



**Democratic Support**

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#yourplymouth

## YOUR PLYMOUTH – TO FOLLOW REPORT

Monday 10 March 2014

4 pm

Council House (next to the Civic Centre), Plymouth

**Members:**

Councillor Tuffin, Chair

Councillor Sam Leaves, Vice-Chair

Councillors Casey, Damarell, Philippa Davey, Jarvis, Jordan, Martin Leaves, Michael Leaves, Rennie, Ricketts and Tuohy.

**Co-opted Representative:**

Steve Meakin, Money Advice Co-ordinator Devon and Cornwall.

PLEASE FIND ATTACHED FOR YOUR INFORMATION A REPORT FOR CONSIDERATION UNDER AGENDA ITEM NO. 8.

**Tracey Lee**

Chief Executive

# **YOUR PLYMOUTH**

## **8. COOPERATIVE REVIEW - UNAUTHORISED ENCAMPMENTS**

**(Pages 1 - 36)**

The Panel to note the report arising from the Unauthorised Encampment Cooperative Review prior to its submission to the Cooperative Scrutiny Board.



# UNAUTHORISED ENCAMPMENTS



**PLYMOUTH**  
CITY COUNCIL

A report of the Your Plymouth Scrutiny Panel  
following a Co-operative Scrutiny Review into  
Unauthorised Encampments

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## I. INTRODUCTION

I.1 Plymouth City Council's (PCC) current procedure for managing unauthorised encampments (UE's) was agreed in April 2009 by the Corporate Management Team, and endorsed as a multi-agency procedure by the Local Strategic Partnership. Since this officers have kept the procedures under review to ensure that they are consistent with the city's co-operative values and objectives.

I.2 The procedures aim to meet the following core objectives:

- To be fair and treat both Gypsies and Travellers and the wider community with dignity and respect.
- Embeds the Authority's statutory duty to consider the welfare needs of Gypsies and Travellers with dealing effectively and speedily with unauthorised encampments on Local Authority owned land.
- Are openly published (<http://www.plymouth.gov.uk/homepage/communityandliving/socialinclusion/gypsiesandtravellers.htm>) and set out Plymouth City Council's responsibilities in terms of managing unauthorised encampments and expectations of the behavior of gypsies and travellers who camp on local authority owned land.
- Provide strong community leadership through agreed multi-agency procedures.
- Are pioneering in their delivery of an efficient process with minimal investment in resources.
- Aim to ensure that Plymouth City Council staff deal effectively with unauthorised encampments by gypsies and travelers that occur on PCC land.

I.3 Actions taken, once it has been established that the UE is on Plymouth City Council land include:

- Site visit carried out in direct negotiation with gypsies and travellers on site, seeking their co-operation to minimise the impact of UE's on local communities.
- Legal action using Section 55 of Civil Procedure Rules is immediately commenced to ensure that move on can be enforced where co-operation of people on site is not forthcoming.
- Welfare checks are carried out and the Social Inclusion Unit (SIU) co-ordinate referrals to meet needs identified, with enforced move on deferred where this would adversely affect the welfare needs highlighted.
- Notices are posted on the site stating time and date that it is to be vacated.
- Possession proceedings are enforced by physical eviction if necessary.

I.4 This scrutiny review was called following a particular unauthorised encampment at Horsham Fields, Plymstock in May/June 2013, which remained on site for 19 days and attracted significant public complaint and media comment. Members subsequently

questioned whether current procedures were effective in ensuring that encampments were moved on speedily and effectively.

- 1.5 This report summarises the findings of the Scrutiny review and makes a number of recommendations to Cabinet in relation to current policies and procedures with regard to unauthorized encampments.

## 2. **SCRUTINY APPROACH**

- 2.1 The Cooperative Scrutiny Board approved the establishment of a cooperative review into unauthorised encampments at its meeting on 7 August 2013.

### 2.2 **Task and Finish Group Aims and Objectives**

- 2.2.1 The review will a) clarify current processes and procedures against a backdrop of legal, social and financial considerations and b) attempt to ensure community cohesion and public reassurance.

### 2.3 **Cooperative Review Membership**

- 2.3.1 The cooperative review had cross-party membership comprising -

- Councillor Tuffin (Chair)
- Councillor Ian Bowyer
- Councillor Darcy
- Councillor Jarvis
- Councillor Kate Taylor

- 2.3.3 For the purposes of the review, the task and finish group was supported by -

- Di Charlton, Service Development and Partnership Manager (Lead Officer)
- Katey Johns, Democratic Support Officer

### 2.4 **Cooperative Review Methodology**

- 2.4.1 The cooperative review convened over three sessions to review the documentation submitted as evidence and to hear from a number of witnesses.

- 2.4.2 Meeting dates –

- 15 October 2013
- 29 October 2013
- 31 October 2013

### 2.4.3 Witnesses -

- Pete Aley, Head of Safer Communities
- Kevin McKenzie, Diverse Communities Officer
- Dave Shepperd, Head of Legal Services
- Helen Morris, Lawyer
- Charles Howeson
- Nick Maker, Street Scene Services Manager
- Chief Inspector Brendan Brookshaw, Devon & Cornwall Police
- Councillor Churchill, Plymstock Dunstone Ward
- Andrew Nutbean, Plymstock Dunstone Ward resident
- Jake Bowers, Gypsy Media Company
- Councillor Penberthy, Cabinet Member for Cooperatives and Community Development
- Jonathan Veale, Valuation Surveyor, Corporate Property

2.4.4 Details of the evidence provided by each witness are attached at Appendix B to this report.

## 3. FINDINGS

- 3.1 PCC's current enforcement approach of using Section 55 Civil Procedures alongside a negotiated departure approach is widely used by local authorities in England. It is considered effective – delays are minimised by applying to the court for Section 55 powers at the earliest opportunity so that they can be used as a back-up, but there has only been one instance of forced eviction since 2006; all other UE's move on of their own accord. In addition there has been some improvement in the time before an encampment is moved on has been achieved - in 2013, the average duration of an unauthorised encampment in the City was 19 days, an improvement of 15% on the previous year when the average time was 22 days.
- 3.2 PCC's Social Inclusion Unit provided a report for panel, detailing alternative approaches that could be used, alongside their drawbacks, potential effectiveness, and associated additional costs (provided in appendix 'C'). The SIU do not have a single, responsible member of staff but operate a 'duty rota' of staff to respond to notifications of unauthorised encampments between Monday and Friday. Provision of facilities such as toilets can be provided at extra cost at weekends, so weekday provision is the norm.
- 3.3 The Police gave their perspective on current arrangements and stated that it was the most effective that it could be at the moment, but that there was a need to engage static communities better. On use of Police powers, specifically Section 61 Criminal Justice and Public Order Act, this measure was considered to be draconian and there would be a significant impact on race relations of taking extreme enforcement action. This power could only be used where the level of disruption was significant enough to mean it was proportional to act, and the panel were cautioned that its use would constantly displace unauthorised encampments to other areas of the city, meaning that more resident communities were affected.

