

GYPSY ROMA AND TRAVELLER POLICY

Unauthorised Encampments



EXECUTIVE SUMMARY

Plymouth City Council is responsible for dealing with unauthorised Gypsy Roma and Traveller encampments on land owned by the Council.

The travelling community can experience difficulties finding an authorised place to stop, and may set up an encampment on someone's land without consent, including green space, highway verges and lay-bys. This is a breach of civil law and, in certain circumstances, may be a breach of criminal law.

The aim of this policy is to address the need for an effective approach to the management of unauthorised Gypsy Roma and Traveller encampments on Plymouth City Council land, whilst ensuring that the rights of Plymouth's local settled community and the Gypsy Roma and Traveller communities are balanced.

In addition to this it aims to clarify the internal working arrangements around Unauthorised Encampments across Plymouth City Council departments and services so that any future Unauthorised Encampments can be managed successfully, swiftly and without detriment to any community.

This policy is reliant on a collaborative approach between the council, our partners, and communities.

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1.0 INTRODUCTION

Plymouth has experienced a consistent number of Unauthorised Encampments in the last 4 years, this number is not declining. Gypsies Roma and Travellers have occupied land within parks, on some of our highways and on private land. In addition to this some areas have experienced multiple Unauthorised Encampments during the last 4 years, and this has resulted in additional resources being deployed to deal with the encampment and subsequent site clean-up. The same groups occupying the Unauthorised Encampments have moved from one location to another causing considerable financial cost to the council, but have a clear need to remain in the city for a period of time.

This policy outlines our duties and powers, and our decision making framework. It includes best practice from other areas and builds on our own experience to ensure our process is fair, legal, equitable and ensures community cohesion is safeguarded.

Included in this policy:

- The roles and responsibilities within Plymouth City Council in relation to Unauthorised Encampments
- Process when an unauthorised encampment does occur
- Requirements for recording and monitoring
- Engagement with the Police

2.0 AIMS OF THE POLICY

This policy aims to sets out how Plymouth City Council will respond to Unauthorised Encampments on Plymouth City Council owned land. The policy seeks to ensure that its approach to responding to Unauthorised Encampments is consistent, lawful and proportionate.

The policy has been developed within the context of the Government publication “Dealing with Illegal and Unauthorised Encampments. A Summary of Available Powers (2015)”¹ and other government guidance and legislation². This document is clear - managing Unauthorised Encampments must involve a balance between the rights of the landowner and/or wider community and the rights and welfare needs of those who have established the unauthorised encampment.

This policy does not cover the allocation and management of pitches at Bayview Caravan Park, The Ride, Plymouth. This procedure and policy is covered elsewhere. This policy does, however, cover Unauthorised Encampments that could occur on the land at Bayview Caravan Park as it is owned by Plymouth City Council.

¹ Dealing with illegal and Unauthorised Encampments; A summary of available powers, March 2015, DCLG.

² Designing Gypsy and Traveller Sites; Good Practice Guide, May 2008

Part 55 of Civil Procedure Rules

Criminal Justice and Public Order Act 1994

European Convention of Human Right Act

Equalities Act 2010

3.0 NATIONAL AND LOCAL CONTEXT

Gypsies Roma and Travellers have been part of our community for hundreds of years. This includes those who travel regularly, families living in bricks and mortar housing and on our permanent site at Bayview Caravan Park, The Ride.

We experience around 25-30 Unauthorised Encampments per calendar year. These occur throughout the year, but predominantly and more frequently in the months between March and September.

The Joint Local Plan states there is no assessed need for permanent Gypsy, Roma and Traveller sites, however this will be reassessed at the next point of review in 2023.

Government guidance says that where Unauthorised Encampments are not causing problems; they can be negotiated for a short time (see page 9, 7.2). There will also be places where Unauthorised Encampments occur, which are generally unsuitable for The Gypsy Roma and Traveller community, as they do not contain the appropriate facilities, e.g. water, waste disposal facilities, pitch security and general safety measures. The lack of facilities can lead to unsanitary and dangerous conditions. Unauthorised Encampments can cause concern for nearby communities, businesses in the vicinity and the statutory agencies that have to respond to concerns (especially Plymouth City Council and the Police).

This policy provides details on how Plymouth City Council deal with Unauthorised Encampments for Gypsy Roma and Traveller's visiting our city with the aim of reducing the impact on the city, and the Travelling community.

4.0 STATUTORY DUTIES OF THE COUNCIL

Local authorities have a duty, under the Equality Act 2010, to promote good race relations, equality of opportunity and community cohesion in all of their policies and practices. This duty covers all racial groups, including Gypsies Roma and Travellers who are covered by the protected characteristics.

5.0 LEGAL POWERS TO REMOVE OCCUPANTS FROM UNAUTHORISED LAND

Government policy requires that a court hearing is almost invariably required before evicting Unauthorised Encampments. This means that a timescale between 14 days and 6 weeks (from arrival to eviction) is likely, depending upon the route chosen.

