responsibility of a particular agency.
- It should be made clear to all concerned that police/agency attendance in this first instance is simply to carry out an **initial assessment** of the circumstances of the encampment.
- Those involved in the encampment should not feel that the police/local authority have already made decisions to take action, nor should it be intimated this is the case. The officers attending should explain the process that will take place.

5.2.1. The initial risk assessment visit (see appendix (iii) for form)

The purpose of the visit is to check the accuracy of initial reports/complaints of an encampment, and to make an initial risk assessment.

The aim of the assessment is to gather basic information on the encampment:

- Location and size,
- Who owns the land,
- Is the landowner aware or given consent,
- past and intended future movement,
- Anticipated length of stay
- Reasons for the stay.
- Is there any damage to the land or its environment?
- Is there any litter or waste present and is this the result of the encampment?
- Are there any children on the site? Do they have welfare needs?
- Do any of the group have any health or welfare needs?
- Are there any animals and what condition are they in?
- What is the likely impact on the local community – unacceptable/significant or minimal?
- Is there any need for them to leave immediately – why?
- What welfare issues are there in relation to sanitation?
- What is the attitude of those present i.e. co-operative / dismissive / evasive / abusive / threatening
- Is the location suitable for habitation i.e. is there any environmental issues such as a rising river etc are there dangers of passing traffic

5.2.2. Making a decision to 'temporally allow' or 'not allow'

Once an initial risk assessment has been carried out **a decision** needs to be made regarding the site. Is it one that will be 'temporally allowed' or 'not allowed'? The risk assessment should provide a good indication as to whether action is required or not and should be used as the basis for any decision made.

It may be necessary to negotiate a period of time after which the Travellers will leave, for the site to be 'allowed'.

Attending officers should set out clearly what is expected of the Travellers. The code of conduct (appendix (v)) should be discussed with those present, if appropriate. This is a useful tool in negotiating with those involved in the unauthorised encampment regarding their conduct whilst at the site and whether the site is allowed or not allowed.

Consideration will be given to longer stays on the following grounds:

- Medical, educational and welfare assessments,
- special needs cases and
- where the landowner permits.

Where possible the needs of the group should be facilitated. It may be appropriate to involve Children's services, Cumbria Traveller programme, or the PCT.

This decision to 'allow' or 'not allow' should not be made before consulting partner agencies and the local Neighbourhood Policing Team Inspector.

If the media are involved, there should be a joint media strategy to ensure the message to the community is consistent and factually correct.

5.3. If the decision is to 'temporally to allow'

If the site is deemed as one which will be 'temporally allowed', there will be no need for the police to use any legislative powers concerning the site.

Cumbria Constabulary has a commitment to police all communities and this will be considered in deciding what monitoring and service provision should be made available.

There will need to be regular review/risk assessment of the site to ensure that conditions do not change. Regular visits should be made by both the local authority and police supervisors to engage with those present on the site and the landowner. Decisions should be made about whether there should be **a more detailed 'needs' assessment**. It is the responsibility of the District Council working in association with the Cumbria Travellers programme and any other agency recruited locally, to carry out a detailed needs assessment should this be necessary.

Rubbish: Local authority officers will discuss keeping the site clean and tidy and the disposal of household refuse as part of the agreement that a site is 'allowed'.

- If appropriate plastic sacks will be made available and arrangements made for regular collection of bagged refuse. Regular removal of domestic refuse should deter tipping by members of the settled community.
- Some groups of Gypsies and Travellers are willing to use skips for domestic 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 by members of the settled community. Local authorities will check that skips would be used before providing them and to seek to recover costs from the unauthorised campers.

Unauthorised campers 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.

Such a policy should be cost-effective in reducing the need to spend large sums on cleaning up.

Sanitation: One of the common complaints about unauthorised encampments is of people urinating and defecating in public. Public defecation is a difficult and sensitive issue, is visually unpleasant and can be a nuisance. The practice is a nuisance and a health hazard. However, Gypsies and Travellers have strict cultural codes about hygiene and consider it unclean to use toilet facilities in a caravan or to share facilities. Local authorities will liaise with unauthorised campers and 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 and any arrangements for payment for that service.

Code of Conduct (appendix 2), Those on the site should be made aware that if the conditions of the **Code of Conduct** (appendix 2), are broken this could lead to the site being deemed 'not allowed'.

If a site is 'temporarily allowed' because of a negotiated time period in which to leave it has been agreed, and that period has been breached, a review should be made of the initial risk assessment. On the basis of that review, a decision should be made as whether the site should continue to be 'temporarily allowed' or be deemed 'not allowed'.

Advice to Travellers in an unauthorised encampment is available from the Cumbria Fire and Rescue service through Simone Garnett. Email: Simone.garnett@cumbriacc.gov.uk. She is already well known to many travellers in Cumbria. A leaflet is under development.

5.3.1. A more detailed needs assessment (See appendix (vii))

Who will carry it out?

It is the responsibility of the District Council working in association with the Cumbria Travellers programme and any other agency recruited locally, to carry out a detailed needs assessment should this be necessary.

What is the purpose of the needs assessment?

The purpose of a needs assessment is to facilitate Traveller access to local services, make appropriate decisions about the duration of an unauthorised encampment in any particular location or whether an alternative local stopping place needs to be found.

In what circumstances should a needs assessment be carried out?

