

Recommended Item from Scrutiny Committee on 8th June 2009

52. GYPSIES, TRAVELLERS AND TRAVELLING SHOW PEOPLE POLICY

The Environmental Health Residential Manager submitted a report giving details of a proposed Gypsy, Traveller and Travelling Show People Policy. It was noted that although the Authority had been dealing with travellers for many years, this was the first written policy to cover any issues.

Councillor Crane asked what measures were in place to safeguard landowners' rights. The Environmental Health Residential Manager noted that this policy covered how the Authority dealt with Travellers, but that advice and support would be given to any landowner. Councillor Crane asked that this be included within the policy.

Councillor Mills requested that any mention of 'horses' be extended to read 'livestock'.

Moved by Councillor M. Crane and seconded by Councillor J.A. Clifton
RESOLVED that (1) subject to the addition of a sentence to cover advice and support to given to landowners and the change of 'horses' to 'livestock', the Scrutiny Committee accept the Gypsies, Travellers and Travelling Show People Policy,

(2) the Gypsies, Travellers and Travelling Show People Policy be forwarded to the Executive for approval.

(Environmental Health Residential Manager/Head of Democratic Services)

Council/ Committee:	Scrutiny Committee	Agenda Item No.:	10.
Date:	8th June 2009	Category	
Subject:	Gypsies, Travellers and Travelling Show People Policy	Status	Open
Report by:	Environmental Health Residential Manager		
Other Officers involved:	Patch Management Group		
Director	Chief Executive Officer		
Relevant Portfolio Holder	Environment		

RELEVANT CORPORATE AIMS

ENVIRONMENT – Promoting and enhancing a clean and sustainable environment
The policy demonstrates the Council's commitment to protect, enhance the natural and built environment in a sustainable way.

SOCIAL INCLUSION – Promoting fairness, equality and lifelong learning.
The policy will ensure that our services are provided in a fair and equitable manner.

TARGETS

There are no specific targets in the Corporate Plan to cover the development of the policy.

VALUE FOR MONEY

The policy does not have any financial impact on the Council or its customers.

THE REPORT

The Gypsies, Travellers and Show People Policy and Appendix B is attached and has been developed via the Patch Management process. The policy has been reviewed, updated and accepted by PPMG2 and Senior Management Team.

ISSUES FOR CONSIDERATION

Approval of the Gypsies, Travellers and Show People Policy

IMPLICATIONS

Financial : None
Legal : There is no legal requirement to have a written [policy but good practice dictates that the Council should have one in place
Human Resources :None

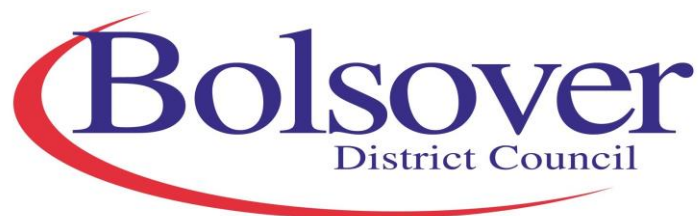
RECOMMENDATIONS:

- 1. That Scrutiny Committee review and accept the Gypsies, Travellers and Show People Policy**
- 2. That the Gypsies, Travellers and Show People Policy is forwarded to the Executive for approval**

ATTACHMENT: Y
FILE REFERENCE: Traveller and Gypsy policy Scrutiny June 2009.doc
Inter Agency Guidance Appendix B Scrutiny June 2009.doc
SOURCE DOCUMENT: Derbyshire Gypsy and Traveller Accommodation Assessment 2008
DCLG Managing Unauthorised Camping - a good practice guide 2006
ODPM Guide to effective use of enforcement powers 2006
ODPM Planning for Gypsy and Traveller Caravan Sites 2006
Related planning documents

BOLSOVER DISTRICT COUNCIL
Gypsies, Travellers and Travelling
Show People Policy

May 2009



This Policy addresses the following Corporate Aims:



COMMUNITY
SAFETY



CUSTOMER
FOCUSED SERVICES



ENVIRONMENT



SOCIAL INCLUSION

Bolsover District Council Equalities Statement

Bolsover District Council is committed to equalities as an employer and in all the services provided to all sections of the community.

□ The Council believes that no person should be treated unfairly and is committed to eliminate all forms of discrimination in compliance with the Equality Strategy.

□ The Council also has due regard to eliminate racial discrimination and to proactively promote equality of opportunity and good relations between persons of different racial groups when performing its functions.

This document is available in large print and other formats from any of the Council offices or by contacting the Chief Executives Directorate on 01246 242323. Please bear in mind we will need a few days to arrange this facility.

If you need help to read this document please do not hesitate to contact us.

Our Equality and Improvement Officer can be contacted via **Email** or by telephoning 01246 242407.

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CONTROL SHEET

Details of Document	Comments / Confirmation
Title	Gypsies, Travellers And Travelling Showpeople Policy
Document type – i.e. draft or final version	draft
Location of Policy	Internet and Intranet Document3
Author of Policy	John Sherwood
Member route for Approval & Cabinet Member concerned	Cabinet member for the Environment
Reviewed by Director of Strategy	Approved by SMT 30/4/2009
Date Risk Assessment completed	
Date Equality Impact Assessment approved	Approved by ESDG 6/4/2009 DCC, North East Derbyshire DC, Chesterfield BC and the Gypsy Liaison Group were consulted
Partnership Involvement (if applicable)	None
Date added to the Forward Plan	
Policy Approved by	Executive
Date Approved	
Policy Review Date	
Date forwarded to CSPD	

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INTRODUCTION

Bolsover District Council recognises its responsibilities to the travelling community, including Travelling Show People, and how they must be dealt with on a number of issues in a fair and equitable manner. This could, for instance, relate to a planning application for a permanent site in the District, to enforcement by the Authority to remove an unauthorised site on public or private land or to a request for housing accommodation or advice.

History

Romany Gypsies have lived in Britain for about 600 years and people have travelled from community to community for even longer. Irish Travellers too have a long tradition having travelled and lived in Britain for generations. More recently, other people known as New Age Travellers have pursued a nomadic lifestyle.

There are over 15,000 Gypsy and Traveller caravans in England with around three quarters of these on authorised sites. In our District we have the site at Black Bridge which is currently licensed as a transitional site allowing a maximum of 25 caravans to be in situ. The site now has planning permission for 25 residential caravans, 11 transit caravans and a warden's bungalow. There is also, currently, a small family site at Blackwell and two Show Persons' sites in Pinxton. In 1994 the duty on local authorities to provide sites was removed and since then, according to Government statistics, under provision of authorised sites has resulted in more Travellers and Gypsies camping on private or publicly owned land or developing their own land without planning permission. Whilst the level of unauthorised encampments has remained relatively stable, the number of unauthorised sites constantly varies. Again, in our District we do have a small number of unauthorised encampments each year and these have reduced significantly from the number we had five to ten years ago.