There are a number of powers available to the Council to deal with Unauthorised Encampments on Council land, which may lead to eviction following a welfare assessment carried out by Community Connections including:

Local Authority Powers

Part 55 Civil Procedures Rules

- May only be used by landowners to regain possession of the land
- Requires civil court proceedings to obtain a possession order
- Enforced via an eviction; overseen by either by county court bailiffs or high court enforcement agents

Section 77 Criminal Justice & Public Order Act 1994 – Direction to Leave Land

- Can only be used by local authority
- The Local Authority issue a ‘Direction to Leave Land’
- Can be used on any land forming part of the highway, any other unoccupied land, or any occupied land without the consent of the occupier
- A person who fails to leave land a) fails to leave land and/or remove their vehicles; or b) re-enters the land within 3 months of the date of the Direction commits a criminal offence (s77(3))

Section 78 Criminal Justice & Public Order Act 1994 – Summons for Contravention of s77 and/or Application for an Order for Removal of Persons and Their Vehicles Unlawfully on Land

- Can only be used by local authority, who apply to the Magistrates court for a summons for breach of s77/and Order under s78
- Can be used on any land forming part of the highway, any other unoccupied land, or any occupied land without the consent of the occupier
- The Court can make an Order authorising a Local Authority to enter land (on >24hours notice) and ‘take such steps for securing entry and rendering it suitable for removal’ as they specify (s78(2))
- A person who ‘wilfully obstructs’ re-entry by the Local Authority commits a criminal offence (s78(4))

Plymouth City Council’s policy is that the most appropriate legal route will be used depending upon the specific circumstances of the case. This may entail applying for a possession order under Part 55 of the Civil Procedure Rules, a Direction or Application under s77/s78 Criminal Justice and Public Order Act 1994 or any other lawful alternative route.

Police Powers

The police also have powers to deal with Unauthorised Encampments:

Section 61 Criminal Justice & Public Order Act 1994. Police ‘Direction to Leave Land’ Can only be used by police if any of three conditions are met:

- If any persons have caused damage to the land or property on the land;
- Use threatening, abusive or insulting words or behaviour, or
- There are 6 or more vehicles on the land

Can be used on any land (although the position in respect of highways is complicated and requires legal advice before proceeding), to remove occupants & vehicles

- Does not require involvement of the courts, and is enforced by the police
- A person who does not leave promptly, or who re-enters the land as a trespasser within 3 months of the date of the Direction commits a criminal offence (s61(4))

Section 62A Criminal Justice & Public Order Act 1994. Police 'Direction to Leave Land where an Alternative Site is Available'

- Can only be used where an alternative 'relevant caravan site' is available (see below)
- Can only be used by the police, on any land, to remove occupants and vehicles
- Does not require involvement of the courts, and is enforced by the police.
- A person who does not leave promptly, or who re-enters ANY land in the Local Authority's area as a trespasser within 3 months of the date of the Direction with the intention of residing there commits a criminal offence (s62B))

For the purposes of section 62A 'relevant caravan site' means a caravan site which is:

- (a) situated in the area of a local authority within whose area the land is situated, and
- (b) managed by a relevant site manager (Community Connections).

6.0 OUR ROLES & RESPONSIBILITIES

Different departments and agencies involved with Unauthorised Encampments have different roles and responsibilities in dealing with encampments. It is important that roles are clearly defined to minimise duplication and ensure that both the travellers and the local settled community know who to contact for specific issues.

Community Connections provides a strategic role in respect of Gypsies Roma and Travellers managing permanent residential sites and ensuring the implementation of this policy.

A process map on the roles and responsibilities of Plymouth City Council departments and our partners can be found on the website

7.0 OUR APPROACH

Where the Council receives a report of an unauthorised encampment via plymouth.gov.uk, this is passed on to the Council's Community Connections Team, who will seek confirmation that the occupied land is owned by Plymouth City Council.

Community Connections will conduct a community impact assessment and will act to remove an unauthorised encampment from an unsuitable site as quickly as is practicably and reasonably possible in accordance with relevant legislation, and assessment of the site. The site will be assessed for its

suitability as a negotiated stopping place via a community impact assessment which is maintained in line with current best practice

Where the land is not owned by the Council, the relevant land owner (where known) will be notified.

Portfolio Holder, The Police, local Ward Members and local residents shall be notified of all encampments on Plymouth City Council owned land.

Where it is confirmed that the unauthorised encampment is located on Council Land, the officers from Community Connections shall visit the encampment as soon as is practicably possible (generally that same day) and complete site inspection, welfare check forms and community impact assessment.

Welfare checks will be conducted upon arrival to any site, and officers will identify any relevant welfare needs of the site occupiers. This welfare assessment has particular regard to the welfare needs of children, the elderly or other people who may be vulnerable. Where support or welfare needs are identified the Council will try to assist or refer the matter to the relevant agency. Where significant needs are identified the case will be assessed on its own merits.

Upon visiting the Community Connections Officers will explain to the occupants that they are trespassing on Plymouth City Council owned land and if it is deemed that land is not suitable as a negotiable stopping place then the Local Authority will use legal powers to move the group from the site as fast as possible.

