HANDBOOK

For managing unauthorised Gypsy and Traveller encampments

May 2016

Devon County Council

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The Gypsy and Traveller Liaison Service produces annual reports on the service and other information. These are available from **www.devon.gov.uk/gypsies_and_travellers_in_devon.**

For further information or a different format please telephone 0845 155 1015 or email customer@devon.gov.uk.

Purpose of this Handbook

This handbook seeks to provide a clear statement from the County Council on how it manages unauthorised Gypsy and Traveller encampments. It provides Councillors, officers and members of the public with information about the needs and rights of Gypsies and Travellers and how we balance these with landowner and public concerns when an unauthorised encampment arises.

In meeting its range of responsibilities, Devon County Council's approach is to seek a balance between competing considerations in as consistent a manner as is possible, given that each person, family, or unauthorised encampment has its own set of issues and circumstances. This means that the Council will approach each matter on a case by case basis.

Our approach will aim to be:

- firm but fair
- balanced
- on a case by case basis.

In addition, we want to work with all stakeholders, including public, private and voluntary/community sector organisations to meet the needs of Gypsies and Travellers and avoid unintended consequences of policy decisions that negatively impact on others. By detailing our policy and procedures within this Handbook, we hope to make our position clear so that we can align our approaches, and work together effectively and strategically.

Tolerated unauthorised Traveller site in Devon

This 2013 Handbook has been re-written from existing policies and the approach set out in the 2006 Protocol. However, it does differ from the 2006 Protocol in that it has been refreshed and refocused on the specific roles and responsibilities of the County Council, taking account of recent Government advice and guidance.

Introduction

The people

Gypsies and Travellers are a part of British life and have been so for many centuries, making up a very small minority (0.1% of the population[1]). Defining Gypsies and Travellers can be complex. People who travel from place to place (whether for work or not) or live in mobile/nomadic accommodation can fall into various ethnic and lifestyle definitions.

Gypsies have the longest history of all Traveller groups, with their roots originating in Northern India. Pavee (known as Irish Travellers) have ancestry from Ireland and are not necessarily Irish nationals.

Gypsies and Travellers live in caravans or other vehicles and follow a lifestyle which is nomadic or semi-nomadic, in that it involves travel at least part of the year. On the other hand, some settle in one place indefinitely for education, health or economic reasons and some people with Gypsy/Traveller heritage may be settled in 'bricks and mortar' housing.

New Traveller is a term used to describe people who have adopted this lifestyle more recently through personal preference or force of circumstance and live in mobile/nomadic accommodation whether it is a caravan, truck, boat or yurt, for example. Like Gypsies, they may be nomadic, semi-nomadic or settled. There are now second and third generation New Travellers who are New Travellers through heritage/tradition rather than purely personal choice.

[1] Census 2011 data for ethnic Gypsies and Irish Travellers (those who identified)

Legal Definitions of Gypsies and Travellers

There have been many attempts to define Gypsies and Travellers. The first definition, contained in the Caravan Sites Act 1968, was expressly designed not to limit the word Gypsy by any racial or ethnic limitation.

Most recently, the **Housing Act 2004** defined Gypsies and Travellers as:
"Persons with a cultural tradition of nomadism or of living in a caravan; and all other persons of a nomadic habit of life, whatever their race or origin, including: such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently and members of an organised group of travelling show people or circus people (whether or not travelling together as such)."

Equality Act 2010

Under the Race Relations Act 1976 the courts decided that **Romany Gypsies** and **Irish Travellers** are racial (ethnic) groups, entitled to the full protection of the anti-discrimination legislation, whether or not they travel. This protection continues under the Equality Act 2010. New Age Travellers are not currently defined as a racial or ethnic group, but are included in the Housing Act definition above. However, people are protected from discrimination where they are *perceived to be*, or are *associated with* someone who is Romany Gypsy or Irish Traveller or any other protected characteristic.

Main Gypsy and Traveller Groups

Romany Gypsies include English, Welsh and Scottish Gypsies and European Roma. Gypsies have the longest known history of the Traveller groups and are a recognised ethnicity/race. Gypsies' ethnic roots lie in Northern India, where nomadic groups first started moving towards Europe around 1,000 years ago. The word Gypsy originates from a c1500 description of them being 'Egyptians'.

Pavee, called **Irish Travellers** by wider society, have a long and detailed history, starting in Ireland as long ago as the 15th century, when travelling metal workers ('Tinkers') are recorded. At a similar time, Gypsies were unlikely to settle in Ireland, due to the already established communities of Tinkers who would be in competition for the work and stopping places. They are predominantly of strong Catholic faith and prefer to send their children to Catholic schools.

Showmen are a cultural minority with a long, rich history of providing travelling entertainment and fairground rides at local markets and festivals.

Circus Families have a long heritage as travelling entertainers. The service they provide is generally wanted, accepted and enjoyed by the majority of the population.

New Travellers arose mainly in the 20th century, adopting a 'low impact lifestyle' for environmental, social and/or economic reasons. Many of the adults have grown up in mainstream society and are well versed in education and other service entitlements. All families and communes tend to be different with little commonality on accommodation, mobility, work or faith trends.

Ethnic Monitoring gives people the chance to define themselves. Some people find the whole issue of defining themselves a difficult one, and even one which embarrasses them. Others believe that the definitional issues are only dwelt on by those who want to exaggerate differences and show hostility. Some people may use other terms to describe themselves, including other traditional terms.