- 3.4 The most feasible option was considered to be use of Section 62A Criminal Justice and Public Order Act (CJ&POA), whereby PCC would work in partnership with Police to endorse a 'get tough policy' to move unauthorised encampments to transit site provision. However, this power can only be used where a transit site is already in existence. Progress is being made towards providing a transit site in Plymouth, and when it is available this approach could be considered further.
- 3.5 Levels of public concern about unauthorised encampments related more to the number of caravans on the site and the behaviour of the occupants than it did to the duration. The panel heard that one exceptional unauthorised encampment remained in place for 34 working days due to serious welfare considerations, but this attracted minimal public comment. By comparison the occupation of Horsham Fields which lasted only 14 days generated significant media coverage and high levels of public complaints.
- 3.6 The panel heard from witnesses giving the perspectives of those affected by the Horsham unauthorised encampment. They described noise disruption; indecent exposure; fly tipping; and distribution of human excrement around the site. Community perspectives were that there were delays in provision of facilities due to the encampment arriving over the weekend, and confusion about ownership/responsibility for the land. There was also dissatisfaction that Police and local authority were reluctant to use Section 61 CJ&POA, or to in any way resolve issues until the encampment had moved on.
- 3.7 Communication with Councillors and local static communities is currently achieved by distributing a letter to local residents and contacting relevant ward? Councillors. Office hours are stipulated on this notice to avoid raising expectations. In addition, each person who reports the unauthorised encampment is usually contacted so as to provide an update regarding progress, though this has proved difficult where there is a high volume of calls. During the Horsham event, a public meeting between the static local community, Police and Local Authority had been held, and this was felt to be a positive way forward, even though elevated tensions made this a difficult experience.
- 3.7 The effectiveness of clean-up operations following move on of encampments was considered, with evidence provided suggesting that community members had engaged in clearing operations themselves, and that a second attempt to clear the Horsham field was required in order to ensure that it was sanitary. Quality assurance mechanisms have been introduced by the Social Inclusion Unit, but this does not involve photographic evidence.
- 3.8 Representatives of gypsy and travelling communities expressed disappointment with regard to the evidence heard regarding Horsham, and iterated that Romany culture is based on strict rules of cleanliness. Trades and services provided by the gypsy and travelling community were well received by the local community, but the constant enforcement of move on was a cause of deteriorating relationships between gypsy and travellers and local communities; caused detriment in terms of education of children and provision of support services for those who need it.



- 3.9 There are models of best practice in Bristol, Cambridge and Fenland where there is a network of permanent and transient sites which enable Gypsy and Travelling communities to work in the local area whilst able to access support needed. Relations between Gypsies and Travellers, local communities, and PCC/Police were improved by this approach.

## 4 CONCLUSIONS

- 4.1 Current policy/procedures with regard to unauthorised encampments offer a cost effective and efficient way to ensure that the Local Authority is able to meet its welfare duty to gypsy and travelling communities, whilst minimising the impact on local communities.
- 4.2 Whilst it would be possible to adopt a policy where speed of eviction was the over-riding priority, this would give rise to significant disadvantages in terms of more frequent unauthorised encampments, increased demand on resources and impact on race relations. However there is potential to review use of Section 62A of the CJ&POA when transit site provision becomes available.
- 4.3 Though good communication is the norm, difficulties can be experienced where factors around individual encampments result in high levels of public concern that raise the number of reports and complaints received about unauthorised encampments.
- 4.4 Though quality assurance mechanisms have been introduced to ensure that sites vacated by gypsy and traveller encampments are left in good and sanitary condition, there is no photographic evidence of this that would assure communities that a proper standard was being maintained.
- 4.5 Whilst less intrusive co-ordination of support and facilities that maintain good relationships with gypsy and traveller communities is positive, some cases require more interim activity prior to the move on of an encampment to ensure that sites are kept in a clean and sanitary condition.
- 4.6 The current procedures within Plymouth City Council for establishing land ownership (and therefore responsibility for unauthorised encampments) is inefficient and could result in delays.
- 4.7 Negative portrayals of, and attitudes toward gypsy and traveller sites are currently unchallenged and this leads to a breakdown in race relations and community cohesion.

## 5 RECOMMENDATIONS

### 5.1 The cooperative review recommends –

1		The current policy should be reviewed when a transit site (currently being progressed) is up and running. Until then the current policy is appropriate in terms of ensuring that UE's are moved on without undue delay.
2		That consideration is given to provide weekend support with particular regard to provision of bins and toilets, located for convenient use by the travelling community.
3		Consideration is given to improving communications with residents and Councillors in areas that are affected by UE's so that they are kept informed of the eviction process throughout, this could be by letter drop or publication of a timeline for each event on the council's website (including consideration of a self-service portal for reporting UE related incidents).
4		The Quality assurance process in place around clean-up operations should be evidenced in order to provide incontrovertible proof of condition of site following move on of UE's.
5		Consideration of interim clean-ups for UE's on a case-by-case basis, with degree of cleanliness and accumulated rubbish on the site, impact on the local community, and vulnerability of travelers on the site being key factors in this decision.
6		Development of a map of land that is owned by PCC so that responsibility for action can be established with greater speed.
7		That Plymouth City Council should be role models for equality and inclusivity, for example by celebrating Gypsy and Traveller month; encouraging positive reflection of Gypsy and Traveller culture within the media; and providing training and awareness raising for PCC staff involved with Gypsy and Traveller sites.

# REQUEST FOR A COOPERATIVE REVIEW



Please submit this document to Democratic Support once complete.

The request will be submitted to the Co-operative Scrutiny Board for consideration against the approval criteria and you will be notified of its success. If the Board approve the request for a Co-operative Review on the subject matter below then a project plan will be completed and you may be asked for further information.

<b>What is the name of the review?</b>	Review of procedures used by the Council when dealing with unauthorised encampments.
<b>Please provide a brief outline of the subject and scope of the review?</b>	To ascertain how the Council deals with unauthorised encampments within its statutory requirements.
<b>Please outline the reasons as to why you believe a review needs to take place?</b>	A review is required to scrutinise the procedure to deal with unauthorised encampments as a result of concerns raised at a recent Gypsy and Traveller site at Horsham playing fields, Plymstock.
<b>What will the review attempt to achieve?</b>	The review will a) clarify current processes and procedures against a backdrop of legal, social and financial considerations and b) attempt to ensure community cohesion and public reassurance.
<b>Who will benefit from the review?</b>	Members of the public, Councillors, Officers, Partners and Gypsies and Travellers.
<b>How long do you think the review might take?</b>	It is expected that the review would take one day. (An initial meeting to populate the scrutiny review plan is also required.)
<b>When do you think the review should commence and why?</b>	The review should commence by August 2013 in order to sustain and improve service delivery and public confidence.
<b>When do you think the review should be completed by and why?</b>	The review should be completed by September 2013 as it is expected that only one meeting is required in order to allow members to hear from witnesses, establish the Council's procedure and make recommendations where required.
<b>Review requested by?</b>	Requested by Councillor Churchill.