7.1 Negotiated Stopping Place

In considering whether to negotiate with Gypsy Roma and Travellers forming an encampment, the first consideration must be the location and the immediate impact on the settled community.

Where the location of an unauthorised encampment has previously been identified as a low impact place and the circumstances of the trespassers themselves require a degree of flexibility, then at the discretion of Plymouth City Council a negotiated period of up to a maximum of 28 days may be given to use the site as a negotiated stopping place. A negotiated stopping place should not be re-occupied by the same Gypsies Roma and Travellers within six months, and preferably should not be used by any other Gypsies Roma and Travellers for at least 28 days, post vacation of the site. In essence this means that the Council will treat the individuals as 'tolerated trespassers' for this period. If they have not vacated at the end of this period then legal action to gain possession will commence.

The occupiers will be asked to sign and abide by a code of conduct should this be breached, legal action will be taken to gain possession of the land.

Health and welfare needs might lead to consideration of an extension of time at a negotiated stopping place these may include: accessing urgent medical attention; i.e. a surgical procedure or other acute medical (but not chronic need); or a complication in pregnancy or post-natal care. If there is a negotiation to allow an encampment, consideration will be given as to whether it is appropriate to make provision for a water supply, toilet provision or rubbish clearance.

7.2 Non-negotiable locations

There are locations where an encampment will not be acceptable under any circumstances.

Set out below is a list of the types of site where Unauthorised Encampments will not be acceptable, and Gypsy, Roma and Travellers will be moved on using either Plymouth City Council's or police powers:

- A Site of Special Scientific Interest (SSSI) where an encampment endangers a sensitive environment or wildlife
- School car park or playing fields (especially in term time)
- Other designated car parks, such as hospital, supermarket or leisure facility car parks
- Recreation grounds and public playing fields or parks.
- A site where pollution from vehicles or dumping could result in pollution or other hazard.
- A derelict area with toxic waste or other serious ground pollution
- A 'village green' or other open area within a residential area
- The verge of a busy road where fast traffic is a danger to unauthorised encampment residents or their children.
- Sites that cannot be accessed easily by emergency and delivery vehicles.
- HMPE where there are parking controls or restrictions.
- Any site that restricts the access of emergency or council vehicles.
- Where a public right of way is blocked.

7.3 Action when a group of Gypsies Roma or Travellers have moved on any site.

The encamped group will be required to clear up any site before leaving. Where a site requires a clean-up this shall be undertaken by the Council, Street Scene and Waste team in collaboration with Public Protection to secure any evidence required for prosecution.

The Council reserves the right to recharge for any costs associated with site clearance. In addition the Council will take any necessary action to secure locations which are subject to serial encampments, through means of preventative action.

7.5 Other Unauthorised Encampments

Other Unauthorised Encampments where occupants are not part of the traditional travelling community will usually be dealt either using one of the routes detailed in section 5.0 or immediately via court proceedings at Plymouth City Council's discretion.

8.0 WORKING WITH THE POLICE

Devon & Cornwall Police work closely with Plymouth City Council in respect of all aspects of the Gypsy, Roma and Traveller community. They assist and support the managing of unauthorised encampments when required and work to an approved code of practice in this regard. The Police must take account of the issues of behaviour (whether criminal, antisocial behaviour, or nuisance by both the travelling community and the settled community) in combination with the impact on the landowner, rather than simply following a set process because encampments are present at a specific location.

9.0 COMPLAINTS & COMMENTS ABOUT THIS POLICY

Comments, complaints or suggestions about this policy or any aspect of our work are welcomed. The Council's standard comments, complaints and appeals procedure will be followed. If you would like a copy of this, please contact us on Tel 01752 668000 or go to the website www.plymouth.gov.uk.

If a complaint is about a Freedom of Information request, you can complain to the Council. If you remain dissatisfied with the handling of your request or complaint, you have a right to appeal to the Information Commissioner at: Information Commissioner's Office, [Home | ICO](http://www.ico.org.uk)

10.0 ACCESS TO INFORMATION & DATA PROTECTION

The information collected via the Welfare Check form will be used to make appropriate referral and signposting to welfare and support services, where requested by the individual on an 'opt-in' basis. The information may be passed on to the Department of Work and Pensions and Inland Revenue as permitted by law.

The Council may also check the information provided by the customer or information provided third parties, with other information held by the Council. Third parties may include Social Care, Police, Schools and Trading Standards. E.g. Car registration details.

The Council may also obtain information from certain third parties, or give information to them to check the accuracy of the information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and other Local Authorities.

Personal information will not be disclosed about customers to anyone outside Plymouth City Council nor will we use information about you for other purposes unless the law permits this.

Information may be used for statistical purposes. Such information will be displayed so that it cannot be attributed to any person.

Plymouth City Council is the data controller for the purposes of the Data Protection Act 1998 and forthcoming General Data Protection Regulation 2018.

11.0 REVIEW AND REVISION OF THIS POLICY

This policy will be reviewed and revised when required. Procedural documents mentioned in this policy will be regularly updated in accordance with current best practice and be maintained on the Plymouth City Council website.