Travellers, with a capital T, defines culture or heritage; they are not necessarily travellers.

Showmen and circus families tend to experience less discrimination, harassment or isolation than Gypsy or Pavee groups. Circus children successfully access school, even when highly mobile, particularly during the primary years. Families are generally confident, empowered and able to access services such as doctors and dentists at their winter base (if they have one).

The places

Years ago, Gypsies and Travellers had many stopping places but these have disappeared due to development and changes to common land and open spaces. Now, nationally there are more Gyspies and Travellers than there are authorised places for them to stop in their mobile accommodation, either temporarily or indefinitely.

In Devon, we estimate the shortfall to be over 200 authorised pitches[2]. This significant shortfall results in Gypsies and Travellers creating unauthorised encampments (UEs) and unauthorised developments (UDs). There are around 20[3] known UE/Ds on Devon County Council land. There are no Transit or Temporary Stopping Points in Devon, the nearest is Bristol. The County Council is landlord for two permanent Romany Gypsy sites.

Gypsies and Travellers who are not living on UE/Ds may be living on private sites either as owner/occupiers or tenants, a very small number of sites are managed by local authorities/housing associations, equivalent to social housing.

Gypsies and Travellers tend to favour small, discrete sites with no more than 15 pitches.

Many authorised sites are surrounded by 'bunds' or hedging and therefore go unnoticed to passers-by. Some of these surroundings are created due to local opposition and assumptions that the site will be 'a mess' but in reality well managed sites are not messy.

[2] October 2012
[3] March 2013

Definitions

An **unauthorised encampment (UE)** is where any person camps without permission (in vans, trailers or any other moveable accommodation) on land that they do not own.

This is as opposed to an **unauthorised development (UD)**, where the person may own or rent the land that they reside on or have permission from the landowner to stay, but do not have *planning permission* for the development they have undertaken, or started to undertake.

Gypsies or Travellers reside on UEs and UDs because of the travelling nature of their life-style, along with the shortage of site provision nationally. Obtaining planning permission for Gypsy and Traveller sites can be very difficult for various reasons including local opposition. The type of sites needed are:

Permanent sites which accommodate people for most or all of the year on a permanent (indefinite) basis. Permanent sites will have more amenities.

Transit sites which accommodate people for up to six months. Gypsy/Traveller families may live in one part of the country for half of the year and another part for the remainder of the year; this could be linked to employment such as seasonal farm work.

Temporary Stopping Points which accommodate people who are moving between places for up to 28 days.

The prejudices

It is important to understand the prejudices because this can impact on how Gypsies and Travellers are treated or viewed by others. Deep rooted prejudices do exist, exaggerated by poor media representation. Prejudices arise where an assumption is made about the whole community based upon irrational fear about their culture or a negative experience of a small section of the community. Prejudices towards Gypsies and Travellers include, for example:

- **They are thieves and criminals** – there are thieves and criminals in all societies. Increased criminality has been linked with social deprivation, but there is no reason for Gypsy/Traveller culture itself to be a cause of criminality. Gypsies and Travellers may also be confused with 'travelling criminals' or be blamed for crime committed by others in the area at the same time as their arrival.
- **They are dirty and messy –** Romany Gypsies take pride in their cleanliness. Yes, some Traveller groups may be messier than others, this may be due to lack of suitable sites, facilities and access to services, an inability to obtain a tipping license due to not having a fixed address, or they are quite happy living that way (as are some people who live in housed communities). Also, harassment and intolerance from the local community will impact on any person's ability to take pride in their surroundings.
- **They don't pay taxes/they scrounge off society** – Nomadic status does not exempt someone from paying tax. Council Tax *can* be collected by local authorities and this is easier with proper site provision. As with the general population, Gypsies and Travellers include people who are employed or self employed (and therefore paying income taxes), retired, studying or unemployed/in receipt of benefits etc.

Prejudice can lead to acts of discrimination, whether it is harassment (verbal or physical abuse, for example) or poor access to services such as healthcare and education. This can have a negative affect on the physical and mental health of individuals and put preventable pressure on police, health and social care services. At its worst, it results in Hate Crime as people seek to exterminate Gypsies and Travellers from society.

The life expectancy of Gypsies and Travellers is at least 10 years less than the average life expectancy of the rest of the population. This is equivalent to the most deprived wards in Devon.

Gypsy and Traveller mothers are 20 times more likely than others to experience the death of a child and/or miscarriage[4].

In 2012, the Department for Education reported that Gypsy and Traveller pupils are among the lowest-achieving groups at every Key Stage of education, although individual GRT pupils can do well. This can be due to a number of factors including bullying, literacy of parents and problems with attendance. Some Gypsies and Travellers adhere to a strict upbringing and remove their children from secondary schooling to 'protect their children' (especially girls) from negative influences of a more liberal society.

Gypsies adhere to hygiene practices rooted in Hindu laws of cleanliness.

[4] Equality and Human Rights Commission

Our Roles and Responsibilities

The County Council considers its responsibilities in relation to Gypsies and Travellers under three broad areas:

- Equality and human rights.
- Welfare and liaison.
- Being a landowner.

Equality Duties and Human Rights

Although there is no legal right to stop on someone else's land without consent, there is nothing unlawful in following a nomadic lifestyle. In fact, everyone has a right to respect for his/her private and family life[5] which means we each have a right to a live how we choose which must be respected (i.e. to live a nomadic or settled life), provided it does not interfere with other rights or laws.