- If the initial visit has highlighted a need.
- If it has been agreed the travellers are allowed to stay for a prolonged period of time it may be appropriate to carry out a more detailed needs assessment.
- If there is a decision to move the travellers on, there should be a needs assessment. This is considered to be good practice.

How should the assessment be carried out?

Information should be available from the 'Initial Assessment'.

The purpose of a 'Needs Assessment' should be explained to the Travellers and should only be undertaken with their permission. The assessment should take the form of a conversation during which notes are taken and which covers the issues listed below. Some will be more relevant than others to a particular situation.

For the purposes of audit trail and sharing information at a later date the following information must be recorded.

What happens after the 'Needs Assessment'?

The person carrying out the 'Needs Assessment' should facilitate contact with appropriate agencies, but only with the permission of the Travellers. The only exception would be where there were issues of child protection.

Information should be shared with other agencies if relevant to the decisions that might need to be made about the duration of the unauthorised encampment, as soon as possible after the assessment.

The key organisations, will all keep records of the decisions made and the rationale behind them.

5.4. If the decision is to 'not allow

The site **may be** deemed 'not allowed' for any number of reasons. Such as where:

- Local amenities are deprived to communities. This could include forming an encampment on school car parks or playing fields, public recreation grounds and parks, village greens or public car parks, hospital car parks or at leisure facilities.
- There is local disruption to the economy. This would include forming an encampment on a shopping centre car park or in an industrial estate where it disrupts workers and customers. It could include agricultural land if this results in the loss of the use of the land for its normal purpose.
- There is other significant disruption to the local community, or there is a need to take preventative action. This might include where a group of trespassers have persistently displayed criminal and anti-social behaviour at a previous site, and there is evidence that such conduct is continuing. This reasoning will take on greater emphasis if the land occupied is privately owned, as the landowner will be responsible for the cleansing and repair of their property.
- Where access to the Public Rights of Way network and public open space is compromised

When a site is deemed 'not allowed' a 'needs assessment' (appendix vii) should be considered and measures will need to be put in place to facilitate removal of the unauthorised encampment.

When relevant an option open to the District Council is to use of the S77 CJPO Act 1994 power.

5.4.1. Measures to assist in the removal of a group from a 'Not Allowed' site.

It is the responsibility of the landowner to secure, protect and reclaim their land. The landowner must inform trespassers that they are encamped without authority.

It is preferable that eviction from a site is achieved through negotiation with those trespassing.

Where children are involved at an encampment where eviction is due to take place, they should be given adequate time to be prepared for moving. Eviction can be a traumatic event that will colour their view of the authority for years to come. This action may contribute to greater harmony in the future.

The process of negotiation is predominantly the responsibility of the landowner, however as part of a multi-agency response officers may engage in this process.

Where negotiation fails the landowner may decide to take court action. If required police officers may assist in this process and provide any information the court may require.

If bailiffs are used, consideration should be given for police officers to be present in order to ensure there is no breach of the peace. Police Officers should note they are to play no part in the eviction of trespassers unless police powers are used.

5.4.2. Removal of a group from a public highway

If the Joint Liaison Group decides to serve a 'Direction to Leave' notice or a letter requiring the Travellers to leave an encampment on highway land then responsibility will rest with the County Council as Highway Authority.

The Joint Liaison Group decision should be given in writing and acted upon by the Engineer arranging for Legal Services to produce the documentation. The Engineer should then arrange for the notice or letter to be served on the occupants of each caravan. If a 'Direction to Leave' notice is to be served, the visit to do this must include the Engineer, a representative from Legal Services and the Police. If a letter is being served, Legal Services need not be in attendance. However, a Certificate of Service will be prepared by Legal Services for completion by the person serving the letters. If any caravan is unoccupied or no response received then the notice or letter must be fixed to it. Suitable records must be made of the caravans that the notice or letter has been served on.

The Direction to Leave Notice or letter will include a reasonable time, normally 48 hours, for occupants to leave. At the end of this period the Engineer should check if those caravans which had notice served on them have left the site. If not, Legal Services should be informed.

Any press or media contact should be referred to the Council's representative on the Joint Liaison Group.

5.4.3 Use of Police Powers

Police Powers will only be used in exceptional circumstances.

Police have powers granted to them to move unauthorised encampments under sections 61 and 62 of the Criminal Justice and Public Order Act 1994. There are also powers of removing obstructions on a highway such as *A Wilful Obstruction of the Highway* (under Section 137(1) Highways Act 1980), *Unnecessary Obstruction* (under Section 42 Road Traffic Act 1988 & Section 103 Road Vehicles (Construction & Use) Regulations 1986)

Although there will likely be strong pressure exerted for the police to move unauthorised 'not allowed' encampments, it is essential that all alternative methods should have been explored before the use of police powers are considered. Police officers should work with partner agencies and those involved in the encampment to negate the need for such powers to be used.

Officers considering the use of police powers should ensure that all the implications have been considered e.g. human rights, resource commitments, and public / media reaction. They should also revisit the risk assessment carried out at the start of the process to ensure there is no change in circumstance. Officers also need to consider where it is they would like the occupiers to move

to and should look to the local authority to assist in this. It could be that if a site is deemed 'not allowed' because of the land owner's resistance to it, the local authority may be able to suggest a 'temporally allowed site'.

