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7 October 2013

## **SCRUTINY - COOPERATIVE SCRUTINY REVIEWS**

### **UNAUTHORISED ENCAMPMENTS**

Dates: Tuesday 15, Tuesday 29 and Thursday 31 October 2013  
Time: 4 pm  
Venue: Council House, Plymouth

**Members:**  
Councillor Tuffin, Chair.  
Councillors Bowyer, Darcy, Jarvis and Kate Taylor.

Members are invited to attend the above meeting to consider the items of business overleaf.

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Chief Executive

# **SCRUTINY - COOPERATIVE SCRUTINY REVIEWS**

## **UNAUTHORISED ENCAMPMENTS**

### **PART I - PUBLIC MEETING**

#### **AGENDA**

##### **1. APOLOGIES**

To receive apologies for non-attendance submitted by members.

##### **2. DECLARATIONS OF INTEREST**

Members will be asked to make any declarations of interest in respect of this agenda.

##### **3. CHAIR'S URGENT BUSINESS**

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

##### **4. COOPERATIVE REVIEW: UNAUTHORISED ENCAMPMENTS**

The panel will consider the various documentation and information submitted as well hear from a number of witnesses through the review process -

4.1. Cooperative Review Request Form **(Pages 1 - 2)**

4.2. Cooperative Review Project Plan **(Pages 3 - 6)**

4.3. Briefing Report **(Pages 7 - 22)**

The panel will receive a briefing report which will set the scene for the cooperative review.

##### **4.4. Witnesses**

- Pete Aley, Head of Safer Communities
- Kevin McKenzie, Diverse Communities Officer

Further witness information will be published during the course of the review.

##### **4.5. Background Information**

The following documentation is available on the Council's website and may be of assistance to members during the course of the review:

- Gypsy and Traveller Unauthorised Encampment (U/E) Procedure  
[http://www.plymouth.gov.uk/revised\\_gt\\_ue\\_procedures](http://www.plymouth.gov.uk/revised_gt_ue_procedures)
- Briefing Note Number: 11 October 2006 – Gypsies and Travellers Myth Buster
- [http://www.plymouth.gov.uk/gypsy\\_and\\_traveller\\_myth\\_buster1.pdf](http://www.plymouth.gov.uk/gypsy_and_traveller_myth_buster1.pdf)
- Briefing Note Number: 17 Gypsy and Traveller Culture  
[http://www.plymouth.gov.uk/gypsy\\_and\\_traveller\\_culture.pdf](http://www.plymouth.gov.uk/gypsy_and_traveller_culture.pdf)
- Devon wide Gypsy and Traveller Housing Needs Assessment  
[http://www.plymouth.gov.uk/gypsy\\_and\\_traveller\\_hna.pdf](http://www.plymouth.gov.uk/gypsy_and_traveller_hna.pdf)
- Spaces and Places for Gypsies and Travellers  
[http://www.plymouth.gov.uk/spaces\\_and\\_places\\_for\\_gypsies\\_and\\_travellers.pdf](http://www.plymouth.gov.uk/spaces_and_places_for_gypsies_and_travellers.pdf)

## **5. SUMMARY AND REVIEW**

Members will have an opportunity to review the findings from the cooperative review group process.

## **6. EXEMPT BUSINESS**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve the likely disclosure of exempt information as defined in paragraph(s) of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

## **PART II - PRIVATE MEETING**

### **AGENDA**

### **MEMBERS OF THE PUBLIC TO NOTE**

that under the law, the panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

NIL.

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# 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.

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# CO-OPERATIVE REVIEW PROJECT PLAN



## REVIEW OF PROCEDURES USED BY THE COUNCIL WHEN DEALING WITH UNAUTHORISED ENCAMPMENTS

Background	
Chair:	Councillor Tuffin
Lead Officer:	Diane Charlton, Service Development and Partnership Manager, Homes and Communities
Democratic Support Officer:	Katey Johns
Membership:	Councillors TBA
Relevant Cabinet Member:	Councillor Penberthy, Cabinet Member for Co-operatives and Community Development
Date review approved by the Co-operative Scrutiny Board:	Wednesday 7 August 2013
Summary of subject to be reviewed:	To ascertain how the Council deals with unauthorised encampments within its statutory requirements
Reason(s) and rationale for the review:	The issue has been identified as an area of concern for the public and has recently been an area of public interest following a number of incidents and local media coverage. Concerns have been raised by ward councillors at the amount of time taken to remove travellers from unauthorised encampments
Objectives of the review:	To identify areas for improvement within the current processes with a view to speeding up the removal of unauthorised encampments and make recommendations to the Cabinet Member for Co-operatives and Community Development.
What will the review look at?	The review will look at the current processes and procedures for dealing with unauthorised encampments, taking into account legal, social and financial restrictions.
Which areas will be excluded from the review?	The review will not look to identify sites for travellers.
What City and Council Priorities does the review relate to:	<p>The review needs to be related to at least one of the four city and council priorities:</p> <ul style="list-style-type: none"> <li>• Deliver Growth</li> <li>• Raise Aspirations</li> <li>• Reduce Inequality</li> </ul> <p>Provide Value for Communities</p>
Identify links to other Council policies, projects or strategies:	Identify any Council policies, projects or strategies that the review links to (e.g. the Corporate Plan etc.)
Who will benefit from the review:	Members of the public, councillors, officers, partners and gypsies and travellers