Defining Gypsies in Law

'Gypsies' were first defined in legislation in Part 2 of the Caravan Sites Act 1968. After its repeal by the Criminal Justice and Public Order Act in 1994 the definition was inserted into the Caravan Sites and Control of Development Act 1960. The definition specifies that 'Gypsies' are persons of nomadic habit of life, whatever their race or origin, although not including travelling show people or circus people. This definition was further modified by case law (*R v South Hams District Council*) in 1994, to specify that nomadism must be for the purposes of work. This definition has been traditionally referred to as the 'planning definition' to reflect its common use in planning cases to determine

whether an individual can claim ' gypsy' status and have this status taken into account as a material consideration in the case.

The planning definition

The definition in the Caravan Sites and Control and Development Act 1960 has now been superseded for planning purposes by a new definition set out in the Planning Circular 'Planning for Gypsy and Traveller Caravan Sites', ODPM 01/2006. The definition was amended in recognition of the fact that many Gypsies and Travellers stop travelling permanently or temporarily because of health reasons or caring responsibilities but still want to maintain their traditional caravan dwelling lifestyle. To fall within the planning definition a person must either have or at some time have had a nomadic style of life.

The housing definition

This definition is for a different purpose to the planning definition and is as follows :-

'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependents educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism and/or caravan dwelling'

The intention of this definition is to cover all those whose distinctive ethnicity, cultural background and /or lifestyle may give rise to specific accommodation needs, now or in the future, that need to be assessed and planned for.

Travelling Show People and Circus People travelling together are not excluded from this definition.

Local Authorities are now required, when undertaking a review of housing needs in their district, to carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to their district. The housing definition is intended to enable local authorities to fully understand the accommodation needs of a group of people whose needs have been frequently overlooked in the past.

Bolsover has now taken part in a Derbyshire wide survey of Gypsy and Traveller accommodation needs and the outcome and consequences for the authority are given later in this policy document.

SCOPE

This policy applies to any person who meets the definition of a 'Gypsy', 'Traveller' or Travelling Show Person whilst they are located within the Council's area.

The policy will consider the following areas:-

- Statutory responsibilities of the Authority
- Unauthorised encampments
- Adoption of the inter agency guidance for Derbyshire
- Site provision
- Planning issues
- Housing and homelessness issues
- Summary of the Traveller and Gypsy accommodation needs survey 2008
- Roles and responsibilities

THE PRINCIPLES OF THE POLICY

The principle of this policy is to ensure that the Authority meets its statutory obligations with respect to Gypsies, Travellers and Travelling Show People residing in or travelling through its district and in so doing deals with these groups in a fair and equitable manner in line with its corporate aim of promoting equality and fairness for all.

THE POLICY STATEMENT

In its dealings with the Gypsy and Travelling community Bolsover District Council will adhere to all its statutory obligations and will assist this community by licensing the site at Black Bridge and ensuring that it is fit for purpose. Officers will visit any unauthorised sites on publicly owned land within 24 hours during normal working hours and will advise owners of private land on how to deal with similar issues. Where sites are not sensitive and creating a public health or nuisance issue the Council will be more tolerant of the site. (See Appendix A for toleration guidelines)

The Council will comply with the requirements of the Derbyshire Inter Agency Guidance Appendix 'B' when dealing with an unauthorised encampment.

The Council will consider all planning applications for Gypsy, Traveller and Show People sites in line with current planning policy and in light of need identified within the Derbyshire wide Gypsy and Traveller Accommodation Needs Survey and the East Midlands Regional Plan. It will also take into account current Government advice relating to site provision, site management and dealing with unauthorised encampments.

The Council will include the Travelling community in its housing strategy detailing an analysis of their needs in terms of mainstream housing and also consider any homelessness issues that may arise.

Legal Responsibilities

Equality Duties

All public authorities must adhere to anti-discriminatory legislation which sets out their obligations through:-

- The general duty to eliminate discrimination and harassment and to promote equality and ;
- The specific duty in respect of race, disability and gender, where there are further requirements to develop and periodically revise equality schemes in consultation with stakeholders.

Race Relations Act 1975 (RRA) and Race Relations (Amendment) Act 2000

- Duty to pay due regard to eliminate unlawful racial discrimination
- To promote equality of opportunity
- To promote good relations between different racial groups

Relevant sections within the RRA include:-

- Planning – Section 19A
- Housing and management of housing – Section 21
- Education – Sections 17 and 18
- Provision of other goods and services, such as health care to unauthorised encampments – Section 20

Disability Equality Duty 2006

- Disability Equality Duty – goods and services

Equality Act 2006

- Gender Equality Duty – goods and services

Children Act 2004

Public authorities have a duty to safeguard children and young people

Human Rights

- Articles 6,7 and 13 of the Treaty on European Union and the Charter of Fundamental Rights

The Charter of Fundamental Rights of the European Union 2000, draws from the 1950 European Convention on Human Rights, and is based upon the principles of dignity, freedoms, equality, solidarity, citizen's rights and justice. Public authorities in the United Kingdom have obligations to promote and protect human rights, and all such authorities must act in a way that is compatible with the European Convention on Human Rights. This means treating individuals fairly, with dignity and respect, whilst also safeguarding the rights of the wider community.

Human Rights Act 1998

In the United Kingdom this Act applies to all public authorities and other public bodies performing public functions. These organisations must ensure that they are acting compatibly with the Convention rights when providing a service or making decisions about individuals. The Act urges public authorities to apply a human rights framework to decision making across public services in order to achieve better service provision.

- Article 8, European Convention on Human Rights - right to private and family life.

The European Court of Human Rights has ruled that Local Authorities should:-

- Take active steps to facilitate the Gypsy way of life through their planning systems;
- Take educational and health needs into account before making a decision to evict from a site and,
- Take into account the psychological needs of this group for non-bricks and mortar accommodation when assessing homelessness applications.

European Union Convention on Human Rights 1950

Article 8:

- 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 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 protection of health or morals, or for the protection of the rights and freedoms of others.