Romany Gypsies and Irish Travellers (Pavee) are defined as a racial group in law. Under the Equality Act 2010, a Public Sector Equality Duty places a duty on the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between persons of different groups. It is also unlawful to treat someone less favourably because of the protected characteristic of race. Further information is available from **www.devon.gov.uk/equalitylegislation.**

[5] Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, enshrined in English Law through the Human Rights Act 1998. Under Article 14, the enjoyment of these rights are to be secured without discrimination on any ground such as sex, race, colour , language, religion, political or other opinion , national or social origin , association with a national minority, property, birth or other status.

Welfare and Liaison

Through a Gypsy and Traveller Liaison Service (GTLS), the County Council seeks to provide both Gypsies/Travellers and the wider community with a point of contact for advice and help for all related issues.

In terms of access to services, Gypsies and Travellers have the same entitlements to access services as any other member of society. When travelling or living on an unauthorised encampment, access to services especially health, education and social care, can be more challenging. The GTLS has a key role in facilitating access and building trust and, when needed, will assist visits on site for doctors and others, but will not act on behalf of another service or individual. As with anyone, where safeguarding concerns are identified, the relevant services will be contacted.

Where the presence of an encampment generates concerns from the neighbouring members of the housed community, the GTLS will seek to create positive relationships where possible, and in any event to seek to reduce friction and mitigate its impact. The GTLS will liaise with the Police and local Racial Equality Council where community tensions arise.

Homelessness

Sometimes homeless rough sleepers, who do not regard themselves as Gypsy or Traveller by definition or choice, are present on unauthorised encampments. In this case the GTLS will link with local homeless charities and housing providers (the County Council does not have housing responsibilities, this rests with the District/City Councils).

Devon County Council – the landowner

Devon County Council is a significant landowner in the county and has areas of land such as county farms, highway verges and lay-bys.

In relation to all its land and property interests, the County Council has responsibilities to service users, staff and visitors, as would any other landowner. However, in the case of trespass and the creation of an unauthorised encampment, the County Council cannot trigger possession proceedings in the same way that private or commercial landowners can. In addition to land use issues, the County Council is required to conduct assessments of any public health issues and the welfare, education, human rights and needs of the occupiers, balancing this with local interests and site suitability. Courts decide whether the County Council can evict someone from public land.

Under the **Planning Policy for Traveller Sites 2012** which updates the Housing Act 2004, Local Authorities with planning and housing responsibilities (in Devon these are District, City and Unitary Councils) are required to, by March 2013 (updating annually):

- Use a robust evidence base to identify a five year supply of specific and deliverable sites for Gypsies and Travellers.
- Identify broad locations for six to ten years.
- Grant Temporary Planning Permission to site requests, in the absence of a five year supply.

Devon County Council has a 'duty to co-operate' under Section 102 of the **Localism Act 2011** and therefore a duty to assist other authorities in sourcing suitable sites/pitches.

Consultation with Gypsies and Travellers is vital for seeking effective solutions. The GTLS can facilitate consultation with individuals on unauthorised encampments, but best practice suggests there should be a Gypsy/Traveller Forum for each District.

Strategy for identifying new sites

The County Council is willing work with housing authorities and other landowners to help identify suitable Temporary Stopping Points, Transit and Permanent sites and individual pitches (as well as alternative Areas of Temporary Acceptance for use when an authorised site is unavailable and occupants are at an unsuitable location). Landowners include:

- Local Authorities across the region.
- Highways Agency.
- Private landowners and businesses, particularly those near main transport routes with hard-standing areas and suitable caravan/camping sites (to establish Temporary Stopping Points).
- Ministry of Defence.
- Farmers.
- National parks.
- Church/religious and voluntary organisations.
- British Residual Land Board.

This can include helping to identify sites from our own land, as well as identifying pitch allocation as part of planned housing developments (as a guide, 0.1% of housing should be designated for Gypsies and Travellers). The County Council is also prepared to be involved in Devon-wide or regional forums for site planning. The GTLS will also comment on planning strategies.

The GTLS would particularly welcome to hear from people willing to act as landlords of Gypsy and Traveller tenants. It would be beneficial for housing authorities to maintain a list of landlords.

Gypsies and Travellers on Devon County Council land

With the continued shortfall of suitable sites/pitches in the region there remains a growing pressure on UEs. Increasing homelessness arising from a lack of affordable housing or economic problems can also impact on the number of UEs, also resulting in competition for space between different Gypsy and Traveller families and groups.

Some UEs can generate concerns arising from anti-social behaviour and disproportionate disruption to the community into which occupiers have moved. On the other hand, some of these concerns may be unsubstantiated and in other cases UEs are welcome: for example, a local farmer likes the added security of 'watchmen' nearby, or the village shop benefits from their custom.

The County Council seeks to ensure that the concerns of all stakeholders are considered in a fair and balanced way and will seek to maintain a positive dialogue with all stakeholders. The initial County Council response and any ongoing toleration of an UE will be based on a fair assessment of each situation on a case by case basis. This involves striking a balance between the rights of local residents and businesses and the welfare/needs of the occupiers to establish a base for their accommodation.