Received in Democratic Support Section:

Reviewed by the Co-operative Scrutiny Board:

Date:		Date:	
Scrutiny Review Approved/Rejected			
If approved initial Project Plan meeting date:			

**WITNESS EVIDENCE SUMMARIES**

BI Peter Aley, Head of Community Services, and Kevin McKenzie, Diverse Communities Officer

- Gypsies and travellers were one of the most deprived groups in Britain with their children and elderly being the most vulnerable in terms of educational attainment and general health and wellbeing;
- the existing procedure for dealing with unauthorised encampments (UEs) on council land was designed to ensure that they were dealt with effectively whilst balancing the welfare needs of the gypsies and travellers against the council's responsibilities to local residents;
- local authorities had a statutory duty to undertake a risk assessment and welfare checks on Gypsies and Travellers who set up UEs on council land. Private landowners did not;
- despite the recent high-profile incident at Horsham Fields, UEs generally did not cause too much of a problem in Plymouth with the level of public concern relating more to the number of caravans on the site and the behaviour of the occupants than the duration of the stay;
- dealing with UEs was a team effort involving various departments across the council and co-ordinated by the Social Inclusion Unit, however, there was no officer dedicated to the role which was currently covered by the Social Inclusion Unit office duty system;
- estimated current average cost of managing a UE was £7,500, including legal and clean-up costs;
- speeding up the removal process can result in more frequent UEs through displacement to other parts of the city and place increased demand on resources (human and financial);
- local authorities and the Police had a limited number of powers open to them for dealing with UEs and these could be divided into three areas:
  - civil powers
  - criminal powers
  - opportunities to negotiate
- operational experience had shown that use of the S55 civil proceedings power offered value for money for the tax payer as it provided certainty of a move on within four weeks and allowed for reasonable treatment of one of the most excluded minority communities;
- officers were in discussion with the Police regarding greater use of S61 powers (Criminal Justice and Public Order Act), however, this power can only be used where action is proportionate and targeted to individual Gypsies and Travellers suspected of anti-social behaviour on unauthorised sites and not whole communities;
- use of S62 powers (Criminal Justice and Public Order Act) was only available to authorities which has suitable alternative sites in place and Plymouth did not currently have an identified transit site;

- council's contractors will provide toilets on site over the weekend if requested but at a cost;
- is an issue of establishing land ownership if an unauthorised encampment arrives over a weekend as Social Inclusion on-call team don't have access to the relevant systems;
- on arrival at the site of an unauthorised encampment, Social Inclusion team staff will hand out a list of what is expected by the occupants of the site in terms of their behaviour and treatment of the site.

(Full details of the written report presented to the panel can be viewed at Appendix C)

**B2** Dave Shepperd, Head of Legal Services, and Helen Morris, Lawyer

- legal services draft the legal papers required and attend court in order to secure the necessary required legal orders to evict unauthorised encampments;
- S55 civil powers route is by and large the most effective way forward in the majority of cases;
- with S55 civil power actions a time-slot was allocated by the Court for cases to be heard. The Council's legal representative attends and presents appropriate paperwork, including statements from other Council officers who are not required to attend in person. An analysis of the last eight unauthorised encampment incidents had been undertaken with an average of 5.6 hours of fee-paying lawyer time having been spent on each;
- S77 was much more costly as it included court fees, the use of private bailiffs, and could tie up the Council's legal representative (and other supporting officers who are required to attend) all day in court, depending on when the case was heard (time-slots were not allocated and cases were prioritised by the Court on the day.

**B3** Charles Howeson, Plymouth Area Business Council & Chairman of Plymouth Seaton Resident's Association

- welcome the city's reputation of being fair and hospitable to all but believe this agenda has now gone against Plymouth's longer term residents;
- if travellers park on pavements in areas where they should not you would expect the Police to intervene, myself and Seaton residents have witnessed this not to be the case. Similarly, incidents of trespass and fly-tipping go unchallenged. When the law is not being imposed, enforced or policed equally it can be a source of unrest in communities;
- communities can get very frustrated when the same sites are visited year on year and often they take it upon themselves to undertake the clean-up required afterwards. One such clean-up resulted in residents collecting 11 sacks of rubbish, including needles and nappies;
- there appears to be evidence that some travelling communities return to the city on a cyclical basis around their working patterns and the local authority should be able to record this and use the data to plan ahead;
- the occupation of the Futures Inn car park, which is private property, resulted in the hotel virtually being shut down for nearly two days. This is not acceptable and could send out the wrong message to potential investors in the city;

- the council needs to improve its communication with communities when these incidents occur, particularly on what its policies are and how they are applied.

### B4 Nick Maker, Street Scene Services Manager

- Parks are responsible for arranging provision of bins and toilets on-site and for cleaning up the site after the unauthorised encampment has moved on;
- The Parks Services team are part of an e-mail network which is circulated once an unauthorised encampment has been reported;
- Supervisors have a duty rota which covers the 7-day week, however, whilst they are available at weekends they often fall foul of not being able to contact other departments whose services may be required;
- Would welcome establishment of an on-call rota comprising key personnel;
- The placement of boulders or earth-bund barricades at sites commonly used by gypsies and travellers is now always practical as Parks staff still need to be able to gain access for site maintenance, particularly sports pitches;
- Parks will only clean up council owned sites as they have no authority to enter onto privately owned land;
- Sites are often left littered with the debris from construction work that the gypsies and travellers have undertaken during their stay such as tarmac, and asbestos which can be costly to remove safely.

### B5 Chief Inspector Brendan Brookshaw, Devon and Cornwall Police

- The Police receive little intelligence in advance with regard to the arrival of unauthorised encampments;
- Officers work closely with the Social Inclusion team on dealing with both the static and mobile gypsy and traveller communities;
- Officers do receive training as part of their basic AAI general duty training, this is then topped up through e-learning packages and contact with the Police's Diverse Communities Team who will link in and brief neighbourhood teams when specific issues arise;
- All incidents are dealt with in accordance with the Police Force policy and officers work with other teams across Devon and Cornwall;
- The Police believe that the policies used by them and the Council are appropriate and effective. It allows them to look at the available legislation and use what is right so that any action taken is proportionate to the current circumstance;
- The Police will send an officer out to make an initial site visit who will then usually hand the matter over to the relevant neighbourhood team. The neighbourhood teams know residents and businesses and have established relationships within the community. Have found that a skillset develops amongst officers who deal more regularly with unauthorised encampments in terms of negotiating, advising and enforcing etc. This makes them the best people to talk to the static community and keep them up to date on where we are in the process;
- The specific pieces of legislation which are open to use by the Police are Section 61 and Section 62. However, these are quite draconian and a more proportionate response is now considered to be more appropriate. The Police have a duty to promote good relations with all communities, including ethnic groups, and evicting

people under Section 61 is not conducive to this. Bringing in riot teams to drag people off a site is not something the Police like to do and nor is it something that, when it comes to it, residents particularly like to see;

- Regulation 55 is the most productive way of dealing with unauthorised encampment situations and is what is used in most instances by the Local Authority. This will be backed up by the Police with use of Section 61 if there are issues of criminality. However, this is often difficult to prove as, just as you cannot hold an entire street accountable for the actions of one resident, neither can you hold an entire unauthorised encampment accountable for the actions of one occupant, as not everyone behaves the same;
- The average duration of an unauthorised encampment is 19/20 days whilst in comparison the Horsham Fields occupation was only 14. However, the situation at Horsham Fields was unusual as the unauthorised encampment prevented an organised charity football from taking place thereby causing tempers to run high amongst the static neighbouring community;
- The public meeting in respect of Horsham was called by the Police to try and diffuse a difficult situation and the bad feeling that had built up during the course of the unauthorised encampment;
- Within one day of the unauthorised encampment arriving at Horsham, there had been a full briefing to the neighbourhood team and systems established for passing information out. However, it was acknowledged that lessons could be learned from this experience and one of the areas identified for improvement was better communication with the static community from the outset and throughout the occupation.