Article 14

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. (Also : Article 26, UN Convention on Human Rights 1948)

Housing Act 2004

The Housing Act 2004 Section 225 requires that local housing authorities must, when undertaking a review of housing needs in their district under Section 8 of the Housing Act 1985, carry out an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to their District.

The Local Government Act 2003

This Act, under Section 87, requires that the local housing authority takes into account the accommodation needs outlined above into its Housing Strategy indicating how it intends to meet those and future needs of Gypsies and Travellers

4.2 Unauthorised Encampments

Some parts of the country experience regular unauthorised encampments which cause disruption and conflict locally, and are expensive and time consuming to clear. Government guidance suggests a range of solutions which includes outcomes from recent requirements that it has introduced around accommodation assessments and site provision. It is one of the most difficult issues to resolve, mainly due to the different and conflicting sets of rights and responsibilities that are involved. Local residents can be adversely affected by the activities of the Travellers whilst Travellers themselves can be in an area lacking basic amenities and where it is hard to access health and education services for their families.

In developing policies on unauthorised camping the Government considers that certain basic principles should be followed:-

- 1 Unauthorised camping is unlawful; there is no right for anyone to stop where they want to, for as long as they want or to behave without regard for others.
- 2 However, in the short term, until there is adequate site provision, unauthorised camping will take place and policies should seek to manage encampments to minimise disruption for all concerned and ensure that anti social behaviour is tackled firmly
- 3 Standards of behaviour expected of Gypsies and other Travellers at encampments should be those expected of the settled community and this should be effectively communicated to the campers.

The Government believes that the use of enforcement powers and site provision must be linked.

SEE ALSO – DCLG guidance ‘Managing unauthorised camping – A Good Practice Guide ‘, issued in MAY 2006

Powers available to deal with Unauthorised Encampments

Common law powers

These can only be used by the landowner
These are used to regain possession of land
They do not require the use of courts
They are enforced by the landowner and/or private bailiffs where necessary
They do not provide any sanctions for the same people trespassing again

Civil Procedure Rules

They can only be used by the landowner
They are used to regain possession of land
They require civil court procedures
Possession is enforced by county court bailiff where necessary
They do not provide any sanctions for the same people trespassing again

Criminal Justice and Public Order Act 1994

Sections 77-78

This can only be used by a local authority
It can be used on any land within the Council’s area irrespective of ownership
It can be used to remove identified individuals from land
LA required to make welfare enquiries which have to be considered before any eviction decision is made
It only requires the involvement of courts when campers do not leave when directed to do so
Possession is enforced by Council Officers or private bailiffs employed by the Bolsover District Council
The return in three months by the same campers carries criminal sanctions

Sections 61 – 62

This can only be used by the Police
It can be used on any land except the highway
It can be used to remove identified individuals and/or their vehicles from land
There must be 2 or more persons trespassing on the land before the power can be used
It does not require the involvement of the courts

Possession is enforced by the Police
The return in three months by the same campers carries criminal sanctions

Planning powers

Where land is used without planning permission, the planning authority has a range of enforcement powers available to it. It can:-

- 1 Issue an enforcement notice requiring the use to cease and the land to be restored to its previous condition within a specified timescale. Enforcement notices give rise to a right of appeal which, if taken up, would suspend the effects of the notice.
- 2 Issue a stop notice concurrently with an enforcement notice, to prohibit the continuation of further activity pending the outcome of any appeal and until such time as the enforcement notice takes effect.
- 3 In urgent cases where there is a risk of serious harm to a compelling public interest (eg highway safety), issue a temporary stop notice to prohibit the carrying on of an activity whilst enforcement investigations into the matter are proceeding. A temporary stop notice has immediate effect, although only remains effective for a period of 28 days.
- 4 Apply to the Courts for an injunction to restrain an ongoing or anticipated breach. The Courts have a wide discretion and a duty to act compatibly with the Human Rights Act 1998. The Court would need to consider whether or not an injunction was a proportionate remedy.
- 5 Enter the land and take action itself to comply with steps required by an enforcement notice in default of the owner and /or occupier.

The planning authority can also serve a notice to require the proper maintenance of land (Section 215 notice). These powers would be particularly useful in the case of any poorly maintained and untidy authorised sites.

Anti Social Behaviour

Anti-social behaviour (ASB) has a wide legal definition within the Crime and Disorder Act 1998 but paraphrased it says that it is , 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.

The Council and Police have a number of tools and powers to address the causes of ASB, ranging from early intervention to court proceedings and are covered in the Council's Anti Social Behaviour Policy.

Fly tipping

This is defined as the illegal deposit of any waste onto land ie waste tipped or dumped onto land where there is no licence to accept waste. 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.

Under the provisions of the Anti Social Behaviour Act 2003 Council's as well as the Environment Agency have powers to:-

- 1 Investigate fly tipping incidences
- 2 Stop and search vehicles suspected of being used to deposit unlawful waste if a Police Constable is present
- 3 Seize a vehicle used to deposit unlawful waste after the issue of a warrant

These powers were further extended by the Clean Neighbourhoods and Environment Act 2005 giving Council's the power to serve fixed penalty notices in certain circumstances.

Anti Social Behaviour Orders have been used against Travellers who persistently repeat unauthorised camping but usually after a High Court injunction has been breached.

Choosing the Most Appropriate Power

The previously outlined powers are appropriate in different circumstances and in some cases it may be that the site is not in a sensitive location and the Travellers will only be there for a few days, and therefore no eviction action will be taken. In other cases there may be welfare issues that prevent the Travellers from moving. Who actually takes the action to remove the illegal encampment, be it the Police, local authority or the landowners themselves is again a matter for choosing the most appropriate persons in the circumstances. The latter does to some extent depend upon the working relationships / agreements between the different parties. (Inter Agency Protocol refers Appendix B)

Decisions made by the Council about what action to take will be made in light of information gathered and will be:-

- 1 Proper – in line with the Council's policy and procedures
- 2 Reasonable – in the circumstances
- 3 Balanced – taking into account the needs of the community affected and the campers.
- 4 Proportionate – in light of the circumstances

Adoption of the inter agency guidance for Derbyshire

This document (Appendix B) was produced by the Derbyshire Traveller Issues Working Group which is made up of public authorities, including the police and NHS, and representatives of Gypsy and Traveller organisations in Derbyshire. The group was formed in response to the need for all agencies to work together to make sure that all services are delivered to Gypsies and Travellers in compliance with legislation, Government guidance and local authorities equalities policies. Bolsover has been a signatory to the protocol and works to its requirements when dealing with unauthorised encampments. The protocol sets out the general principles to be followed in response to unauthorised encampments and ensures a consistent approach throughout Derbyshire.