Police powers will not be used unless authorised by a Superintendent or above or in an emergency an officer of at least Inspector Rank. Detailed guidance on the use of these powers is contained on the police national legal database.

5.4.4. Enforcement Action regarding waste

Dealing with illicit waste disposal and fly tipping is difficult - whether the culprits are Gypsy/Traveller unauthorised campers or members of the settled community. Local authorities, police and the Environment Agency all have roles to play and co-ordinated action is necessary. Gypsy/Traveller unauthorised campers should be clearly informed that everyone who produces, treats, carries or disposes of controlled waste has a 'duty of care' under s34 of the Environment Protection Act 1990. Licensed carriers should take trade waste to appropriately licensed facilities in accordance with this duty of care. Information leaflets provided to unauthorised campers should identify nearby licensed waste facilities.

District council policies with regard to size of van or trailers visiting waste disposal sites need to be checked to ensure that the good intention to dispose of waste does not result in Travellers being turned away.

Enforcement measures are available. Collecting sufficient evidence for successful prosecution requires determination and partnership working from the agencies involved.

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). The Government has asked the Environment Agency to vigorously prosecute any person found to be illegally disposing of waste, where they have evidence. 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). The National Fly-Tipping Prevention Group includes 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.

Anti-social Behaviour Act 2003 extends 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.

Clean Neighbourhoods and Environment Act 2005. Extends the offence of dropping litter on all types of land, including water, which is open to the air and to which the public have access.

5.5. The Media

Conflicting press releases coming from different agencies should be avoided.

The Local authority and the Police are likely to be the lead agencies. It would be beneficial for them to make a joint press release, if that is an appropriate action to inform the local community and other interested parties. This will start to set the media agenda for the incursion. Other agencies could add to, or give separate releases specific to their area of responsibility.

Considerations may include:

- Summary of police powers and those of other agencies.
- Identification of a central point of contact for the enquiries, rather than every agency issuing its own information.
- Selection of staff for this point of contact could include an officer specifically detailed to address public perception of both the incursion and police action.
- Regular updates
- Regular liaison with LVA, Pub Watch schemes, Chamber of Commerce etc. This may minimise local disruption caused by unnecessary closure of businesses due to rumour and incorrect information.
-

The co-operating agencies will be operating under tension. They will be caught between the needs of the Travellers for somewhere to stop and the fervent desire of many non-travellers not to live and work in close proximity to encampments.

5.6. Post eviction or voluntary evacuation of the Site

The practice of following Travellers or those evicted from a site into another police area is both intimidating and humiliating and may well breach Human Rights. It is extremely unprofessional and contravenes Association of Chief Police Officers guidelines. The only time this practice can and will be tolerated is if they request such action after being victimised or are fearful for their own safety. In such circumstances there may be evidence of offences being committed against them and they should be investigated fully.

Eviction is an area where good practice is hard to establish. It is particularly important all agencies should monitor and evaluate local instances of eviction and learn from that experience, by feeding back information to the Joint Agency groups

5.7. Reassuring local communities

It is recognised that rightly or wrongly tensions within the settled community increase due to an unauthorised encampment, but steps can be taken by the police and partner agencies to minimise this risk. It is

essential that the rights and needs of the settled community be balanced with those involved in an unauthorised encampment.

There are a number of measures that can be undertaken that will help reassure and inform the settled community thereby helping to prevent an increase in tension that could lead to confrontation.

The key to reassurance is ensuring that the settled community are kept informed and made aware of what is, or is likely to happen, as a result of an unauthorised encampment in the community.

Tactics that could be considered to aid reassurance:

- High visibility patrols in the immediate vicinity of the unauthorised encampment, especially patrols carried out on foot.
- The Community Officer/Local Policing Team/ Police Community Support Officers/district/County Councils to carry out a leaflet drop of premises in the immediate vicinity. The leaflet might provide information about what is happening that the relevant agencies are aware and providing appropriate services, the Code of Conduct in relation to the behaviour standards expected from the unauthorised encampment and contact details of police and partner agencies.
- Involvement of local Councillors. The Race Relations Act duty 'to promote good relations between different groups of people, extends to all councillors. Consider attendance at local meetings. e.g. parish council meetings.
- Consideration to be given to carry out further leaflet drops if the unauthorised encampment may be resident for more than 1 week, keeping the settled community up to date with developments.
- Joint agency contact with the local media, providing information as per the leaflet drop, providing added reassurance and information to the wider local community.
- The holding of a community meeting, to address any concerns members of the settled community may have, allowing officers to dispel any misconceptions that may arise and challenging unacceptable behaviour/comments thereby promoting good community relations and social cohesion.

6. Expectations

-of Gypsies and Travellers in Cumbria.

The leaflet, 'Code for Gypsies and Travellers in Cumbria' sets out what is expected of Gypsies and Travellers. See Appendix (iii). Officers should use this leaflet with sensitivity; perhaps briefly explaining the information that it contains as some Travellers may have difficulties with reading.

-Gypsies and Travellers can expect:

- Officers from all agencies to be courteous, friendly and supportive of any immediate needs.
- to be asked about which services they might need to access.
- that information about the encampment will be shared with other agencies.

- Cumbria Constabulary and the local authority will monitor the encampment. "This means that **if necessary** there will be more discussions about when you leave and about looking after the land on which you are encamped.
- the Police to investigate any racist or other crimes committed against Gypsies or Travellers.
- the Police to investigate crimes involving Gypsies and Travellers, **if it is appropriate** and in same way as they would with the settled community.
- agencies will work co-operatively to ensure that the necessary services will be provided.