**B6 Councillor Churchill, Plymstock Dunstone Ward, and Andrew Nutbean, Plymstock Dunstone Ward Resident – Horsham Fields Incident**

- The unauthorised encampment was in place for two days before any toilets were provided on site. When the Council was contacted, residents were informed that no toilets could be arranged as there was no-one available to deal with their provision over the weekend;
- Residents were subject to noise disturbance from cement mixers being banged out and emptied and welding work being undertaken;
- When the toilets did arrive on site, the occupants did not use them, they simply removed the pumps, making them unusable, and then dumped their waste into the toilets;
- Similarly, the bins which were provided by the council were not always used;
- The site was littered with rubbish and human excrement (photographic evidence was presented to the panel in this regard);
- Despite recording video footage of fly-tipping on site, were told by the Police that this would not stand up in court as evidence;
- Many of the residents affected were elderly and were frightened to leave their homes unattended during the occupation as one had their fence damaged and another had a window broken. Despite this latter incident being witnessed, and the caravan to which the culprit returned being identified, no action was taken;
- Perception was that there was not enough Police presence;



- Believe the situation was played down by the Police particularly in regard to the number of incident logs they recorded, expect it was more than 40 in reality;
- Residents also very disappointed in the council's approach to wait until the site occupants have left before moving in to clean it up and even then they had to come back and do it again because it wasn't done properly;
- Communication was very poor, the first contact residents had from the council was a flyer posted through letterboxes warning that they may get called upon by doorstep traders;
- Whilst the public meeting was welcomed, it was felt that this happened too late and should have been arranged sooner;
- After the site was vacated it was left to residents to make it secure with provision of a new lock to the gate and the placement of boulders;
- The incident resulted in a delay to the fields being used for the new rugby season as the pitches were not able to be seeded;
- There was a delay in serving the notice to quit due there being an issue over land ownership as the land is in the South Hams;
- If the Council had a transit site these situations could be avoided and Section 62 powers could be invoked;
- If the cost to clean up this site was £10,000 wouldn't it be cheaper to bring in security on future unauthorised encampments?

B7 Jake Bowers, Director, Gypsy and Media Company

- Being part of the Romany community, it is very difficult to hear of incidents such as the Horsham occupation. The Romany culture has very strict rules of cleanliness and we would leave sites as we find them, if not cleaner;
- As with all communities, static and mobile, there are good and bad elements in each and, unfortunately, it is always the bad that you hear most about;
- There are shining examples of good practice throughout the Country where the communities live and work well together. Fendon District Council in Cambridgeshire, has a network of five permanent and one transit site where there is excellent engagement with the community. The sites are self-financing through the rent that is charged and are managed by the local authority. Bristol is another example of good practice;
- Travellers are by nature commercial nomads and there will always be a conflict over unauthorised encampments until transit sites are provided. The City Council should identify a site(s) and then engage with the local community over provision before any work commences in order to resolve possible tensions;
- The Gypsy and Traveller community strongly oppose the use of Section 61 and view this as a way of trying to wipe out their way of life. Repeated evictions can affect mental health and levels of educational attainment where children cannot regularly attend school. There is therefore not a great deal of trust or faith in the Police or Local Authorities in this regard;
- Tradition dictates that they stick together in family groups - sons work with their fathers and daughters stay with their mothers. They also respect and look after their elders – all positive aspects of the culture;

- A better understanding of their work travelling patterns and appropriate site provision can greatly help establishing and maintaining good relations with the gypsy and traveller community. Need to raise awareness and more positively promote the culture and way of life, for example Gypsy and Traveller month in June. Media can play a role in this – it is important to find ways to bridge the gap between the two communities.

**B8** Councillor Penberthy, Cabinet Member for Co-operatives and Community Development

- The speed at which an unauthorised encampment is moved on is not necessarily the best way to measure success. The local authority and Police have a duty of care to all citizens and need to act effectively and efficiently to protect residents as well as gypsies and travellers. As mentioned previously, you cannot target a whole community because of poor behaviour demonstrated by a minority and moving each occupation on quickly can just result in more static communities being affected as the problem is simply moved around the city;
- Acts of fly-tipping will be enforced against anyone who is identified as it is a criminal offence, however, evidence must be available to back up any incident as the Police cannot take criminal action without evidence;
- Best solution for Plymouth is the establishment of a transit site and Broadley Park has been identified for this purpose. Unfortunately, it has taken longer than we anticipated due to the site bordering the South Hams. The site will accommodate 16 units;
- The importance of welfare checks should not be under-estimated as two safeguarding issues were flagged at the Horsham site and these can take time to investigate;
- Partner agencies do undertake a review after each unauthorised encampment to identify any lessons learned and ensure they are taken forward;
- Section 61 can only be enforced where there are more than six vehicles on site and there is evidence of criminal activity. The number of cars on a site does not necessarily mean there is anti-social behaviour and use of Section 61 is at the discretion of the Police and only where it is proportionate to do so;
- For travellers who are always on the move it can be very hard for them to build relations and settle into a community as prejudices can be formed on both sides. Work needs to take place in communities to change people's perceptions and educate them to treat everyone with respect;
- There are many examples within Plymouth of integration and positive contribution to the community, such as the Showmen's Guild in Efford who support the City in many ways. In addition, the Street Dance Factory, which is run by a member of the Roma community, is doing excellent work with young people;
- Welcome concept of Gypsy Month and could include as part of Welcoming City agenda to promote diverse and minority communities.

**B9** Jonathan Veale, Valuation Surveyor, Corporate Property

- The Corporate Property team are responsible for the estate management of the council's land and property portfolio. They have limited involvement in dealing with unauthorised encampments themselves as their role is purely to identify land

ownership and then notify Social Inclusion if it is council owned land. However, they do have the responsibility for funding provision of bins and toilets on site, if they are required, and for clearing the site afterwards.

B10 Racial Equality Council

See separate attachment (B10a).



PLYMOUTH & DEVON  
**racial equality council**  
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 Prideaux Court,  
 Palace Street,  
 Plymouth, PL1 2AY

Tel: 01752 224555  
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[www.plymouthanddevonrec.org.uk](http://www.plymouthanddevonrec.org.uk)

30<sup>th</sup> October 2013

### Cooperative Scrutiny Review – Unauthorised Encampments:

#### Response from Plymouth & Devon Racial Equality Council (PDREC)

1. Plymouth has historically had significant numbers of Irish Travellers and Romany Gypsies travelling through/visiting/working in the area. The same Travellers often spend time in other parts of Devon and in Cornwall. Many return year after year and are known to local statutory and voluntary agencies.
2. Despite this, there is no transit facility either in Plymouth or adjoining local authority areas. Campsites routinely do not accept Gypsies and Travellers. The only solution, in the absence of a transit facility, is to manage the unauthorised encampments in a way which balances the needs and concerns of the local community with the rights/needs of Gypsies and Travellers. It needs to be done in such a way so as not to further marginalise an already marginalised community.
3. Plymouth City Council (PCC) currently has a fair, comprehensive and appropriate Unauthorised Encampments Policy. The use by PCC of Section 55, rather than other powers, is appropriate in terms of cost, and overall outcomes.
4. PDREC would caution against greater use of Section 61 (CJ&POA) because **1)** past experience shows that it can be used inappropriately (ie where no provable anti social behaviour has occurred) potentially leading to challenges against the Police and PCC **2)** because the use of this power can have a disproportionately damaging effect on women and children in the encampment, who often do not make the decisions about where they are parked **3)** it can act to worsen relations between Gypsies and Travellers and the Police and PCC in a situation where good communication and an element of trust would be beneficial.
5. PDREC would also caution against using Section 77 because **1)** as with Section 61, use of this power can have a disproportionately damaging effect on women and children in the encampment (eviction by private bailiffs can be a traumatic experience) **2)** as with Section 61 it can act to damage relations between the Gypsies and Travellers and PCC/Police as both agencies need to be present at such an eviction and are closely associated with it.
6. Should an adequate and well managed transit facility be available in the area, it may then be appropriate to revisit enforcement options.