Site Provision

The key to a reduction in unauthorised camping is an increase in the supply of authorised sites. The Government says that it is committed to increasing site provision, linked to fair but firm use of enforcement powers against unauthorised camping, therefore local authorities will take the lead in assessing the accommodation needs of Gypsies and Travellers alongside their settled population, the locally assessed needs of Gypsies and Travellers will be incorporated in the Regional Spatial Strategy, and each local authority will play its part in meeting the accommodation needs of Travellers and Gypsies through the planning system by identifying appropriate sites in their local plans.

Existing Site Provision in Bolsover's Area

There are no public sites in our area at the present time. There is one small approved family site in Blackwell, the site at Black Bridge and two Show Peoples sites in Pinxton. The latter are situated on Guildhall Drive and Plymouth Avenue.

Planning Issues

One of the key roles of Planning is to, 'address accessibility for all members of the community to jobs, health, housing, education, leisure facilities and shops'. The same issues and service needs relate to the travelling community.

National planning policy for site provision is set out in Circulars 1/2006 and 04/2007 for Gypsies and Travellers and for Travelling Show People respectively. These cover the development of sites by local authorities or Registered Social Landlord's (Housing Associations), applications for planning permission to develop land for use as a transit or permanent site. The Circulars emphasise the Government's commitment to ensuring that members

of the Gypsy, Traveller and Showpeople communities have the same rights as every other citizen. It also requires the accommodation needs for Gypsies, Travellers and Travelling Showpeople to be included in the Local Development Framework (LDF). It should include adequate provision of sites to meet the needs of Gypsies, Travellers and Travelling Showpeople to provide access to community facilities such as healthcare, and in so doing help to reduce the number of unauthorised encampments and developments that have created friction with local communities in various parts of the country.

When preparing or reviewing LDF documents, the Council as a planning authority, will translate the assessment of the need for pitches into sites and allocations.

Core Strategy Development Plan Document

The Council is currently preparing a Preferred Options Document. The final Core Strategy Document is likely to be adopted in April, 2011. This document will set out the criteria for the location of Gypsy and Traveller sites and sites for Travelling Showpeople within the Sites and Allocations Development Plan Document and also to meet unexpected demand. The details of the criteria have not yet been formulated, but will be incorporated in the Preferred Options Document which is likely to be published in July, 2009.

Sites and Allocations Development Plan Document

The Council has commenced work on the above document with work on the Preferred Options Document being on hold until the Core Strategy has been adopted which is likely in April 2013. However, it is not anticipated that this will include a new site for Gypsies and Travellers or Travelling Show People.

Both the Derbyshire Accommodation Assessment and the East Midlands Regional Plan indicate that Bolsover's requirement for extra provision for Gypsies and Travellers is one pitch. There is no minimum requirement recommended for Travelling Show People. The district already has the only sites in Derbyshire for Travelling Show People. Discussions will take place with the Showmen's Guild on further provision in Derbyshire but it is anticipated that this will be hosted in another part of Derbyshire. It is not considered practicable to provide a public site for one pitch and we are actively looking at ways by which this can be achieved.

In addition to the above Bolsover has a Saved Policy within its Local Plan (HOU 15 refers) which identifies criteria to be applied when dealing with planning applications for Gypsy and Traveller sites. It says that permission for site development will only be granted if :-

- 1 The proposed development will result in an acceptable living environment for its residents and

- 2 The site is sufficiently close to existing schools, shops and other facilities likely to be required by the residents and
- 3 The site is so located, designed and landscaped from the amenity of adjoining or nearby land and so enclosed as to prevent encroachment onto adjoining land and
- 4 The site is not in the green belt, an important open area or within a conservation area and
- 5 The site is not within or adjoining a residential area

Where a proposal is considered likely to cause material harm to nearby uses, a temporary permission may be granted to assess its actual impact provided that there are strong compassionate or other personal grounds on behalf of the applicant to do so. In such cases the temporary permission will be restricted to a personal permission for the applicant only.

Housing and Homelessness Issues

The Government is committed to giving everyone the opportunity of living in a decent home. It has undertaken to bring all social housing up to a decent standard by 2010 and to increase the proportion of vulnerable people living in decent homes in the private sector. The Council has a duty to have in place a housing strategy containing an analysis of all needs for accommodation in our area. The Housing Act 2004 explicitly says that the strategy should include Gypsies and Travellers.

In respect of homelessness the Housing Act 1996 places several duties upon the Council: to make sure that suitable accommodation is available for homeless people; to find accommodation for anyone they are satisfied is homeless, provided that certain criteria are met and to give people who are homeless the chance to find their own accommodation. A person is homeless if his or her dwelling place is a movable structure, but there is nowhere that they can lawfully place it - a definition that is clearly relevant to Gypsies and Travellers. (Housing Act 1996 Section 175 (2b) refers)

The Homelessness Act 2002 places a duty upon the Council to carry out a homelessness review, and to develop a homelessness strategy based upon the results of that review. The range of factors that the Council needs to consider in determining future levels of homelessness includes the number of Gypsies and Travellers passing through our area. (Homelessness Code of Guidance for Local Authorities 2002 para 1.16 refers) If Gypsies and Travellers present themselves to the Council as homeless and are found to have a 'cultural aversion' to housing then we must demonstrate that we have tried to facilitate the Gypsy way of life by trying to find for example land for a Gypsy site. If they need particular support then this must be considered properly and met where possible.

Traveller and Gypsy Accommodation Needs Survey 2008

Opinion Research Services was commissioned by the Derbyshire Travellers Issues Working Group (TWIG) to undertake a Gypsy and Traveller Accommodation Assessment. TWIG is made up of representatives from all Derbyshire authorities as well as representatives from Connexions Derbyshire, Derby and Derbyshire Primary Care Trust, Derbyshire Constabulary, East Midlands Regional Assembly and the Derbyshire Gypsy Liaison Group. The main objective of the study was to assess the need for additional authorised Gypsy and Traveller site provision within Derbyshire over the next five years. A secondary objective was to assess the needs of people living on existing sites in terms of any extra provision that may be required. The study also sought to highlight how Government planning guidance for Gypsies and Travellers would impact upon the planning and housing strategies employed by the partner local authorities.

IMPLEMENTING THIS POLICY – roles and responsibilities

The following Council departments will be responsible for implementing this policy or sections within it.

Planning services will:-

Deal with unauthorised developments which includes the establishment of an unauthorised Gypsy, Traveller or Show Peoples site.