Dealing with complaints and applying to the Bailiff for possession of the land (eviction) costs a significant amount of money. Until such a time there is adequate provision of sites/pitches for Gypsies and Travellers, we will tolerate a UE unless there are strong enough grounds for eviction.

Our expectations – behaviour of Gypsies and Travellers on Unauthorised Encampments (UEs)

A **Gypsy and Traveller Occupier Code of Conduct** (see Appendix C) has been developed and is the main basis for assessing whether or not behaviour on site is acceptable. It also lists the type of locations where UEs will not be tolerated.

Failure to adhere to the Code of Conduct can affect on-going acceptance of individuals at the site. The GTLS will warn occupants of any breaches and, where possible, give occupants the opportunity to improve. Failure to improve may ultimately result in eviction.

Moving on – the consequences

In the absence of suitable site provision in the area, we have to consider the impact of moving people on because it often means moving from one UE to another and therefore the cycle begins again – this is not a cost effective solution for public services and can lead to health and wellbeing problems for the Gypsies and Travellers. In the same way Homeless people need to be found a home, Gypsies and Travellers need to be found a pitch.

Where possible, our approach will be: evict to, not from.

Gypsies and Travellers on land not owned or managed by Devon County Council

The County Council is not required to act when UEs occur on land not in the ownership or management of Devon County Council. The County Council's Gypsy Traveller Liaison Service (GTLS) carries out Welfare Needs Assessments on people occupied on Devon County Council land, and may, when capacity exists, assist other public agencies with welfare assessments if invited to do so. Whilst there will still be a need to take account of welfare needs on land in other public ownership, this requirement does not apply to private landowners. However, the GTLS are available to provide generic information and advice to private landowners.

The GTLS can also provide advice and signposting to Gypsies and Travellers who are not on UEs but have difficulties accessing services.

Responding to issues of homelessness

For people who were previously living in housing and have temporarily adopted a Traveller lifestyle (sometimes to avoid rough sleeping arising from homelessness), referrals would be made for housing support to the relevant district council and homeless organisations in order that they can be re-housed as soon as possible. The GTLS can offer some support to assist with transition, but have no housing stock or housing responsibility.

Frequently Asked Questions from Members of the Public

If Gypsies or Travellers move onto a piece of land, and I have concerns about their right to be there, what should I do?
If you know who the landowner is, you should notify them. If you do not know, you could visit **www.landregistry.gov.uk** (searches cost £3) or contact the Council and a 'Part 1' will be completed**.**

If Gypsies or Travellers move onto my land, and I do not wish them to remain, what should I do?
The responsibility for evicting Gypsies/Travellers rests with the landowner. First talk to them and see if a leave date can be agreed, ask them to leave the site as they found it and discuss any safety issues. You could seek advice from a Solicitor, obtain an order through the County Court granting possession of the land or evict using 'common law powers'. Also see Page 14 for Police powers. If you wish for them to remain on a long term basis, you will need to obtain **Planning Permission**[6]**,** then a **Site License**[7] and consider what facilities are needed (running water, sanitation etc) and how much rent to charge. The local planning authority will place health and welfare conditions on the site license.

If I am concerned about the treatment of Gypsies and Travellers and/or community tensions who should I contact?
If the treatment involves abusive, racist, threatening or other criminal behaviour, you should contact the Police. For all other concerns, contact the GTLS or Plymouth and Devon Racial Equality Council (PDREC) **www.plymouthanddevonrec.org.uk**

[6] Town and Country Planning Act 1990
[7] Caravan and Control Development Act 1960

Procedure for managing Unauthorised Encampments

The County Council Gypsy Traveller Liaison Service (GTLS) is the first point of contact for responding to new Unauthorised Encampments (UEs) and monitoring Areas of Temporary Acceptance (ATAs) on Devon County Council land. The details of any UE on Devon County Council (DCC) land should be referred to the GTLS as soon as possible.

Referrals to the GTLS are usually through:

- MyDevon Customer Contact Centre
- The local County Councillor
- Devon County Council Highways department
- Another Public Sector organisation (3rd party notification).

Referrals may be made by anyone including members of the public, businesses, public service staff or Councillors.

Contact details for MyDevon

Telephone	0845 155 1015.
Email	customer@devon.gov.uk
SMS text	80011 (please start all messages with the word Devon)
Fax	0845 155 1003
Textphone	0845 155 1020
Write to	Devon County Council, County Hall, Topsham Road Exeter EX2 4QD

Stage One – Initial Site Visit/Identification

Part 1

- Establish precise location of UE.
- Identify landowner, land use and suitability (See Appendix A).

If the site is on DCC land:

Part 2

GTLS visits site and carries out a Welfare Needs Assessment (requires participation of occupants) (see Appendix B). *Sometimes this is done before, or alongside, Part 1.*

GTLS provides occupants with a copy of the Gypsy and Traveller Occupier Code of Conduct (see Appendix C) and Information Pack and discusses this with them.

Relevant services (District, Highways, PDREC, Education, Health workers, MASH - safeguarding, Care Direct etc) notified of occupation and information provided as deemed necessary to assist with access to education and welfare services. Waste collection and Portaloo services requested where necessary, to keep the site clean.

Stage Two – Deciding whether to evict or grant Area of Temporary Acceptance status

Areas of Temporary Acceptance will be visited by the GTLS at least once a month to monitor on-going compliance with the Code of Conduct and welfare, until the UE is disbanded.