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7.0. Roles and Responsibilities.

Call Handlers

Each agency will ensure that their call handlers:

- know about the Joint Agency Protocol
- have training to deal with calls appropriately and effectively
- are provided with up to date information about who deals with unauthorised encampments
- are provided with up-to-date information about service provision to Gypsies and Travellers.

Cumbria Constabulary

- Identify a named officer in each local authority area
- Identify and respond to public safety concerns
- Inform all relevant agencies of location and number of Travellers.
- Monitor, update and share relevant information to other agencies.
- Provision of policing services to the Gypsy and Traveller community
- Maintenance of public order
- Prevention and detection of crime
- Work with partners to address road safety concerns

Cumbria PCT,

- Identify key contacts in each district council area and develop care pathways for Gypsies and Travellers.
- Assess health needs and provide client held records
- Monitor, update and share relevant information to other agencies.
- Identify and respond to public health concerns

Cumbria County Council: (Children's Services, CEE, Social Services and other relevant departments)

- Identify key contacts in each district council area
- Assess education needs and provide information on service provision
- Provide an outreach educational service where appropriate
- Identify and respond to road safety concerns.
- Provide information on service provision (adult and child social care services, community, library etc.)
- Monitor, update and share relevant information to other agencies.
- Provide a strategic lead for the provision of Gypsy and Traveller accommodation

Copeland BC, Allerdale BC, Barrow BC, South Lakeland DC, Eden DC, Carlisle City Council:.

- Identify a named officer with responsibility for Gypsy and Traveller issues who will work with relevant officers from different relevant departments within the council.
- Set out their own District Council procedures to be followed and necessary strategies to support the Protocol.
- The responsible officer in a local authority should establish procedures for reporting to and informing elected members and parish councils about

encampments. Ensuring that elected members are fully aware of the legislative background, local strategies and policies on managing unauthorised encampments including, for example, their race relations responsibilities.

- Identify and respond to public safety concerns.
- Provide information on service provision
- Monitor, update and share relevant information to other agencies.
- Assess and provide necessary accommodation to meet the needs of Gypsies and Traveller

7.1. The Joint agency Gypsy and Traveller groups

1. Joint agency Practitioners group:

Chair (currently the County Council Area support officers)

- Chair and administer working group.
- Assist in the development of and maintenance of clear guidelines for unauthorised encampments.
- Facilitate additional meetings as appropriate
- Monitor, update and share information with other agencies.
- Facilitate meetings of the County Joint agency Strategic planning group as and when necessary if this is the wish of the group.

Practitioners groups

Members should:

- a) Be proactive in helping this group to function.
- b) Develop good relationships with settled and visiting Gypsies and Travellers in their area and with the permission of these contacts share information as appropriate to support Gypsy and Traveller needs.
- c) Consult, in conjunction with other agencies, with Gypsies and Travellers on Gypsy and Traveller policy and guidance and other issues as appropriate.
- d) Meet formally, twice a year, with additional meetings being called if any partner perceives a need.
- e) Liaise with the settled community over Gypsy and Traveller issues and promote better relationships between the two groups.
- f) Work co-operatively on training issues if this is needed.
- g) Provide other officers within their agency with information so that local issues can be resolved effectively.
- h) Have an overview of unauthorised encampments, Gypsy and Traveller numbers and travelling patterns, cultural preferences of each family group, family structures, economic activity, accommodation, health and education needs.
- i) Develop a good relationship with the media.

Responsibilities within the strategy for dealing with unauthorised camping should be recognised within the job descriptions and workloads of the named officers from each agency.

2. The Strategic Planning Group

Chair (currently the County Council Area support officers)

- Chair and administer working group.
- Assist in the development of and maintenance of clear guidelines for unauthorised encampments.
- Facilitate additional meetings as appropriate.
- Monitor, update and share information with other agencies.

Cumbria Joint Agency Strategic Planning Group.

Membership

District Council officers such as can represent their council on enforcement, housing, planning and environment issues as appropriate. Lead officers from each of the other member agencies.

The group will meet as and when necessary.

The responsibility of the officer representing each agency is to work with others in developing Cumbria wide policy and guidance for working with Gypsies and Travellers. His/her responsibility is to participate in this process, advising on their own agency's policy and procedure with regard to unauthorised encampments, and developing national practices.

They will need an overview of incidents, Gypsy and Traveller numbers and travelling patterns in the County, cultural preferences of each family group, family structures, economic activity, accommodation, health and education needs.

8.0. Resources and Constraints

Some agencies have an identified budget for unauthorised encampments. The Joint agency group has no joint resource.

At the time of writing Cumbria Constabulary leads the joint agency Gypsy and Traveller work. It is anticipated that district councils or the County Council will assume the lead during the lifetime of this version of the protocol. This has been a constraint on progress as the police have no responsibility for provision of accommodation.

9. Strategy for communicating the Protocol widely

The *Protocol for Dealing with Unauthorised Camping* will be published and widely disseminated to local businesses, landowners, local residents, and Gypsies and Travellers.