Be responsible for dealing with planning applications or enquiries relating to the establishment of new sites

Be responsible for identifying land suitable for development as a Gypsy, Traveller or Show Peoples site within the District

Environmental Health and Street Services will :-

Deal with unauthorised encampments on public land working in conjunction with the Derbyshire County Council and Parish /Town Councils and other Council Departments especially those with land holdings such as Leisure Services and Regeneration Services

Provide advice and guidance to private land owners where unauthorised sites have been established.

Where requested will provide a clean up service at the cost of the owner of the land

Housing Services will:-

Deal with all enquiries relating to housing issues amongst the Gypsy, Traveller and Show Peoples communities and will provide appropriate support and advice.

Regeneration Services will:-

Through its strategic housing role provide a housing strategy including the needs of the travelling communities

Legal Services will:-

Provide advice and guidance to all the Council's departments working within this policy and in particular, will prepare cases and attend Court to deal with approved proceedings in relation to unauthorised developments and encampments

All relevant Council departments will liaise prior to taking any enforcement action and will work to the Council's Corporate Enforcement Policy.

Travelling Communities

Gypsies, Travellers and Show People will be expected to act in a law abiding manner and have due regard for the rights of the communities in which they reside and for the areas of the District through which they travel.

APPENDIX A

TOLERATION GUIDELINES

The Council will strive to maintain the often difficult balance between the needs of the settled community and businesses and those of Gypsies and Travellers. It will achieve this, in part, by licensing the site at Blackbridge and ensuring that it is fit for purpose.

Where Travellers occupy land irresponsibly, or cause a level of nuisance that cannot be tolerated, the Council will use its powers of eviction after consultation with other relevant agencies.

Unauthorised Traveller encampments will not be evicted needlessly and will be tolerated on the following grounds :

- 1 There is no space available on the site at Blackbridge
- 2 Where unlawful camping is not causing a level of nuisance which cannot be effectively controlled
- 3 Where an immediate enforced eviction might result in unauthorised camping on a site elsewhere in the district, which could give rise to greater nuisance

Toleration Criteria

- | | | |
|---|-------------------|---|
| 1 | Hygiene | There must be no fouling or dumping of used nappies and faeces on or in the vicinity of the site |
| 2 | Rubbish | No domestic refuse to be dumped on or in the vicinity of the site

No rubbish associated with any business activity will be allowed to be dumped on or in the vicinity of the site. Rubbish must be taken to a licensed refuse disposal site. |
| 3 | Behaviour | Intimidatory behaviour, if substantiated, following complaint will not be tolerated. |
| 4 | Damage | There must not be any evidence of damage to property or the environment. |
| 5 | Horses | Must not be a nuisance or a danger |
| 6 | Criminal activity | All allegations of crime to be reported directly to the Police who will be asked to advise whether or not eviction should take place |

- 7 Re-occupation No re-occupation of the same site will be tolerated.
- 8 Land use Encampments will not be tolerated where the land is designated for specific public use eg nature conservation, park or playing fields, car parks, public open space or other sensitive site ie site development proposals
- 9 Timescale The toleration period will be for two weeks from the day upon which the encampment takes place unless circumstances dictate otherwise.
- After the two week period if the site is not vacated voluntarily then eviction proceedings will be commenced.
- 10 Travelling group Where the Gypsies or Travellers are revisiting the district and it can be evidenced that they have been previously evicted by the Council then any encampment established by them will not be tolerated.

Inter-Agency Guidance

**“Working together on Gypsy and Traveller
Issues”**

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INTRODUCTION

This document has been produced by the Derbyshire Traveller Issues Working Group.

Membership of the group is open to all public authorities and representatives of Gypsy and Traveller organisations in Derbyshire.

The group was formed in response to the need for all agencies to work together to make sure that all services are delivered fairly to Gypsies and Travellers in compliance with the law, government guidance and local authorities' equalities policies. This guidance identifies how we will do this.

Members of the group are committed to working together but also recognise that each partner organisation has its own policies and procedures which will be respected.

Information about the group, how to contact us and details of Gypsy and Traveller accommodation in Derbyshire can be found on page 13.

The terms of reference of the group are:

- To co-ordinate public authorities' activities on Gypsy and Traveller issues
- To develop better links with Gypsies and Travellers, including consultation and feedback
- To share information to develop good practice to ensure that Gypsy and Traveller needs are met
- To work towards mainstreaming Gypsy and Traveller issues
- To assess the need for and promote solutions towards the shortage of appropriate sites and accommodation and support
- To consider health and education as a priority
- To deliver and support training on Gypsy and Traveller issues
- To gather information from other working groups on relevant issues

- To identify and disseminate good practice
- To take responsibility for specific tasks
- To work together to promote community cohesion across Derbyshire
- To support public authorities' Race Equality Schemes

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DEFINITION OF GYPSY AND TRAVELLER

'Traveller' is a generic term used to describe groups of people whose lifestyle or culture is rooted in a nomadic way of life.

Gypsies of Romany origin (English, Welsh, Scottish and European Travellers) and Irish Travellers live in Derbyshire, or use many parts of Derbyshire as a traditional stopping place and have done so for hundreds of years. Other Travellers are also found within the county.

Mandla Criteria: Definition of an ethnic group

The Mandla Criteria, drawn up by the House of Lords after the case of Mandla v Lee relating to Sikhs in 1983, is now used as a legal definition of what constitutes an ethnic group. The criteria are as follows:

Essential Criteria:

A long shared history coupled with a conscious sense of distinctness;
A cultural tradition of its own including family and social customs often but not necessarily associated with religious observance.

Relevant Criteria:

A common geographical origin or small number of common ancestors;
A common language not necessarily peculiar to that group;
A common literature, including folklore or oral traditions;
A common religion different from that of neighbouring groups;
The characteristic of being a minority or being oppressed by a dominant group within a large community.

Romany Gypsies

Romany Gypsy people are an indigenous ethnic minority group which originated in India. Their language is Romanes.

Irish Travellers

Irish Travellers are an indigenous nomadic ethnic minority group found in both Ireland and Britain. They have their own language which is Cant or Gammon.

Other groups (not qualifying as ethnic groups under the Mandla criteria):

New Travellers

New Travellers (sometimes referred to as New Age Travellers) are generally former house-dwellers that now travel. They are not a recognised ethnic group. Many New Travellers have been travelling for a number of years and some have children that have only ever known a travelling lifestyle.