Unless a breach of the Code of Conduct triggers a review, a formal review against the Assessment Criteria for Eviction will take place every six months and involve, where necessary, all stakeholders.

Records of contact and site issues are kept by the GTLS, these records are subject to the Data Protection Act and kept confidential with restricted access only to the GTLS for the purpose of effective site management and management of the welfare of individuals.

Experience to date suggests it is **not realistic to set fixed timescales** for the steps in the process and once it is decided to apply to the Court for possession of the land in order to evict occupants, it can take some weeks before the case is heard and Bailiffs attend the site.

Sometimes an eviction can take place without formal completion of Parts 1 and 2, depending upon the urgency of the situation and willingness of the occupants. For example, an encampment on a busy highway slip-road is a dangerous location and the safety of all users is paramount.

Eviction Procedure

If the GTLS cannot secure or rely upon a reasonable leave date with the occupants, an application for a **Possession Order** is made to the County Court by the County Council's Legal Services.

A Bailiff will only attend once a Possession Order is obtained and the site remains occupied. It can **take between one and four weeks** for a Bailiff's visit to take place. If the occupation is particularly dangerous or disruptive, the County Council may request that the application is treated with urgency in order to speed up the process. If an Order is already in place for the land, a Bailiff may visit sooner.

A **Notice** is placed at the site to warn of the Bailiff's visit. Occupants usually leave before the Bailiff's visit takes place.

If occupants move on once an application is made, the Court has powers to continue to apply a Possession Order to the land.

A Possession Order can last for 12 months and (where individual names are not provided) apply to anyone attempting to occupy that land during that period. An application can be extended to include land in the vicinity to where occupants may decamp.

If a site is particularly vulnerable or intelligence suggests it will be targeted for occupation, causing disruption to others going about their day to day lives, or harm to the environment, the Council may apply for a **Pre-emptive Injunction**.

In many cases, friendly liaison and negotiation or persuasion to leave within a reasonable timeframe is the most cost effective solution.

Other Powers to Evict

Under **Section 61** of the **Criminal Justice and Public Order Act 1994**, the **Police** have powers to move encampments where there:

- has been damage to property or abusive/threatening behavior
- AND six or more vehicles are present.

Failure to comply, or returning within three months, is a criminal offence.

However, in reality, the Police will only use this power in extreme circumstances and as a last resort, after conducting a welfare assessment and obtaining authorisation. The disadvantage of this approach is that the landowner does not obtain a Possession Order for the land which can last for 12 months. Therefore, although applying for possession through the Court can initially take longer, it has a longer term effect.

Criminal activity or anti-social behaviour[8] caused by occupants will be taken seriously and reported to the Police, who will consider the use their powers as deemed appropriate.

Under **Section 62**, the Police have powers to direct occupants to a suitable alternative site, where one is available (this includes alternative temporary stopping places).

Under **Section 77**, local authorities may use reasonable force to move encampments where an encampment is blocking other vehicles from using a highway safely. The first step is to direct people to leave, if they don't then an order to evict with reasonable force can be obtained from the Magistrates Court. It is recommended to involve the Police.

[8] Anti Social Behaviour Act 2004

District/City Council Powers

Where it is necessary to protect the amenity of a site (SSSI, monument, pollution/health risk, or verge of a dangerous road) a District/City Council may issue a Temporary Stop Notice with immediate effect which lasts for up to 28 days[9]. Non-compliance can result in a fine of up to £20,000.

A District/City Council may also give six months notice of eviction where there is no planning granted for the site[10]. Failure to comply results in a £1,000 fine for the landowner. However, in the absence of a plan for a five year supply of pitches for Gypsies and Travellers, Councils *must* grant temporary planning permission to Gypsy and Traveller sites.

Bye-laws may also be applied to a site by District/City Councils, to prevent occupation at an unsuitable location.

In the absence of suitable sites, we hope Councils will liaise with us over our Areas of Temporary Acceptance before taking action.

Further information is available from the guide: Dealing with illegal and unauthorised encampments, Department for Communities and Local Government, August 2013.
ISBN 978-1-4098-3990-3

[9] Part 4 of the Planning and Compulsory Purchase Act 2004
[10] Section 171 of the Town and Country Planning Act 1990

Assessment Criteria for Eviction

When considering whether to seek possession (eviction) or to tolerate a UE by granting it Area of Temporary Acceptance (ATA) status, the County Council will take into account the needs of the Gypsies and Travellers as well as considering any impact on the housed community/businesses. This is especially challenging whilst there is still a substantial shortfall in authorised pitch provision.

The decision to initiate proceedings lies with the County Solicitor, who may consult with the relevant Cabinet Member. Each situation will be judged on its own merits, but there is a greater likelihood of eviction where any or a combination of these factors exist:

1) The nature of the location is unsuitable because it is used for another purpose or is environmentally sensitive. This includes: SSSIs, ancient monuments, encampments on or adjacent to school grounds, on playing fields or recreational sites.
2) The encampment is obstructive or unreasonably obtrusive. This includes encampments causing an obstruction or danger on a highway, public car park, or development site where works are in progress or in progress in the near future.
3) The size of the encampment or the behaviour of the occupants (including animals) is unacceptable – in line with our Code of Conduct. Opportunities will be given to correct behaviour, as appropriate.
4) Risks to health and safety, including public and environmental health (for example, flooding or pollution risk).
5) A lack of negotiations or the breaking of agreements.
6) This is not the occupant's main place of residence/they are not Gypsies or Travellers by definition.