### Eliminating Racial Discrimination • Promoting Equal Opportunity

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 Company registered No: 3827654      Charity registered No: 1102012

#### Donations

*The Plymouth and Devon Racial Equality Council welcomes charitable donations from individuals and businesses. Whether you would like to make a simple one-off donation or if you would like to support us on a more regular basis, rest assured that all donations will be gratefully accepted and used to further our charitable objectives to work towards eliminating discrimination and promoting equality of opportunity.*

7. PDREC does not condone anti social behaviour, fly tipping and noise nuisance. However, the more marginalised communities feel, the more this is likely to happen. We would recommend that a named Council officer, rather than just a department, is given responsibility for managing unauthorised sites in the City. The experiences of Devon County Council's current assistant Gypsy Liaison Officer, and in the past that of South Somerset District Council's Liaison Officer, have shown that this personalised approach does help decrease levels of rubbish and disturbance, and increase cooperation by Gypsies and Travellers.
8. The local media plays a large part in creating an atmosphere of fear and hostility by local residents towards Gypsies and Travellers. In addition, the ability to comment on newspaper articles online often ends up fuelling hatred and blowing the situation surrounding an encampment out of proportion. There are rarely good news stories about these communities, and where an encampment is left clean and tidy it does not feature in any news item. PDREC recommends that PCC gives a clear response to the media where there are sensational and unbalanced articles which serve to damage community relations.
9. In the current absence of a transit site, PDREC recommends that a suitable tolerated area is designated for Gypsies and Travellers. A code of conduct/agreement could be given to Gypsies/Travellers using the designated area, and a contribution towards portaloos and skips agreed, thus minimising problems with waste.

Penny Dane  
Community Development Worker  
(Gypsies and Travellers)

*Penny Dane has been working with Gypsies and Travellers since 1998, first as a Gypsy/Traveller Liaison Officer in Surrey, and then from 2004 as a part time Community Development Worker with Plymouth & Devon Racial Equality Council. Since 2007 she has also worked for North Devon Healthcare Trust (Health Promotion Devon) as a part time Community Development Worker with Gypsies and Travellers focusing on health inequalities.*

*At PDREC she has worked collaboratively with Gypsies and Travellers in Devon to produce a variety of publications including a guide to Gypsy/Traveller site planning applications for Town and Parish Councils in Devon, a booklet for schools (Every Traveller Child Matters Too) and a booklet about how to challenge the media. She has also worked with Romany Gypsies to produce three DVDs – The pride, the prejudice (2008) about Romany Gypsies in Devon; Porrajmos: the untold story of the Gypsy Holocaust (2012); and Three Stories (2012) which features children from different Gypsy/Traveller backgrounds.*

*Penny works with Gypsy and Traveller colleagues in Devon to run Gypsy/Traveller awareness raising sessions and training for schools, colleges, and both statutory and voluntary organisations.*

*Her role also includes advocacy work with Gypsies and Travellers across Devon who have experienced discrimination and disadvantage.*

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# UNAUTHORISED ENCAMPMENTS

Cooperative Scrutiny Reivew - 15<sup>th</sup> October 2013



**PLYMOUTH**  
CITY COUNCIL

Author: Peter Aley

Job Title: Head of Safer Communities

Department: Safer Communities

Date: 07/10/2013

## Scrutiny review of our management of Gypsy and Traveller Unauthorised Encampments

### Executive Summary

- Our current procedure(s) for managing Unauthorised Encampments (UE's) aim to ensure that we deal effectively with UE's by Gypsies and Travellers that occur on our land.
- They embed our statutory duty to consider the welfare needs of Gypsies and Travellers who are one the most excluded groups in the Britain.
- To support the scrutiny review of this important function we have:
  - reviewed the national policy framework, specifically the guidance published by DCLG and concluded that they had very limited application to our local circumstances.
  - benchmarked our performance against other local authorities with the assistance of the National Association of Gypsy and Traveller Officers (NAGTO) and discovered that whilst some local authorities use powers that we currently do not there are cost benefit considerations to adopting them locally.
  - considered what more we can learn from our operational experience and concluded that our experience was that whilst all the powers used elsewhere could be used locally they did not necessarily represent a more effective solution.
- Overall our conclusion was that are existing procedure is fit for purpose, aligned to our cooperative values and represents value for money to the tax payer.
- This does not mean they cannot be improved upon and we have posed a series of questions for the scrutiny panel to consider in judging whether a new approach could deliver better results.

### 1.0 Introduction and Background

1.1 Our current procedure(s) for managing UE's were agreed in April 2009 by CMT and endorsed as a multi-agency procedure by our Local Strategic Partnership. Since this officers have kept the procedures under review and they are consistent with our co-operative values and objectives; they:

- are fair and treat both Gypsies and Travellers and the wider community with dignity and respect
- are openly published on our website setting out our responsibility to manage unauthorised encampments and our expectations of the behaviour of Gypsies and Travellers on our land
- provide strong community leadership through our agreed multi-agency procedure
- are pioneering in their delivery of an efficient process with minimal investment in resources, e.g. we have no full time Gypsy and Traveller Officer
- aim to ensure that Plymouth City Council staff deal effectively with UE's by Gypsies and Travellers that occur on our land.

Our current procedures are published on our web site:

<http://www.plymouth.gov.uk/homepage/communityandliving/socialinclusion/gypsiesandtravellers.htm>.

1.2 Gypsies and Travellers are one the most deprived groups in the Britain.

- Gypsy and Traveller children have the poorest educational attainment of any ethnic group in this country.
- Older Gypsies and Travellers are vulnerable due to a lack of continuity of health and care services related to their transient accommodation.
- They are the least likely ethnic group to be in receipt of home based social care or residential care.



- Life expectancy is significantly lower than for than the mainstream population. Infant mortality rates are three times higher.
- The lack of authorised sites for Gypsies and Travellers perpetuates many of these problems.
- The 2012 Caravan Count indicates that nearly a quarter of the 2,650 Gypsy and Traveller Caravans with no authorised permanent site were in the South West Region.