Strategy for communicating the protocol	Target date
Publish protocol on district council, police and county council website	Jan 2011
Agency representatives are responsible for promulgating the protocol	Jan

within their own agency	2011
Press release about new protocol	Jan 2011
Each practitioners group to identify key groups within each district to inform about the protocol. Inform those key groups	Jan 2011
Publish an article in the CALC newsletter.	Jan 2011

10. Monitoring the Strategy

All partners are responsible for monitoring the Protocol twice a year at the Practitioner meetings. This would also be a good opportunity to review the Equality Impact Assessment.

Monitoring will concentrate on whether:

- whether the protocol is being implemented effectively
- on identifying any adverse impact on particular groups.

Key monitoring questions:

Are all the key agencies involved in each district council area?

Are key agencies adhering to the protocol?

Are the unauthorised encampment records complete for each district council area?

Are Gypsies and Travellers involved in joint agency meetings and other relevant consultations?

11. A Holistic Approach

This protocol recognises unauthorised camping does not exist in a vacuum. Relevant policy areas are land use planning (including development planning, planning control and enforcement), housing and homelessness, environmental health, animal welfare, health and education.

Strategies and Partnerships Relevant to Gypsies and Travellers

- Local strategic partnerships and community strategies
- Community Cohesion Policies
- Supporting People
- Homelessness Strategies
- Children and Young People's Services
- Sure Start and Early Years
- Connexions
- Primary Care Group Trust commissioning plans

- Crime and Disorder Reduction Strategies
- Equality Schemes
- Anti-poverty strategies

12. Summary

Issues to consider.

- The decreasing number of authorised sites/accommodation for Travellers has led to an increased use of unauthorised sites.
- The costs in removing Travellers from unauthorised sites and the practical difficulties likely to be incurred by any such action.
- Stereotyping of Gypsies and Traveller communities as being associated with criminality. It is acknowledged that, like any other community, the Gypsy and Traveller people have their criminal element, but previous experience and better knowledge and awareness of their lifestyle shows they have their own culture and values like other communities with the majority not being criminals.
- Many Gypsies and Travellers would prefer to police themselves, but they do want to be protected against crime and are generally supportive of the Police when criminals from within their own communities are dealt with.
- Many residents in other communities continue to be fearful of Travellers, often enflamed by media coverage. The Police and local authorities are then frequently put under pressure to take action against Travellers.

The smooth management of incidents and the improved relationships with the Travellers should help to increase the confidence of the settled and Traveller community. In the longer term this will make it easier for the co-operating agencies to identify a range of suitable and acceptable stopping places.

Comments and Contact

If you would like to comment on this protocol, please contact:

The Equality Officer
The Courts
Carlisle
Cumbria

Appendix. (i). Legislative background

.1. 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.
- Planning Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, requires a comprehensive systematic approach to be taken to the assessment of housing needs and site provision.
- The 'Assessment of Gypsy and Traveller Accommodation Need' is a statutory requirement under the Housing Act 2004 which came into force on Jan 2nd 2007. The needs of Gypsies and Travellers identified by the assessment will inform the preparation of regional and local strategies, including the Local Development Framework which must set out policies to address those needs.
- Government is currently reviewing policy on Gypsy site provision. Gypsy Sites Refurbishment Grant makes limited funding available for provision of transit and emergency stopping places.
- Private site provision is governed by planning legislation. ODPM circular 1/2006 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.

2. Dealing with Unauthorised Encampments

- There is no specific legislative duty placed on local authorities to deal with unauthorised encampments by Gypsies and 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 Chapter 6). These require cases to be brought in the Magistrates' Court.
- Common law rights to recover land from trespassers are also available to local authorities over land they occupy. Authorities are, however, advised not to use such powers unless there is exceptional justification for doing so and, for example, the police are unable to use their powers under s61 of the CJPOA (see 6.5 above).

- 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 camp 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 license.
- The Police have parallel powers granted by s61 of the CJPOA (see Chapter 6). 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.
- The Anti-social Behaviour Act 2003 added new ss61A and 62A into the CJPOA which give police enhanced eviction powers in circumstances where there are suitable pitches on relevant Gypsy sites to accommodate the caravans affected. These sections come into force on 27 February 2004 and guidance as to their operation will be issued.

3. Other Enforcement Measures

- District authorities have powers to deal with statutory nuisance (which could include, for example, rubbish accumulation at unauthorised encampments) and noise.
- 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*'.

4. Service Provision for Gypsies and Travel

- Gypsies and 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.

5. Human Rights

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. The main relevant rights are:

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the 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, while neither eviction action against trespassers nor planning enforcement is incompatible with HRA, either could potentially breach Article 8 rights if not properly used. Authorities, and other public bodies covered by the HRA, must be able to demonstrate that all eviction and enforcement decisions are 'proportionate' in weighing individual harm (in the loss of 'home' for the Gypsy or Traveller) against the wider public interest. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny.

First Protocol, Article 1: Protection of property

Every natural and legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

This Article might be seen as protecting the settled community's right to quiet enjoyment of their possessions, which might be threatened by nuisance, noise or anti-social behaviour from a problematic unauthorised encampment. This should be one of the considerations to be borne in mind by local authorities and police when considering eviction action. To date there is no relevant case law.

First Protocol, Article 2: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Education of Gypsy/Traveller children is frequently raised in cases dealing with eviction proceedings, and particularly with planning enforcement actions against unauthorised development. In such cases the question resolves itself to one of the balance between the individual harm to Gypsy/Traveller children's educational needs and the public interest harm in allowing unauthorised development to persist. To date there is no specific case law on arguments relying on this Article in this context.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property birth or other status.