Pitch and site size restrictions for Areas of Temporary Acceptance

In order to limit the impact of the encampment on the surrounding area, maintain a peaceful site and manage fire risks:

- Smaller encampments are preferred and, normally, no more than five pitches will be permitted at any one site. If the area available cannot accommodate five pitches, this shall be less. In exceptional circumstances, more than five may be allowed and a different limit will be set by the County Council, subject to regular reviews. Exceptions include family groups in which caring responsibilities are shared or for safety/security reasons.
- For fire safety reasons, there should ideally be a minimum of 6 meters between each accommodation unit (caravan, mobile home or temporary construction such as a yurt).
- It is not always possible to set a pitch size limit due to the varying sizes of families and their mobile accommodation, but as a guide, a 'pitch' would include one mobile accommodation unit (e.g. family size mobile home/caravan), one vehicle such as a car or van, a small outside area and space for a toilet. A family group may have two or three units per pitch rather than one single large unit. Space may be needed for animals. Size toleration will be considered alongside criteria points 2, 3 and 4.
- There should be sufficient room for safe pedestrian access around the accommodation unit.
- Units left empty/vacated without good reason for more than three consecutive weeks, or for more than 12 weeks in any 52 week period, may be removed by the County Council.
- Vehicles that are classed as dwellings do not have to display vehicle tax. Vehicle taxation is a matter for the DVLA and has no bearing on our decision to evict or not.

Provision of Waste Services for Unauthorised Encampments

Public Authorities have a duty to minimise the environmental impact of encampments and will seek to do this as efficiently as possible.

The two services often needed on site are a temporary toilet and the disposal of rubbish.

Requests often come from local residents or landowners concerned about waste disposal. The GTLS will provide temporary toilets subject to certain criteria and conditions.

Individuals are entitled to waste collection and costs can be covered in Council Tax payments. The GTLS will liaise with the relevant Borough, City or District Council for waste collection and seek agreement to appropriate waste collection arrangements. In circumstances where agreement cannot be reached on waste collection (for example, the site is not suitable for refuse collection trucks to visit, or far out of the way from an existing collection route), the GTLS will explore other waste disposal options that do not compromise the Code of Conduct.

After an encampment has disbanded, where necessary we will arrange for clean-up services (via District Councils) to clean the site (including adjacent affected land, in agreement with the landowner).

Experience shows that early installation of toilets and waste collection reduces the impact of the UE and is more cost effective.

Toilets – criteria and conditions

Romany Gypsies and Irish Travellers have no toilet in the caravan due to strict cultural beliefs about hygiene. At authorised sites, toilet blocks are available. In fact, it is only in the latter part of the 20th century that toilets in houses became acceptable amongst non-Traveller communities.

To minimise sanitation problems, the GTLS can provide portable toilets on request (usually necessary when children are present) and a contribution to the cost will be sought. Some Travellers will make their own arrangements for dealing with sanitation including making trips to public toilets, safe composting/burying. Other forms of disposal including ‘bagging and binning’ may be necessary; anti-bacterial wipes and bags will be supplied if needed.

It should not be assumed that the lack of a visible toilet means that people are not disposing of their waste hygienically. However, any unsafe methods will not be tolerated and could be regarded as a breach of the Code of Conduct; advice from Environmental Health Services will be sought.

Sometimes the occupants do not request a toilet and despite assuring they have their own safe methods, the service will still be provided by the GTLS without charge. An example of this would be to minimise a sanitation concern from the housed community or another Agency (Parish Council etc.). If another Agency requests a toilet, we would expect them to cover the costs. A toilet may also be provided while we await possession proceedings in order to reduce the clean up costs after the occupants have been evicted.

Public and Environmental Health

Abatement Notices can be served and Local Authorities may use criminal proceedings to prevent a 'statutory nuisance'[11].

A statutory nuisance includes activities that can cause injury to health or unacceptable interference with personal comfort or amenity of the nearby community. It can include loud noise, bad smells, black-smoke fires and accumulation of material/mess.

The Public Health Act 1961 also deals with accumulation of rubbish in the open air.

Environmental Health Services are responsible for enforcement. The County Council does not have an Environmental Health function and these services are run by District, City and Unitary Councils.

Further information about cleaning up sites is available from the guide: Dealing with illegal and unauthorised encampments, Department for Communities and Local Government, August 2013.

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Rent

It is often perceived that Travellers are living on land for free, to avoid rent and other payments; for a very small minority this may be the intention. This perception can result in poor community relations between Travellers and housed communities, and amongst paying Traveller and Gypsy communities, who view this as unfair.

We do not want to encourage a culture of 'free living' that takes advantage of the lack of site provision in the area and therefore we will establish a small and reasonable charge for Areas of Temporary Acceptance based upon ability to pay – *whether the occupants would be covered by housing/council tax benefit in a housed situation*. This charge will cover the provision of toilets and waste collection that are necessary at the site.

If full Council Tax is collected by the local district council, no charges will be made for the provision of toilets. The GTLS will require evidence of Council Tax payments.

This should not be interpreted as the site having long term or permanent status and is merely to cover costs.