1.3 Our current procedures rely on a twin track approach which embeds our statutory duty to consider the welfare needs of Gypsies and Travellers on Unauthorised Encampments, it involves:

- direct negotiation with Gypsies and Travellers, seeking their co-operation to minimise the impact of UE's on local communities.
- immediately commencing legal action using S.55 of the civil procedures rules to ensure we have the means to enforce move on where this is not forthcoming.

Typically this means that UE's move on of their own accord. Since 2006 when SIU assumed responsibility for UE's we have only once had to resort to a forced eviction.

1.4 This scrutiny review has been called following one particular UE at Horsham Fields, Plymstock in late May/early June this year. Members have asked why the UE could not have been moved more quickly. Our case records show that we were on site on the first working day after their arrival to carry out statutory welfare checks and to deliver letters door to door in the neighbourhood explaining we were managing the UE. We served notice to quit the following day and filed papers to court 5 working days after their arrival. In the 14 days it was present this UE attracted significant public complaint and media comment. however the duration was actually significantly shorter than the average (19 days in 2013). Whilst it would be possible to adopt a policy where speed of eviction was the over-riding priority, it would need to be understood that this could give rise to some disadvantages eg:

- more frequent UE's through displacement to other parts of the City
- increased demand on resources, financial and human, for us and our partners
- greater need to conduct enforced evictions with consequent impact on community tensions.

## **2. National Policy Framework**

2.1 The Department for Communities and Local Government recently republished their summary guidance to Local Authorities on powers available to deal with Illegal and Unauthorised encampments.

2.2 Our analysis of this guidance is attached as appendix (3). We found:

- Only one change has been made to the legislative framework since this was originally published in 2012.
- Most of the powers listed either relate to Unauthorised Developments or would be of no additional use to us in speeding up or effectively dealing with UE's. An unauthorised development' being one where the occupied land belongs to the Gypsies and Travellers.
- There is one power, which we don't currently use which may prove effective in limited circumstances, i.e. interim possession order. We have updated our procedures so that we routinely consider whether this can be used in specific circumstances.
- We are in discussion with the Police regarding their greater use of S.61 powers and this will be included in an updated procedure in line with relevant ACPO guidance which requires that action is proportionate and targeted to individual Gypsies and Travellers suspected of anti-social behaviour on unauthorised sites, and not whole communities.

### 3. Benchmarking

3.1 We have conducted a benchmarking exercise covering 20 local authorities with assistance from the National Association of Gypsy and Traveller Officers (NAGTO). We found:

(The respondents are listed in appendix (2))

- Local Authorities take a wide range approaches to the eviction of Gypsies and Travellers from UE's.
- The main powers that are used to deal with UE's are summarised below.

Power	Source	Body	Enforcement	Issues
Part 55 of the Civil Procedure Rules.	Civil Law	Land Owner	County Court Possession Order	Can take up to 4 weeks. Striking an appropriate balance between the genuine concerns of the wider community the needs of Gypsies and Travellers within our corporate value to treat everyone with respect.
Sections 61	Criminal Justice and Public Order Act. (CJ&POA)	Senior Police Officer	Police Instruction to move when criteria met (including Anti-Social Behaviour)	Can only be used where proportionate.
Sections 62	CJ&POA	Police (On request)	Police Instruction to move	Requires identified alternative site.
Section 77 (s.78)	CJ&POA	Local Authority	Magistrates court and private bailiff	A costly criminal procedure. Costs include private bailiffs and court fees.

3.2 The results of this benchmarking show that, like Plymouth, most councils use S.55 of the civil procedures rules.

- However, a significant number of the authorities who responded are now using S.77 of the CJ&POA (Northampton, Leeds, West Norfolk and Swindon). The main advantage cited for this is that it is typically effective within 5-9 days. The disadvantages include the need to employ expensive private bailiffs, the potential for repeated reoccupation and the tendency to displace UE's to other nearby areas. This can therefore actually lead to an increase in the number of UEs and more resident communities experiencing them.
- Furthermore, use of S.77 is commonly combined with an approach which includes negotiated stopping and/or tolerated stopping places. This involves the authority informally designating certain areas where it will tolerate UEs, at least for a certain period of time, before starting eviction processes. This is an approach which Plymouth has resisted to date, but could be reconsidered if S.77 was to be promoted.

- A small minority of those we contacted report that the Police routinely use S.61 of the CJ&POA (Hertfordshire). Police forces generally will not use this power routinely because of the risk of damaging community relations.
- We have identified one authority that uses s.62 when required. This power is available to authorities which have a suitable alternative site e.g. transit facility or tolerated stopping place. It is our intention to build this into our procedures as soon as we open an official transit site.
- Most County Councils who responded made some use of negotiated stopping whatever other powers they relied on. The geographical area they cover would facilitate negotiated stopping through the ready availability of low impact sites. Identification of such locations in Plymouth would be likely to be controversial.

#### **4. Operational experience**

- 4.1 Our practice of reviewing procedures in line with operational experience, has led to a number of improvements. For example, consistent with our pioneering commitment to deliver better services, we now routinely notify ward councillors.
- 4.2 We have reviewed our use of S.55 civil procedures rules, the advantages include, it:
- a. works in nearly all circumstances
  - b. provides better protection from immediate reoccupation than other powers
  - c. avoids the need for complex criminal justice procedures
  - d. is cost/benefit efficient.
- 4.3 It also helps to maintain good relations with the Gypsy and Traveller community ensuring we are able to discharge our statutory duty to consider their welfare needs and our safeguarding role effectively, whilst not delaying on implementing eviction processes. This provides a balance which champions fairness, treating both Gypsies and resident communities with respect, in line with our “Fair” value.
- 4.4 We have tried using S77 once, but found it expensive due to bailiff costs and the need to have tow trucks on standby; significant operational police support was also required.
- 4.5 We have once considered using s.61 powers following a jointly conducted risk assessment that concluded there was significant risk of injury to a child. In the event the Gypsies and Travellers moved on voluntarily.
- 4.6 Our operational experience, prior to the adoption of our current procedure in 2009, was that negotiated stopping often can just delayed the legal process if the agreed date was not respected. For this reason we always initiate legal proceedings under the civil procedures rules.
- 4.7 Our database and press file which we established to monitor the effectiveness of our procedures tells us that:
- In 2013 the average duration of an unauthorised encampment in the City has been 19 days, 15% shorter than 2012's figure of 22 working days.
  - The level of public concern about unauthorised encampments relates more to the number of caravans on the site and the behaviour of the occupants than it does to the duration. One exceptional UE we had in place for 34 working days, which was due to serious welfare considerations, attracted negligible public comment. By comparison the occupation of Horsham Fields which lasted only 14 days generated significant media coverage and high levels of public complaints.

- The trend towards higher profile sites being occupied is in part due to our securing sites that had previously been subject to repeated reoccupation.

4.8 We estimate the current average cost of managing an unauthorised encampment at £7500, including legal and clean-up costs and officer time. We would risk escalating the total annual bill if we started using powers such as S.77 and this led to an increase in the number of UEs.

## 5. Conclusion

5.1 Our existing procedures strike an appropriate balance between the reasonable expectation of the wider community that we will move unauthorised encampments on as quickly as possible and the rights of Gypsy and Traveller communities to be treated with dignity and respect. They fit well within our cooperative values as expressed in our corporate plan,

5.2 They represent value for money for the tax payer because they enable us to use the SIU office duty system to discharge our statutory duty to carry out welfare checks and manage the UE's avoiding the need to employ dedicated staff

5.3 Our review of recently published DCLG guidance does not support the claim that we are not using the powers available to us. We identified only one power that we don't currently use that might have very limited application.