There are a number of reasons why people travel. Some New Travellers travel because the alternative for them would be homelessness and/or poverty. People may travel in an attempt to find employment around the country. There are also many New Travellers who have made a conscious decision to attempt to adopt the way of life of traditional Travellers, or to construct such a way of life for themselves.

Show People

Show People or travelling Show People are people who organise and run fairgrounds.

In the UK, workers on the rides (who are usually from the local area) are often mistaken for travelling Show People.

A Show Person would refer to him or herself as a Traveller; however, to outsiders the title 'Show People' is used to differentiate people who organise fairgrounds from other travelling communities.

Language

As with all other ethnic groups, there may be problems with language. Although English is used, experiences of formal education vary and written communication might be inappropriate. Language used by Travellers may reflect Romany or other traditional language cultures.

STATEMENTS OF COMMITMENT

Amber Valley Borough Council, Bolsover District Council, Chesterfield Borough Council, Derby City Council, Derbyshire County Council, Derbyshire Dales District Council, Erewash Borough Council, High Peak Borough Council, North East Derbyshire District Council, South Derbyshire District Council

Each of the District and Borough Councils in Derbyshire provides a range of common services in relation to Gypsies and Travellers. These include dealing with planning enquiries and applications, receiving homeless applications, and managing both authorised Traveller sites and unauthorised encampments.

These services are statutory functions and often require hard decisions. In undertaking all these responsibilities members of the TIWG are committed to providing fair treatment to all sections of the community. To this end member organisations will ensure that all persons are treated fairly regardless of sex, sexual orientation, marital status, race, colour, nationality, ethnic, or national origin, religion, age, disability or any other grounds. The duty for public authorities to promote race equality under the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, which provide legal protection against discrimination, directly or indirectly, on grounds of colour, race, nationality and ethnic or national origin, is recognised by all members.

Connexions Derbyshire

Connexions Derbyshire is committed to providing:

- Support services to young people including help from personal advisers to plan educational and life goals
- Independent careers information, advice and guidance
- Advice on health, lifestyle, housing, financial support and other personal issues to assist in achieving goals
- Information about and access to personal development opportunities to broaden horizons and develop talents
- Co-ordination of access to specialist advice and services where needed to remove barriers to learning and achievement

- Liaison with schools to promote and assist in making appropriate provision for Traveller children
- Support to ensure continuity of education as young people move between schools
- Monitoring of access, attendance and achievement of Traveller children
- Support at key transition stages – secondary transfer and at the end of Key Stage 4
- Inter-agency work to promote the take up of lifelong learning opportunities post 16
- Support for accreditation schemes through referral and awareness raising
- A 'voice' in planning and development of the service through structures designed to involve young people
- Services to schools and colleges including careers education help to individuals
- Advocacy on behalf of young people, particularly in provision of learning and work opportunities.

Derby and Derbyshire Traveller Education:

The local authority has a duty to ensure that school places are available for all children residing, either temporarily or permanently, in the area. This duty extends to Traveller children, who are entitled to equal access to education irrespective of whether they are living or encamped officially or unofficially.

Section 14 of the Education Act 1996 places a duty on local authorities to make sure there are sufficient school places for all pupils to be able to access education appropriate to their age, ability, and aptitude. Local authorities are required to consider their statutory duties with regard to education and social services under the Children Act 1989 when carrying out evictions. The county council continues to have a responsibility to find school places during the time in which the children are living in Derbyshire.

Traveller Children's Education Advisory and Support Team (TEAST):

Almost all councils with a responsibility for education in England and Wales now have a Traveller Education Service. Additional funding to Local Authorities to support education for Traveller children has been available for over twenty years. Funding is currently through the Vulnerable Children's Grant within the Standards Fund. Derby and Derbyshire operate a joint Traveller Education Advisory and Support Team (TEAST) that works to support the Local Authority and schools in carrying out statutory responsibilities.

TEAST makes visits to mobile Travellers. If there are no children present, the service has no further professional involvement. Families requesting information on other issues will be given the appropriate contacts.

TEAST promotes on behalf of the local authority:

- Equal Access
- Continuity of education
- Achievement and success

Summary of services to schools:

Advisory support, pupil support, training and use of resources (at no charge) and copies of policy guidelines. Transport from home to school is also funded in some circumstances to promote access and regular attendance particularly where children are highly mobile and resident on unofficial sites. TEAST provides schools with information on educational support and culture to ensure that Traveller children have a positive experience.

As well as providing support for schools TEAST is committed to an inclusive approach to education and to multi-agency working with the following:

- Sure Start
- Connexions
- Early Years Providers
- Social Care Professionals
- Health Professionals
- Community Education Services
- Parent Partnership
- Special Educational Needs (SEN) Support Services
- Other Traveller Education Services
- Derbyshire Gypsy Liaison Group

For further details and an information leaflet about TEAST or for other contacts telephone (or fax) 01332 716806 or e-mail: nigel.groom@derby.gov.uk.

Derbyshire Constabulary

Our vision for the future:

We care about the communities we serve. We listen to them and work in partnership to achieve lasting solutions to problems that concern them.

We are committed to locally-based policing services. We are accessible, reliable and provide a strong visible presence, which reassures people and makes our communities safer.

We uphold the rule of law and by applying it fairly, equitably and with integrity, we maintain public confidence.

We value and support each other. We are all highly skilled and take pride in delivering policing services of the highest quality.

Derbyshire County Council

The Council's policy is to provide services fairly to all sections of the community and to give equal treatment to its employees and service users regardless of their age, disability, HIV status, marital status, race, religion, sex, sexuality, or national origin

The Council recognises that people from ethnic minority groups face discrimination.

The Council recognises its legal duties to promote race equality as set out in the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, as follows:

- To eliminate unlawful discrimination
- To promote equality of opportunity
- To promote good relations between persons of different racial groups.

The Council also recognises that the promotion of race equality needs to involve making effective arrangements that will help to meet the objective of race equality, including preparing a race equality scheme and monitoring employment procedures and practice.

Derbyshire Gypsy Liaison Group

Over the years the group has been involved in supporting equal access to education and health care but the main issue of recent years has been and still is the struggle for sites whether these are private or public authority sites. The group liaises and mediates with County and District authorities especially the Planning and Control departments. The group lobbies on a national level for the rights of Gypsy People and aims to:

- Seek to ensure stopping times and prevent evictions
- Take families through the planning application system Advise County Council and District Borough Councils on various matters
- Produce specific educational material for Gypsy and Traveller children
- Implement better Police training on a national level through the Moving Forward Project in conjunction with Derbyshire Police
- Send representation to local meetings and national conferences
- Work with Gypsy organizations within Europe to bring about better understanding of Romani Gypsy Culture

The group's aim is to bring about a better understanding and acceptance of the Gypsy and Traveller life.