While Article 14 rights, are potentially engaged in any action concerning Gypsies and Travellers (as ethnic groups and national minorities), the Article can only be successfully argued if another Article is found to be breached. Where a claim under any Article is rejected, it follows that any claim under Article 14 also falls.

3.6. Race Relations and Equalities

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 gives public authorities - including ODPM, the Home Office, local authorities and the police - a general duty to eliminate unlawful discrimination, and to promote equality of opportunity and good race relations in carrying out their functions. It also gives listed public bodies specific duties including one to create and publish a Race Equality Scheme which details how they will meet the general duty. In developing new policies or strategies public authorities must assess their impact on different racial groups, and they must consult. If the impact is negative and disproportionate to the aim of the policy, it must be changed. Once implemented, policies must be monitored for their effect on different racial groups. Authorities must publish the results of monitoring and consultation.

Both Gypsies and Irish Travellers are recognised as ethnic minorities. Policies for managing unauthorised camping are likely to affect Gypsies and Travellers significantly. The RRA means that local authorities and police must assess the impact of proposed policies on Gypsies and Irish Travellers and must consult on them. If the policies are likely to have a disproportionately negative impact on Gypsies and Irish Travellers, authorities must ensure that this impact is not disproportionate to the aims and importance of the policies. If it is, it is important to take measures to reduce this adverse impact or consider other ways to achieve the aims, which would mitigate its negative effect.

Eviction of unauthorised campers and enforcement against unauthorised development are likely to have a large effect on the public and in particular on the Gypsy/Traveller population. These activities are highly relevant to the RRA general duty and should be prioritised in Race Equality Schemes. When evicting and enforcing, authorities need to ensure that they act in a way which meets the three elements of the general duty and so as to have the minimum negative impact on the Gypsies and Travellers involved.

Local authorities and police must always be able to show that they have properly considered the race and equalities implications of their policies and actions in relation to unauthorised encampments and unauthorised development by Gypsies and Irish Travellers. They must be able to demonstrate their policies and actions are proportionate, bearing in mind all the circumstances of the case.

6. Legal and other references

- Race Relations Act 1976 and the Race Relations (Amendment Act) 2000
- The European Convention on Human Rights
- Human Rights Act 1998
- Crime and Disorder Act 1998
- Criminal Justice and Public Order Act 1994

- The Treaty of Amsterdam
- Council Directive 2000/43/EC
- Equal Opportunities Committee First Report 2001
- *Gypsies and Travellers-A Strategy for the CRE.2003-2006.* Commission for Racial Equality.
- *Gypsy Travellers. A policing Strategy* Insp. Ian Taggart. Grampian Police.
- *'Unauthorised Encampments of Gypsy Travellers'* Dumfries and Galloway Constabulary.
- *Travellers Policy statement.* Central Scotland Police.
- *The Management of unauthorised Gypsy and Traveller encampments.* Leicestershire Constabulary.
- *Mass Incursions. An Aide Memoir.* Jointly produced by Cambridge, Essex, Humberside, Lincolnshire, Norfolk, Nottinghamshire and Suffolk Constabularies.
- *Homelessness. Code of Guidance for Local Authorities.* ODPM July 2002.
- Local Authority Gypsy/Traveller Site in England. A research paper Commissioned by the Home Office. July 2003.
- *Local Gypsy and Traveller Sites.* Pat Niner. Centre for urban and regional studies. Univ. Birmingham ODPM July 2003
- *The Planning and Compulsory purchase Act 2003* creates regional spatial strategies, which will set targets for homes including Traveller accommodation.
- *Guidance on Managing unauthorised Camping.* ODPM Feb 2004
- *Planning for Gypsy and Traveller Sites.* Consultation paper. ODPM 2004.
- *Temporary Stop notice* ODPM Circular 02/2005
- *Supplement to Managing Unauthorised Camping* ODPM March 2005
- *The provision and Condition of Local Authority Sites* ODPM Feb 2005
- *Counting Gypsies and Travellers. A Review of the Gypsy Caravan Counting System* ODPM Feb 2005
- Circular 01/06 Planning for Gypsy and Traveller caravan sites. ODPM Gypsy and Traveller Unit.
- Guide to effective use of Enforcement Powers. Part 1. Unauthorised Encampments. Feb 2006. ODPM Gypsy and Traveller Unit.
- Gypsy and Traveller Accommodation Assessments. Draft Planning Guidance. Feb 2006. ODPM Gypsy and Traveller Unit.
- Local Authority and Gypsy and Traveller Guide to Responsibilities and Powers. Feb 2006. ODPM Gypsy and Traveller Unit.
- Report of the LGA Gypsy and Traveller task group June 2006
- *Common Ground* CRE May 2006.
- Fire safety for Gypsies and Travellers. June 17th 2008
- Designing Gypsy and Traveller Sites: Good Practice Guide. 15th May 2008
- Gypsy and Traveller Site Management Good Practice Guide. 16th July 2009
- Progress Report on Gypsy and Traveller Policy 16th July 2009
- Guidance on managing anti-social behaviour related to Gypsies and Travellers. 23 March 2010. ...
- Animals Act 1971.

Appendix. (ii). Risk Assessment.

It is impossible to anticipate the precise risks involved at locations used for unauthorised encampments, as it will depend on the particular circumstances relating to each encampment.