[11] Sections 79 to 81 of the Environment Protection Act 1990

Campervans and other lived-in vehicles parked on the Highway

The Gypsy and Traveller Liaison Service sometimes receive notifications of people living in campervans and other lived-in vehicles which are parked on roads. They may be parked on residential or rural roads where parking is custom and practice. Those parked on roads may be:

- Holidaymakers, avoiding campsites or awaiting a vacancy at campsites that are currently full.
- People in housing seeking extra space for guests or family members.
- People using their vehicle as temporary accommodation for work or leisure purposes (for example, they are temporarily working away from home)
- People who have become homeless.
- Gypsies/Travellers.

If the occupants have Gypsy/Traveller status (they are permanently living in nomadic accommodation out of choice and have no intention, for cultural reasons, to reside in housing), the Gypsy and Traveller Liaison Service will liaise with occupants in the normal way in terms of welfare and support, but will not consider an eviction procedure because this is not relevant for vehicles parked on highways.

Where the occupants are homeless or there are environmental health concerns including loud noise, then the matter should be referred to the District Council. If the vehicle is not taxed then a District Council may identify it as an ‘abandoned vehicle’ and arrange for it to be removed.

For, emergencies (such as blocking other vehicles from using the highway safely) and anti-social behaviour, the Police should be contacted.

Devon Highways can also be contacted in relation to problem parking but will not take action if a vehicle is parked safely and not breaching any parking restrictions (such as double-yellow lines).

Devon Highways
t: 0345 155 1004
e: csc.roads@devon.gov.uk

Stakeholder Meetings

Sometimes in order to address issues with an UE such as minor breaches of the Code of Conduct, decisions to evict or serious welfare issues, it is best practice to call everyone together for a discussion.

Where beneficial, we will hold Stakeholder Meetings. These meetings could be used to:

- Ensure everyone concerned understands the Council's position with regards to managing UEs.
- Explain the procedures for eviction or granting temporary acceptance status.
- Ensure everyone understands the Code of Conduct and the implications of any ongoing or serious breach.
- Listen to the views of all stakeholders.
- Understand the needs and expectations of all stakeholders.
- Establish the facts and challenge any misconceptions/misunderstandings.
- Consider effective ways of reducing and preventing problems.
- Identify alternative site provision.
- Review the site formally every six months.
- Agree actions and standards.

Stakeholder meetings may include (depending upon the issue):

- GTLS representative.
- GTLS manager.
- Legal advisor.
- Representative from the service responsible for the land (e.g. DCC Highways).
- Police representative (e.g. NBO, PCSO and/or Diversity Officer).
- District council representative (officer with planning/housing responsibility).
- County/District Councillor(s) for local area.
- County Councillor with Gypsy/Traveller Portfolio.
- Local residents, landowners or businesses immediately affected.
- Gypsy/Traveller occupants and/or their representatives (other members of the community or voluntary/community agency such as Plymouth and Devon Racial Equality Council).
- Health and social care services representatives.
- Education services for Gypsy and Traveller children.
- Environmental Health Officer.
- Animal welfare agency representative.
- Fire and Rescue Service representative.

Stakeholder meetings may seem time consuming but they can often address issues more efficiently and effectively. They should not be left as a 'last resort'.

‘Meet and Greet’ Visits

Experience suggests that a friendly ‘meet and greet’ can help build positive relations with the occupants of an UE/ATA and provide a positive way discuss the Occupants’ Code of Conduct and any other expectations or concerns about health and safety at that particular site.

Such visits can help build trust between Travelling and housed communities or nearby businesses who may not be familiar with Gypsy/Traveller life, or may have had a prior negative experience (because there are some groups that do cause trouble, as there are in all sections of society).

Experience also suggests that dealing with low-level anti-social behaviour from children with ‘threats to call the police’ can increase the chances of the behaviour continuing as the children will view this as a game of dare.

Visits could involve the GTLS, local Police, representatives (such as the Gypsy and Traveller Officer at Plymouth and Devon Racial Equality Council[12]) and neighbouring property owners/residents.

[12] http://devonrec.org.uk/

The success of self managed sites

Empowering occupants at the site to take responsibility for abiding by the Code of Conduct could be one way of reducing anti-social behaviour; this could include appointing a ‘Site Manager’ amongst the children as well as the adults.

To ensure our information is fully accessible and every occupant in a group understands their responsibilities, the Code of Conduct is provided in an Easy Read (‘words and pictures’) format.

This format is useful for people with literacy problems, some sensory and learning disabilities and children.

We can also provide the Code of Conduct in other formats on request or explain it verbally.

Site Visits - gender and cultural considerations

There are a few cultural aspects to Gypsy and Traveller life that should be taken into account by people visiting sites and those taking decisions about the future of sites and UEs.

Gender

When most site visits take place (during daytime working hours of 9am to 5pm), husbands and fathers of the families may be out at work and therefore it is more likely that you will meet women and children. Gypsies and Pavee (Irish Travellers) have strictly observed gender rules, this means the following may apply:

- Unknown male officers visiting the site should not expect or ask to be allowed into a vehicle with any of the women.
- Unknown male officers visiting the site should first approach any men on the site (if they are present) to introduce themselves and make it clear what responsibilities they have in relation to the encampment.
- Women may not discuss health or family issues with visiting men, and therefore a female worker may be needed.
- Men on site may not be aware of important needs within the family, so consultation with men alone may not identify health and welfare needs.

It must not be assumed that the women on the site will be aware of why they are in the area or how long they will be staying. It is usual for the men to arrive back at the site and make snap decisions following their day's work as to their next movements.