The Environment Agency

The Environment Agency is the leading public body for protecting and improving the environment in England and Wales. Its vision is for people to enjoy a rich, healthy and diverse environment, now and in the future. Air, land and water are cleaner, wildlife flourishes, resources are used more wisely and everyone enjoys a better quality of life.

The Agency has a major role in regulating environmentally harmful activities. It administers and upholds the laws protecting people and the environment from

the effects of pollution incidents and illegal waste operations. In accordance with the Agency's Customer Charter, its staff will behave in a polite, professional way and will respect every individual's rights.

The Agency is committed to sustainable community development, and much of its work is delivered in partnerships - for instance with local businesses and interest groups. Its work complements that of local authorities where illegal waste disposal activity impacts seriously on local amenity or air quality. The Agency takes the lead in dealing with waste posing a pollution or health risk and works closely with other regulatory bodies and the Police to ensure an efficient approach to proportionate regulation.

As well as being a firm, fair regulator, the Agency is available to offer advice and help. Information is available on the Agency's web-site www.environment-agency.gov.uk, and enquiries can be made by telephone on 08708 506506. In the event of a pollution incident or witnessed illegal waste activity, the Agency is available to take the details 24 hours a day on 0800 807060.

NHS Derbyshire

Commitment to Improving Health

In order to improve health and reduce health inequalities, the NHS will:

- Focus on groups and communities whose needs are greatest;
- Ensure equal access to services for equal need – whilst recognising that some may have needs greater than others;
- Recognise ethnicity and diversity within a framework described by current legislation;
- Be specific and understandable to the communities and groups with which we work, whilst based on local people's knowledge and experience;
- Deliver services in the context of a 'Patient and Public-Led NHS', which supports an advocacy role for *all* practitioners to ensure 'real empowerment of people to improve their health' i.e. where services work *with* people to support them with their health needs.

CONTACTS

The following telephone numbers will enable you to contact members of the Traveller Issues Working Group on matters of policy and good practice.

If you wish to discuss an unauthorised camp, please ring the local council or the Police.

Amber Valley Borough Council

Chief Executive's Department, Legal Section
Tel: 01773 841662

Bolsover District Council

Tel: 01246 240000

Chesterfield Borough Council

Tel: 01246 345345

Connexions Derbyshire

Equal Opportunities and Diversity Manager
Tel: 01773

Derby City Council

Housing Strategy and Development Unit
Tel: 01332 255895

Derbyshire Constabulary

Gypsy and Traveller Liaison Officer
Tel: 01773 572088
john.coxhead.524@derbyshire.pnn.police.uk

Derbyshire County Council

Chief Executive's Office, Policy Unit, Tel: 01629 580000 ext 7384
Legal Services (dealing with unauthorised encampments), Tel: 01629 580000 ext 7466
Older People and Vulnerable Adults, Tel: 01629 580000 ext 2002
Early Years & Childcare Service, Joanne Robinson, Tel: 01629 580000 ext 5738

Derbyshire Dales District Council

Tel: 01629 761100

Derbyshire Gypsy Liaison Group

Telephone: 01629 583300

Erewash Borough Council

Policy and Development Team

Tel: 0115 907 2217

NHS Derbyshire

Jane Horton

Amber Valley PCT

Tel: 01773 525099 ext 5110

North East Derbyshire District Council

Tel: 012546 217246

South Derbyshire District Council

Environmental Health Division

Tel: 01283 221000

The Environment Agency

www.environment-agency.gov.uk

Tel: 0800 807060

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TRAVELLER SITES IN DERBYSHIRE

Public Traveller Sites in Derbyshire

There are three sites owned by Derbyshire County Council and one privately owned site which works in liaison with the local council. Details of how to contact the sites are set out below. Vacant pitches may be available or it may be necessary to join a waiting list.

Foston, near Sudbury

A long-stay site, for 16 trailers, owned by Derbyshire County Council and managed by South Derbyshire District Council.

For enquiries please contact the housing department of South Derbyshire District Council, telephone 01283 221000.

Lullington Crossroads, near Swadlincote

A short-stay site, for eight trailers, owned by Derbyshire County Council and managed by South Derbyshire District Council.

For enquiries please contact the environmental health division of South Derbyshire District Council, telephone 01283 221000.

Corbriggs, Winsick, near Chesterfield

A long-stay site, for 16 trailers, owned by Derbyshire County Council. The site is run by a leaseholder under a joint management agreement with Derbyshire County Council and Derbyshire Gypsy Liaison Group.

For enquiries please contact Derbyshire Gypsy Liaison Group on 01629 583300.

Blackbridge Caravan Site, Pleasley near Shirebrook

This is a short-stay site for 28 trailers, which is privately owned, but liaises with Bolsover District Council to support mobile Travellers seeking accommodation.

For enquiries about pitches on the site, please ring the warden, Barry Daley 07774953958 or Samantha Bentley, Bolsover District Council 01246 242315.

UNAUTHORISED ENCAMPMENTS

The Law

A local authority which has an interest in the relevant land may bring action in the County Court under the Civil Procedure Rules or the Magistrate's Court under the Criminal Justice and Public Order Act 1994.

The civil procedure is also available to owners of land, where travellers are on their land without the owner's consent.

The responsibility for starting legal action to regain possession of the land or highway rests with the following:

- Public lands (e.g. parks, some car parks, some industrial land) - local authority, which is the landowner.
- Public Highway - County Council or Highways Agency Private land - It is recommended that private landowners should seek independent legal advice when there are unauthorised encampments on their land.
- Private landowners should be aware that, where they permit encampments on their land, there will be a need for planning permission for the use of the land where it exceeds permitted development. The District Council is the relevant authority to advise on planning issues

The Human Rights Act 1998

This Act is described as "An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights."

Wherever the Human Rights Act 1998 (which in essence requires any public body to carry out its functions so as to accord with the Convention) applies to a situation which involves an unauthorised encampment, the relevant public authority when dealing with the encampment must comply with the Act.

In considering action to recover land, local authorities may need to take a balanced approach and also ensure that they have given consideration to the health, education and housing needs of the Travellers.

Proportionality will be considered to ensure that there is a balance between the needs of the settled community and the Travellers.

The Race Relations Act 1975 and the Race Relations (Amendment) Act 2000

Under the Race Relations Act, it is unlawful to discriminate against anyone on the grounds of race, colour, nationality (including citizenship), or ethnic or national origin. All racial groups, including Gypsies and Travellers, are protected from discrimination.