<b>Methodology</b>	
The method and approach of the review:	<p>It is proposed that one meeting will be required in order to –</p> <ul style="list-style-type: none"> <li>• review current procedures</li> <li>• look at processes in place at other authorities</li> <li>• talk to witnesses</li> <li>• identify areas for improvement</li> </ul>
Witnesses and experts:	<p>To agree witnesses and experts that might be called to provide evidence. Witnesses could include:</p> <ul style="list-style-type: none"> <li>• Senior Managers/Chief Officers;</li> <li>• Service users;</li> <li>• External partners;</li> <li>• Business representatives;</li> <li>• Voluntary and Community Groups;</li> <li>• Professional experts.</li> <li>• Residents groups</li> </ul>
Co-opted representatives:	To identify any potential co-opted representatives to be part of the Co-operative Review group.
Documents and/or reports for analysis e.g. internal/external reports or legislation):	<p>Which documents would assist with the review. Documents can take a variety of forms including (for example):</p> <ul style="list-style-type: none"> <li>• Government guidance or legislation;</li> <li>• Local policies and strategies;</li> <li>• PCC Gypsy and Traveller Unauthorised Encampment Procedure</li> <li>• Performance plans and performance indicators;</li> <li>• Departmental service plans;</li> <li>• Consultation exercise evidence;</li> <li>• Budget data;</li> <li>• Minutes and agendas of previous meetings;</li> <li>• Newspaper articles;</li> </ul>
Site visits:	Will any site visits be necessary to observe similar work in other places or to look at the subject of the review
Consultations/Research:	Identify the research that will be required for this review and the method by which this research should be carried out.
Publicity:	How will the review be publicised
Evaluation method	A report detailing the number of unauthorised encampments in the City, along with the location of the sites and the time taken to move each settlement on, will be submitted on a six-monthly basis to the Your Plymouth scrutiny panel. The success of the review will be



	measured by the time taken to deal with moving on future unauthorised encampments.
Resource Requirements:	<p>When considering resource requirements you should include:</p> <ul style="list-style-type: none"> <li>• Costs of venue hire</li> <li>• Costs of site visits</li> <li>• Travel costs</li> <li>• Publicity costs</li> <li>• Approximate officer hours</li> </ul>
Barriers and Risks:	Use this space to identify if there are any risks, barriers or obstacles that could threaten the review.

Timetable		
Activity	Timescale / Date(s)	Intended Outcome(s)
Meeting 1: (Non public)	Early September	Agree scoping document
Meeting 2: (Public)	Mid September	To consider evidence, hear from witnesses and identify areas for improvement
Draft report:	End September	
Meeting 5 (approve report):	End September	
Submit report to the Co-operative Scrutiny Board Meeting:	Early October	Approve report
Submit to Cabinet Meeting:		
Submit to other bodies/organisations:		
Scrutiny Panel to evaluate and track the outcomes of the Co-operative Review:		

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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 of 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 the 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 of 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 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.

I.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.

I.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.

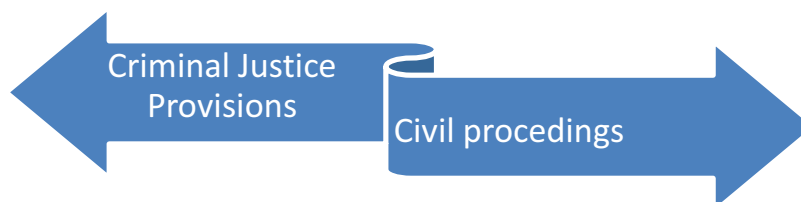
## **5. Conclusion**

- 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.**

<b>Remedy</b>	<b>S.61/62 powers</b>	<b>S.77 Powers</b>	<b>S.55 Civil Power</b>	<b>Negotiated stopping.</b>
<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.

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. 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>). 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>		
<p><b>Addressing obstructions to the Public Highway</b></p>	<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.
<p><b>Planning contravention notice</b></p>	<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'.



<b>Power</b>	<b>Key points from the DCLG guidance.</b>	<b>Have we used it?</b>	<b>Rationale</b>
	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> ).		
<b>Stop Notice</b>	<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	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.
<b>Breach of Condition Notice</b>	<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.	Limited	Planning law deals with unauthorised 'developments' but not 'encampments'.
<b>Powers of entry onto land</b>	<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	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 and 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>	<p>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.</p>	No	<p>Not available as it requires a transit site or tolerated stopping place. Intention to add to procedures when we open an transit site.</p>