Trust

Groups may have experienced violence or harassment whilst occupying UEs across the country. Visitors may be viewed with caution and suspicion until (and possibly after) you have explained the reason for a visit. Gypsies and Travellers may also travel and set up in larger groups on a 'safety in numbers' basis.

Illness and death

Illness with a Gypsy or Irish Traveller family will almost always attract the presence of other family members at the encampment (or area of an encampment) to provide support to the ill member of the family and their immediate carers. Therefore, in these circumstances sensitivity should be shown with regards to the size of the encampment.

There are strict practices relating to the death of a family member and funerals. As with illness, the death of a family member and the subsequent funeral will attract large numbers of Gypsies/Travellers to the area. The deceased is usually laid out in the weeks prior to the funeral to allow family members to visit and pay their respects and the mourning period can last for up to three months. When there has been a death, during a 'sit up' visits by officers should be avoided as a mark of respect.

It is a Gypsy tradition that all the possessions of a dead person, including the trailer or wagon, are destroyed, sometimes by burning. Permission to do this must be granted by the District Council and the Fire Service and must take place under strictly controlled conditions.

Enquiries from the General Public and the Media

Experience shows that most members of the public will have little knowledge or information about Gypsies and Travellers, UEs and the basis for granting Areas of Temporary Acceptance across the County. Along with this handbook, further information is available at **www.devon.gov.uk/gypsies_and_travellers_in_devon**. If you do not have internet access and want information, please go through our MyDevon contact centre.

Members of the public wishing to provide feedback or make a complaint may use the Corporate Complaints Procedure, available at **www.devon.gov.uk/feedback.**

Racist language and abuse towards staff and Councillors

Whilst we recognise that frustration can be experienced by members of the public about UEs, we will not tolerate racist or inappropriate language about Gypsies and Travellers or abuse towards staff or Councillors. If a member of the public is abusive (whether by email, telephone or face-to-face), the member of staff or Councillor may terminate the conversation immediately. If the behaviour is at a public meeting, we may also ask the perpetrators to stop or leave.

The use of racist language will be recorded as a discriminatory (racist) incident. **www.devon.gov.uk/reportincidents**

Media

All media enquiries relating to encampments on Devon County Council land should be directed to the Devon County Council Press Office. Where necessary, a media and communications strategy will be agreed with stakeholders.

Media and Enforcement Action

There will always be significant media interest regarding enforcement action when that takes place.

Experience shows that any enforcement action is likely to generate tension on site and any media presence may increase that tension and therefore the potential for disorder. With public safety paramount, any details regarding the time and date of any proposed possession action **will not** be given out prior to the event.

In the event of media attending the carrying out of a possession order on site it should be made clear to them that filming or reporting on the site will not be permitted by the County Council as landowner.

The GTLS itself will not provide an escort for reporters or comment.

Case Study – applying our policies and procedures

This is a very typical scenario for the GTLS.

The Council has received notification from a member of the public that there are eight caravans parked on a piece of land. The group arrived late Saturday evening. It transpires that the land is owned by Devon County Council and it is a verge beside a road situated on the edge of an industrial estate. The road is currently a quiet dead-end but it is earmarked for further business development in the next year or so.

These eight caravans have been evicted from three different unauthorised encampments over the past few months, circling a twenty mile radius.

The Travellers include a pregnant mother, babies aged less than six months, pre-school and school aged children. There are pre- and post- natal health issues, the children have not been immunised, one adult has diabetes and another has epilepsy. The mothers in the group wish for school places and access to health care services. The fathers are working locally; business is good and there is demand for their skills.

The Travellers would wish for a stay of at least 28 days to enable school access and stability. The neighbouring businesses would like the Travellers to be moved as quickly as possible and have complained about children playing, dogs running freely, household and sanitation waste. The caravans are parked very close together and the children play on the road. Some of the older children have been disrupting the local businesses by ringing Intercoms and running away.

The group do not feel able to travel in smaller numbers as at their last location they were subject to verbal abuse and anti-social behaviour from young adults at that location. Because many of the women do not drive and the men are out working they feel vulnerable if the group were smaller. It is rumoured that another group of ten caravans have been evicted from a neighbouring county, the group have family connections and it is possible they will try to join the Travellers at this site. The Travellers have requested a visit by the police due to harassment – during the evening lots of cars drive and beep their horns which unsettles all the children.

There are no alternative sites in the area.

Taking into account the County Council's policies and procedures,

1. What are the issues for the County Council?
2. What immediate steps need to be taken?
3. What powers does the Council have to evict?
4. What would be the implications of eviction?
5. How will rights, needs and concerns of everyone be balanced?
6. How will positive relations between the settled community and Travellers be maintained?
7. What support/action is needed from other public agencies and County Council services?
8. What longer term actions are needed?

Glossary of abbreviations

GTLS	Gypsy and Traveller Liaison Service (Devon County Council)
UE	Unauthorised encampment
UD	Unauthorised development
ATA	Area of Temporary Acceptance (temporarily tolerated unauthorised encampment)
PDREC	Plymouth and Devon Racial Equality Council
DVLA	Driver and Vehicle Licensing Agency
MASH	Multi-agency safeguarding hub for reporting concerns about the welfare of children*, including domestic violence and abuse services.

*Devon's Care Direct may be contacted for concerns about Vulnerable adults.