The Race Relations (Amendment) Act 2000 placed both a general and specific duty on public authorities bound by the Act. Under the general duty the requirement is to:

- eliminate unlawful racial discrimination
- promote equality of opportunity
- promote good relations between persons of different racial groups.

The specific duty under the Act requires public authorities to produce and publish a Race Equality Scheme to show how they intend to meet the requirements under the general duty.

Other Equalities Legislation

More recently, legislation has come into force covering age, gender, disability, religious belief and sexual orientation. Many public authorities are producing a corporate equality plan outlining what they plan to do to ensure equality, diversity and equity in employment and service delivery.

Statutory Responsibilities

Local authorities have statutory duties in so far as provision of education, housing and social services is concerned. Gypsies and Travellers, like the settled community, have a right to access health provision. Health Services have a Duty of Care towards Gypsies and Travellers. The priorities when visiting an encampment are to assess the health needs of Gypsies and Travellers and to provide access to such services as are appropriate and are required.

Confidentiality

In dealing with unauthorised encampments, all personal information will be treated as confidential between agencies, in line with normal working practices and procedures.

However, it must be remembered that occasionally the public interest and the statutory duties of agencies can override the duty of confidentiality.

In the operation of this guidance information may be shared between responsible authorities in line with the principles of the Derbyshire Partnership Forum Information Sharing Protocol. In addition, information communicated to public authorities may be disclosed to the public under the Freedom of Information Act 2000.

At no time should agencies, employees or members of the Gypsy and Traveller community be offered anonymity for information they wish to share with the agency, where this cannot be provided in law.

Principles to be followed

Set out below are the general principles to be followed in response to unauthorised Gypsy and Traveller encampments. These have been agreed by member authorities of the Derbyshire Traveller Issues Working Group.

These agencies recognise that everyone in the community has rights and their dignity should be respected. As part of the community, Gypsies and Travellers should be treated with the same respect as the settled community.

When a relevant authority seeks to gain re-possession of land, it should - if possible - make contact with Derbyshire Gypsy Liaison Group so that there are lines of communication and to explore any opportunity for negotiation and discussion which may lead to solutions before evictions take place.

Where a report about an unauthorised encampment on public land reaches a public authority, this authority will find out which authority is the key authority with power to recover possession.

The key authority will then consult other relevant agencies concerning the authorised encampment as appears appropriate, for example the NHS. The existence of a camp and awareness of it by any agency will not necessarily lead to eviction.

The key authority will liaise with the NHS and the relevant departments at Derbyshire County Council or Derby City Council which deal with the education of children (where any persons under the age of 16 are believed to be present) to find out if there any urgent needs to be considered before any further action is taken. If any potential social care needs are identified by either health or educational staff they should inform the relevant department dealing with social care issues at either council. The relevant department will then, if necessary, arrange visits to offer any advice or guidance.

The key authority will contact the relevant housing authority to inform them of the unauthorised encampment and to ask whether it is dealing with any relevant requests relating to accommodation needs.

As part of responding to an unauthorised encampment, visiting officers will identify needs and how they are being addressed and state how many days will be needed to address these needs. The key authority should delay, wherever possible, further action until informed that stated needs have been addressed.

Police and their powers

Before invoking their powers to evict the Police will ensure visits have been made by the appropriate services unless immediate action is required e.g. in serious incidents or to prevent a serious incident. Derbyshire Police recognise the constitutional freedom of individuals to follow their traditional or chosen lifestyle. Police Powers under section 61 and Section 62A of the Criminal Justice and Public Order Act 1994 will not be used as a matter of routine. Each case will be looked at on its merits having regard to the safety of the settled community and taking into consideration any aggravating factors of crime or disorder. The Police will follow guidance within their own standing orders.

Anti Social Behaviour

Where Gypsies or Travellers are engaging in anti social behaviour causing alarm, distress or harassment to others the Local Authority can apply for Anti Social Behaviour Orders (ASBOs) under the Crime and Disorder Act 1998. A Local Authority will complete a thorough investigation in consultation with other partnership agencies in order to determine if this is the appropriate action.

ASBOs are used to prohibit perpetrators from continuing to do specified anti-social acts or entering defined locations, in order to protect the public in those areas. Gypsies and Travellers will be treated as everyone else residing in the area and an ASBO would only be sought if their actions constitute anti social behaviour, not because their choice of lifestyle caused someone annoyance.

ASBOs are civil remedies and are made in civil proceedings. They can be issued as a stand-alone application or on conviction of a criminal offence. An order lasts for a minimum of two years, but can in some circumstances run indefinitely.

ASBOs often include a prohibition that states it operates in the whole of England and Wales. This means that the order “follows” the perpetrator wherever they may reside.

Breaching the terms of an ASBO without reasonable excuse is a criminal offence and usually prosecuted by the Crown Prosecution Service. Breach of an ASBO can result in a fine of up to £5000 and up to 5 years imprisonment for an adult, 2 years for a juvenile.

Regaining possession of local authority land

Where there is an unauthorised encampment on local authority land or on the highway, the local authority with an interest in the land may bring action in the County Court under the Civil Procedure Rules or the Magistrate's Court under the Criminal Justice and Public Order Act 1994.

This legal process allows for the serving of notices to the unauthorised occupiers, who may wish to challenge the action.

At all stages of the process, the local authority should, where Gypsies or Travellers are on site - and where it is practical - give a verbal message to them as well as a written notice.

Where the local authority is taking any action under the Civil Procedure Rules or in the Magistrate's Court, the procedural steps outlined above should ensure that the local authority does not unwittingly act outside statutory or humanitarian considerations but exercises its discretionary powers in accordance with established public law principles.

Consideration may be given to delaying legal proceedings if a date can be agreed for the Gypsies or Travellers to move.

In this case consideration may be given to the provision of basic amenities, i.e. water supply, mobile toilets and refuse collection. This would only be the case when all concerned are fully aware of what is expected of them and that this would be a temporary measure. The provision of these amenities would mean less disturbance and nuisance to the settled community while an unauthorised encampment remains. It may also prevent the extra strain sometimes placed on local services and the provision of refuse collection would also go some way to recovery of the land once the Travellers have moved on. Considerations of efficiency should be taken into account, where costs of providing these amenities would reduce the overall cost of the eviction process.

Each case will be looked at on its own merits and a decision will be reached having regard to the needs of the Gypsies or Travellers and the settled community, and issues of efficiency.

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