It is suggested that the following Risk Assessment provides a methodology to ensure as far as possible a similar response to all unauthorised encampments across the County.

Risk is normally assessed by the level or seriousness of the threat, on a scale of 1-3 and by multiplying this by the likelihood of the threat actually happening, again on a basis of 1-3. For these purposes, in terms of seriousness, 1 is minimal; perhaps the presence of a single family or small group of Travellers while 3 would be appropriate for a much larger gathering, where problems could be anticipated due to the sheer number of people present, regardless of their background or origin. Likelihood follows a similar scale, where 1 is unlikely to occur, 2 will happen sooner or later, and 3 are likely to happen today, or possibly has already occurred. The result gives scores between 1 and 9, where 1 is very low overall risk and 9 is very high.

For unauthorised encampments examples of how this could operate is set out below: -

Threat could be interpreted as follows: -

- 1- Low**, located in a remote location, not environmentally sensitive, unlikely to interfere with settled community.
- 2- Medium**, located away from centres of population but where disruption may occur to population or premises nearby. (For example potential problems at a nearby public house)
- 3 - High**, located close to a centre of population, environmentally sensitive area, or other area giving particular cause for concern (e.g. school playground, city centre car park)

Likelihood could be interpreted as follows: -

- 1 - Low** - small numbers intending to stay for short period. No known intelligence indicating likely criminal activity or disorder
- 2 - Medium** - a larger group with a longer stay planned (say over 3 nights?) - some evidence of minor disorder or confrontation
- 3- High** - large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community

Specific examples using this system would be: -

- 1) Small group of caravans stop overnight on a section of old road at Stainmore: Threat = 1 (Low), Likelihood = 1 (Low) so **Risk = 1x1 = 1 Low**
- 2) Small group of vans pull up close to a school for a few nights: Threat = 2 (medium), Likelihood = 1 (Low) **Risk = 2x1 = 2 (Low)**
- 3) A large group take up residence on the outskirts of a small village. They indicate that they will be staying for two weeks until a wedding takes place. Intelligence exists to indicate that members of this same group were involved in

disorder and criminality in another force area prior to coming to Penrith. Threat = 3 (High), Likelihood = 3 High, **Risk = 3x3 = 9 (High)**

In the examples given a proportionate response would probably be to monitor the first two groups and take more positive action with the third. Applying a risk assessment assists us to objectively justify the course of action we take, and the risk can be reassessed at any time if circumstances change.

Site Classification Risk Assessment.

	High	Medium	Low
<u>Threat</u>	- large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community	located away from centres of population but where disruption may occur to population or premises nearby. (For example potential problems at a nearby public house)	Located in a remote location, not environmentally sensitive, unlikely to interfere with settled community.
<u>Likelihood</u>	large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community	A larger group with a longer stay planned (say over 3 nights?) - some evidence of minor disorder or confrontation	Small numbers intending to stay for short period. No known intelligence indicating likely criminal activity or disorder

Appendix. (iii).**Gypsy and Traveller unauthorised encampment****Initial risk assessment and information form****Please complete and retain for your records.****Agency****District Council Area**

Person completing the form

Location of the encampment: grid reference/postcode (written detail please)

Dates of the encampment.....

Duration in days.....

Number of caravansNumber of vehicles.....

Visible number of adults..... 5-16 year olds..... under 5's.....

Initial needs identified

.....

Additional Information.....

Family Name

Vehicle Registration number.....

Action taken:.....

RISK ASSESSMENT FORMScoring on a basis of 1 to 3 (1=Low Risk) (2 = Medium) (3= High Risk)

<u>1.</u> The locations suitability	
<u>2.</u> Traveller numbers (larger no. greater risk)	
<u>3.</u> Number of corroborated complaints received (Larger no greater risk)	
<u>4.</u> Length of intended stay	
<u>5.</u> Co-operation between authorities and Travellers	

5 to 8 Low Risk

9 to 11 Med Risk

12 to 15 High Risk

..... date contact was made with person carrying out a thorough
 'Needs Assessment'. Name of person to do assessment.....

Appendix. (iv).

Below is a list of sites where an unauthorised encampment would **not normally** be acceptable is illustrative only and is not intended to be exhaustive.

Some Examples of Types of Site where Unauthorised Camping would Normally be Unacceptable
<ul style="list-style-type: none"> • A Site of Special Scientific Interest (SSSI) 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 hospital, 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 unauthorised campers' children • All highways

Wherever possible, local authorities and/or police should seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location. Where this proves impossible, they should attempt to encourage the unauthorised campers to move to an authorised site where available. Identification of possible 'acceptable' sites could assist local authorities and the police in the management of unauthorised encampments in circumstances where there are no available pitches on authorised sites.

Appendix. (v).

Code for Gypsies and Travellers in Cumbria.

Gypsies and Travellers and the settled community are entitled to live free from crime, harassment, intimidation and discrimination.

The stay on land will depend on your co-operation.

Please keep groups small and away from built up areas.

Please space yourselves out and park away from other groups.

Please look after the land you park on and don't cause problems for nearby residents.

Please use black plastic bags for rubbish

Please use official refuse tips

Please park vehicles safely and keep animals under control

Please park on land not needed for other purposes.

Appendix (vi)

Frequently Asked Questions.

Question. What can we do with rubbish?