5.4 Our benchmarking reveals a range of differing approaches used by local authorities to manage UE's depending mainly on their specific circumstances and factors such as the volume of UE's they manage and the historical approach they have taken.

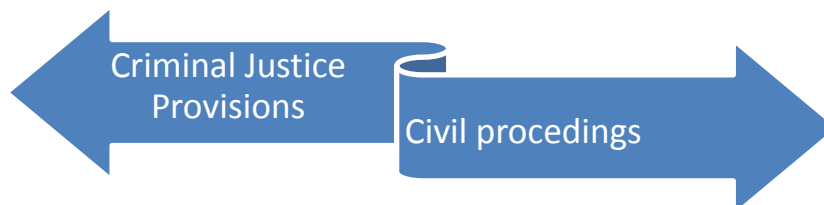
5.5 Our operational experience has been that in the vast majority of cases the use of S.55 powers offers value for money for the tax payer, the certainty of a move on within 4 weeks and reasonable treatment for one of our most excluded minority communities.

5.6 We note however that there are processes and powers we could adopt that would offer the possibility of speedier move on of UE's, provided we are prepared to consider applying greater resources to the problem.

## 6. Questions which Scrutiny may wish to consider

- Is our current approach the right one?
- What are our top priorities for dealing with UEs (e.g. speed, balance of rights, preventing re-occurrence, containing costs)?
- Should we re-consider using other powers and or procedures; if so which ones and how do we mitigate associated disadvantages?
- How should we fund any solution which requires additional resources?
- Should we consider tolerated sites?
- Is there support for adopting use of S.62 powers as soon as we open a transit site?
- Is there anything else we should be doing to promote our values and objectives in the way we deal with UEs?

## Analysis of remedies to deal with unauthorised encampments.



Remedy	S.61/62 powers	S.77 Powers	S.55 Civil Power	Negotiated stopping.
<b>Speed</b>	2-3 days	5-9 days	15 – 20 days	As agreed
<b>Legal costs</b>	Negligible	Court fees plus private bailiff fees.	Court fees if we proceed to court (but often UE's move on before we get to court).	None
<b>Resources</b>	Significant police resources can be required if the occupants of an unauthorised encampment do not respond to the direction to leave.	Significant officer resources required to undertake multiple site visits because of the shorter timeframe, e.g. authorities following this process typically had dedicated staff e.g (Northampton - 3.5 FTE staff).	Manageable within current resources although sometimes stretched at peak periods when multiple UE's are present.	Similar to S.55
<b>Negative Impact</b>	Frequent use increases the risk of a refusal to comply, and damage to community relations. This could make it more difficult for us to conduct statutory welfare checks. The potential for displacement is similar to s.77. S.62 is not currently available to us.	Significant displacement effect e.g. Northampton reported experiencing 75+ UE's in the first 12 months of operating this approach involving only 6 families.	Public perception, in certain cases, of the local authority being slow to act and negative media coverage when UE's occur on high profile sites.	Identification of tolerated sites likely to be controversial. Unlikely to be viewed positively by local residents/businesses. Enforcement could still be required if agreement not honoured requiring we resort to one of the other approaches.

### Analysis of UE performance Data 2009 - 2013

Year	Total UE's	Average number of caravans	Average number of Occupants/ UE	Average Duration	% living by the roadside
2013 (to August 2013)	22	7	6 adults + 9 children	19 days	83%
2012	30	3	3 adults + 5 children	22 days	92%
2011	21	4	4 adults + 4 children	20 days	40%
2010	51	6	7 adults + 7 children	15 days	35%
2009	21	10 <sup>1</sup>	11 adults + 10 Children	15 days	100%

We have found in recent years that travellers have tended to wait until served with a possession order before leaving. Where they would have departed on or before the court date they now wait to see if we are granted an order. This may reflect the legal wrangling over the well-publicised evictions at Dale Farm.

#### Benchmarking/Research Respondents

Benchmarking/Research Respondents		
• Bedford Borough Council	• Kent & Medway	• Southampton
• Chester West & Cheshire	• North Kent	• South Somerset
• Cumbria	• Norfolk	• Suffolk
• Devon	• Northumberland	• Warwickshire
• Hampshire	• Oxfordshire	• Worcestershire
• Hertfordshire	• South Hams	

<sup>1</sup> Vehicles not necessarily caravans as we did not always distinguish.

### Appendix 3 - Powers available to deal with Illegal and Unauthorised Encampments

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
<b>Temporary Stop Notice</b>	<b>Section 171E of the Town and Country Planning Act 1990</b> stops any activity that breaches planning control for a period of 28 days. This allows the local planning authority time to decide whether further enforcement action, such as issuing an enforcement notice, possibly with a stop notice, should be taken. Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment	No	Planning law deals with unauthorised 'developments' but not 'encampments'. An unauthorised development' being one where the occupied land belongs to the Gypsies and Travellers. The advantages and disadvantages of using this and the other planning powers listed below on the rare occasions that we get unauthorised developments, is outside the scope of this scrutiny review.
<b>Injunctions to protect land from unauthorised encampments</b>	If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities could consider applying to the courts for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area.	No	Gypsies and Travellers do not broadcast their intention to establish an unauthorised encampment. Legal opinion is that pre-emptive injunctions to protect land will not be granted in the absence of clear evidence that occupation is imminent.
<b>Licensing of caravan sites</b>	<b>The Caravan and Control of Development Act 1960</b> prohibits the use of land as a caravan site unless the occupier holds a site licence issued by the local authority. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including touring sites and single sites. However, it does not include sites where caravans are kept for storage only (driveways, retailers, storage parks) or where a caravan is used as additional accommodation for an existing dwelling. Violation of licensing terms brings a £100 fine for a first offence, and a £250 fine for any subsequent offence.	No	This would not offer a greater deterrent than our current approach.

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
<b>Tent site licence</b>	<p><b>Section 269 of the Public Health Act 1936</b> gives the local authority powers to control the use of movable dwellings and to license the use of land as a site for such as a dwelling. If the land is to be used for more than 28 days in total in any calendar year, planning permission must be obtained. A site which is used for more than 42 days consecutively or 60 days in total in any consecutive 12 months, must have a site licence for the area concerned. The local authority may also decide to license tented areas on existing sites which operate within the 28 day planning allowance period. Violation of licensing terms brings a £2 fine per day.</p>	No	This would not offer a greater deterrent than our current approach.
<b>Possession Orders</b>	<p>A possession order under <b>Part 55 of the Civil Procedure Rules</b> can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property. A claim can be issued in the High Court in exceptional circumstances where there is a risk of public disturbance and harm to persons or property that requires immediate determination.</p> <p>The “ordinary” possession order may be used regardless of whether the property is a building or open land, and regardless of the type of squatter or trespasser. A possession order may be secured quickly against trespassers (a minimum of 2 days’ notice before a hearing can take place if the property is non-residential, or 5 days for residential property), but not as quickly as an interim possession order, and is not backed up by criminal sanctions, unlike the interim possession order (see below).</p>	Yes	This is the route we currently use..