Answer. Ask the local Authority for advice. They will provide you with information about local refuse sites for the disposal of large items and bags in which to leave your rubbish. Please leave the rubbish bags in a pile for collection.

Question. Why is such a fuss made about burning electric cable?

Answer. Please do not burn electric cable. Burning cable is very, very harmful to your health and this is the reason why it is against the law.

Question. Where can Gypsies and Travellers go?

Answer. The risk assessment sheet provides an indication of the types of site from which you are likely to be moved on quickly. It is intended only as a general guide. More information may become more readily available in the near future.

Question. Do the Police have a duty to do anything to help?

The duty of the Police is to preserve the peace and prevent and detect crime. Prevention of trespass is the responsibility of the landowner, not the police.

What can the police do?

Answer. In exceptional circumstances a senior Police Officer has the authority to issue a direction to order the trespassers to leave the land. If the trespassers fail to leave the land within reasonable time, they may be liable to arrest and prosecution. However the police must be satisfied that the landowner has taken all reasonable steps to ask the trespassers to leave.

Remember that the protection of your property is your own responsibility.

Question. Why do Gypsies and travellers make illegal encampments?

Answer. Their way of life means that they travel the country, staying for various periods in different places in order to earn a living. In most cases it has been a way of life for generations.

Question Do the council have a duty to move Gypsies and Travellers when they are encamped without permission?

Answer. No. Councils may move the Gypsies and Travellers on, but it will depend on whether they are on public or private land and whether or not they are causing a problem.

Question. If Gypsies or Travellers camp on my land what can I do?

Answer. Your solicitor can go to the County Court to obtain an order granting you possession of your land or you can ask the local authority to move them on your behalf. You may be asked to pay the councils costs or they may offer only advice.

Question. What if I decide to let them stay on my land?

Answer. Unless you have already obtained permission for a caravan site, or you are a farm where labourers are helping you with fruit picking etc. you may be in breach of planning acts.

Question. I have seen Gypsies and Travellers camping on the side of the road and sometimes on parks or council owned land. What can the council do in these cases?

Answer. If the Gypsies or Travellers are causing problems, they will be moved on as is reasonable. If they are not causing a problem, the government have asked that the site be tolerated. The council will judge each site on its own merits. In all cases the site is visited and every effort is made to ensure that the site is kept tidy and that there are no public health problems.

Question. If the encampment is obstructing the public highway then the police will move the obstruction.

Answer: This will depend on the circumstances of the obstruction, and in particular whether or not any actual danger is caused. Where the obstruction is purely 'technical' the police are unlikely to act for this reason alone.

Question. If the council want to can they force Gypsies and Travellers off a site immediately?

Answer. No. The council must first be able to show that they are on land without the consent of the owner. If the Gypsies and travellers are required to move they need to be asked. If they refuse they may be served with a notice to leave. If they refuse to move the council must go to the Magistrates court to obtain a summons and ask for an order permitting the Council to move the Gypsies or Travellers. If granted they are given 24 hours to leave the site.

Question. Can the Magistrates refuse to grant an order to move the Gypsies and Travellers on?

Answer. Yes. If there is an unavoidable reason as to why they cannot leave the site then an order will not be granted. Further action will then not be taken until the Gypsy/Traveller circumstances have changed.

**Appendix. (vii). Gypsy and Traveller (more detailed)
Needs Assessment check list
For use with Travellers in an unauthorised encampment situation)**

What is the purpose of the 'Needs Assessment'?

The purpose of a needs assessment is to facilitate Traveller access to local services, make appropriate decisions about the duration of an unauthorised encampment in any particular location or whether an alternative local stopping place needs to be found.

How should the assessment be carried out?

Information should be available from the 'Initial Assessment'. A copy of the form appears in appendix... Unauthorised Encampment Protocol.

The purpose of a more detailed 'Needs Assessment' should be explained to the Travellers and should only be undertaken with their permission. The assessment should take the form of a conversation during which notes are taken and which covers the issues listed below. Some will be more relevant than others to a particular situation.

For the purposes of audit trail and sharing information at a later date the following information must be recorded in your notes.

Person completing the form
Agency

Location of the encampment: grid reference/postcode (written detail please)

Dates of the encampment.....

Date of visit to do 'Needs Assessment'.....

Name of the lead person in the encampment.....

Other Information to capture:

Names/ number of adults

Names and ages of children

Family relationships

Number of caravans and number of other vehicles

Are there any:

Family needs?...visiting family in the settled community... celebrations/funerals etc

Health needs? Are there any current health needs to be addressed? ...illness...hospital visits...immunisation...screening...optician...dentist...mental health issues
Where are the family registered with a GP?

Educational needs of the children?...What are they for each child?
...pre-school, nursery, secondary college?

Employment or adult training needs?

Accommodation needs?...Transit/temporary site....or permanent site

Other welfare issues, perhaps for vulnerable people in the group...perhaps older people,

Would the group like safety advice from Cumbria Fire and rescue service?

What happens after the 'Needs Assessment'?

The person carrying out the 'Needs Assessment' should facilitate contact with appropriate agencies, but only with the permission of the Travellers. The only exception would be where there were issues of child protection.

Information should be shared with other agencies if relevant to the decisions that might need to be made about the duration of the unauthorised encampment, as soon as possible after the assessment.

The key organisations, will all keep records of the decisions made and the rationale behind them.

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