Power	Key points from the DCLG guidance.	Have we used it?	Rationale
<b>Interim Possession Order</b>	If trespassers have occupied premises (rather than open land), a local authority or private landowner could also consider applying (under <b>Section III of Civil Procedure Rules Part 55</b> ) for an interim possession order, an accelerated process for regaining possession of property. Once order has been granted and served, trespassers who fail to leave within 24 hours of service of the order or return to the premises within the currency of the order are guilty of an offence under <b>section 76 of the Criminal Justice and Public Order Act 1994</b> .	No	The interim possession order may only be used where the property is or includes a building, not open land. This may have limited application and we have updated our procedures to consider using it on the rare occasions when this criterion is met.
<b>Local Byelaws</b>	<b>Section 235 of the Local Government Act 1972</b> enables the local district council or London borough council to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in a public place etc. <b>Section 150 (2) of the Police Reform and Social Responsibility Act 2011</b> enables local authorities to attach powers of seizure and retention of any property (which could include tents and sleeping equipment) in connection with any breach of a byelaw made under <b>section 235</b> and enables the courts to order forfeiture of property on conviction for contravention of any byelaw.	No	The seizure and retention of caravans would mean accepting a homelessness duty to the occupants as well as making provision at our own expense for the storage of seized vehicles. The use of byelaws to control Unauthorised Encampments is untested.
<b>Power of local authority to direct unauthorised encampments to leave</b>	Where people are residing in vehicles (including caravans) on land the <b>section 77 of the Criminal Justice and Public Order Act 1994</b> gives local authorities in England and Wales power to give a direction to leave the land. The power applies only to land forming part of a highway, any other unoccupied land or occupied land on which people	Yes	We found it expensive due to the need to employ private bailiffs and ineffective in preventing reoccupation (ie requiring repeated use).

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
	<p>are residing without the consent of the occupier.</p> <p>It is an offence to fail to comply with such a direction. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (<b>section 78</b>).</p> <p>Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is usually recommended that the police attend such evictions in order to prevent a breach of the peace. Please note this power does not apply to other campers i.e. those sleeping under canvas.</p>		
<b>Addressing obstructions to the Public Highway</b>	<p>If tents are erected on the public highway, so as to constitute a “nuisance”, the relevant highway authority may serve a notice requiring their removal under the <b>Highways Act 1980</b> (England and Wales only). If the recipient fails to comply, the highway authority can apply to the Court for a removal and disposal order. The key issue is the need to demonstrate that the tents etc that are deposited on the highway are causing a clear, actual obstruction (a “nuisance”).</p> <p>The Highways Act provides other grounds on which highway authorities may take action in relation to protest activity on the highway.</p> <p>For example, under <b>sections 1 and 263 of the Act</b>, the freehold title of a highway maintained at public expense is vested in the highway authority. This means that, in some circumstances they could seek a possession order.</p>	No	This would not offer a greater deterrent than our current approach.
<b>Planning contravention notice</b>	<p><b>Section 171C of the Town and Country Planning Act 1990</b> provides the power to serve a planning contravention notice. This may be used where it appears that there may have been a breach of planning control and</p>	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
	<p>the local planning authority require information about the activities on the land or to find out more about the nature of the recipient's interest in the land.</p> <p>A notice can therefore be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.</p> <p>These notices enable local planning authorities to take action quickly following complaints and may be sufficient to reach a solution to the problem without taking any further formal action. Penalty for non-compliance is a maximum £1,000 on summary conviction (<b>section 171D</b>). A second conviction for continuing non-compliance can be penalised by a daily fine. A false or misleading response to a planning contravention notice (either deliberately or recklessly) is subject to a maximum fine of £5,000.</p>		
<b>Enforcement Notice and Retrospective Planning</b>	<p><b>Section 172 of the Town and Country Planning Act 1990</b> is the power to issue an enforcement notice, requiring steps to be taken to remedy the breach of planning control within a given period. The steps can include demolition and restoration of a site or alterations to a building. There is a right of appeal to the Secretary of State against an enforcement notice (<b>section 174</b>). If the notice is upheld, the penalty for failure to comply is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (<b>section 179</b>).</p> <p>An enforcement notice should be written in plain English and should enable every person who receives a copy to know – exactly what, in the local planning authority's view, constitutes the breach of planning control; and what steps the local planning authority require to be taken, or what</p>	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
	<p>activities are required to cease to remedy the breach. If an enforcement notice has been issued, the local planning authority may decline to determine a retrospective planning application for development that would grant planning permission for any of the matters specified in the enforcement notice (<b>section 70C of the Town and Country Planning Act 1990 as inserted by section 123 of the Localism Act 2011</b>).</p>		
<b>Stop Notice</b>	<p><b>Section 183 of the Town and Country Planning Act 1990</b> This has the effect of quickly stopping any activity which contravenes planning control guidelines and where there are special reasons which justify doing this: for example to prevent further environmental damage or to stop the construction of an unauthorised building. A stop notice may only be served with or after an enforcement notice relating to the same activity. Penalty for non-compliance is a fine of up to £20,000 on</p>	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.
<b>Breach of Condition Notice</b>	<p><b>Section 187A of the Town and Country Planning Act 1990</b> enables a breach of condition noticed to be served where there is a failure to comply with any condition or limitation imposed on a grant of planning permission. Penalty for non-compliance is a fine of up to £2,500 on summary conviction.</p>	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.
<b>Powers of entry onto land</b>	<p><b>Sections 196A, 196B and 196C of the Town and Country Planning Act 1990</b> provides powers of entry for authorised officers of the local planning authority for them to obtain information required for enforcement purposes. This may be without a warrant at any reasonable hour (with 24 hours' notice for a dwelling house), or with a warrant if access has been or is expected to be refused, or it is an emergency. Wilful obstruction of an authorised</p>	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.

Power	Key points from the DCLG guidance.	Have we used it?	Rationale
	person is an offence: penalty is a fine of up to £1,000 on summary conviction.		
<b>Power of the Police to direct unauthorised campers to leave land</b>	<p>Should trespassers refuse to adhere to a request to leave the land, <b>sections 61- 62 of Criminal Justice and Public Order Act 1994</b> gives the police discretionary powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following:</p> <ul style="list-style-type: none"> <li>• that any of the trespassers have caused damage to land or property;</li> <li>• that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier’s family or an employee or agent of the occupier; or</li> <li>• that the trespassers have between them six or more vehicles on the land.</li> </ul> <p>Failure to comply with the direction by leaving the land as soon as reasonably practicable is an offence. Similarly it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.</p>	Yes	<p>This is a Police power. Devon and Cornwall Constabulary guidance notes that:</p> <p>“Use of this power is discretionary and not a duty to act. Devon and Cornwall Police will only use these powers where the levels of disruption, anti-social behaviour or crime associated with the encampment make it proportionate to do so”.</p> <p>It has been used where the criteria have been met <u>and</u> there is an overarching reason why its use is desirable e.g. risk of injury to a child.</p>
<b>Police Powers to direct trespassers to an alternative site</b>	Police have powers under <b>sections 62 A-E of Criminal Justice and Public Order Act 1994</b> to direct both trespassers and travellers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.	No	Not available as it requires a transit site or tolerated stopping place. Intention to add to procedures when we open an transit site.

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