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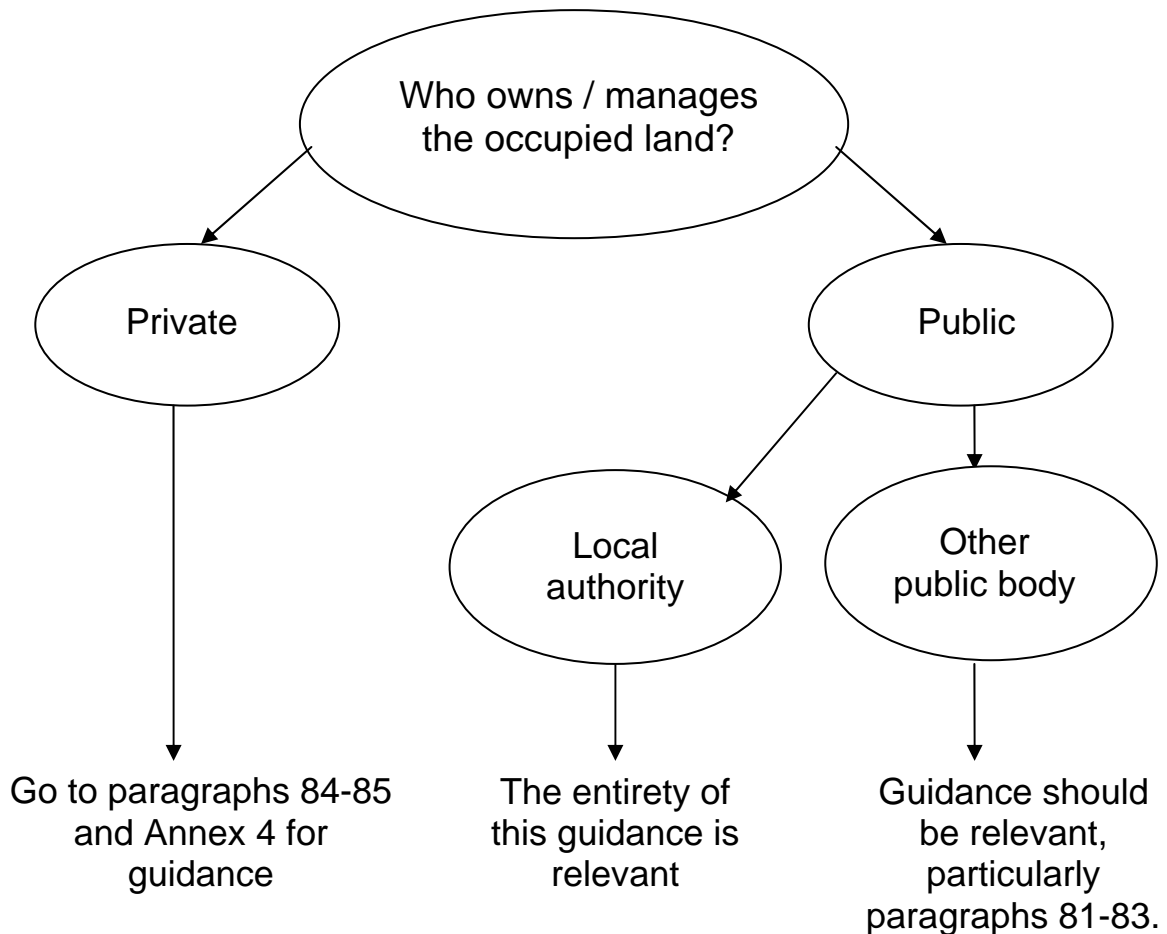
Guidance on *Managing Unauthorised Camping* 2013



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Which part of this guidance applies to the encampment I wish to resolve?



The process of responding to unauthorised camping may alter dependent upon who owns the occupied land. Public authorities have additional responsibilities which do not apply to private landowners. For more guidance on this matter, please go to the relevant page number suggested above.

A summary of potential legal powers available to all landowners is available at **Annex 4**.

Welsh Government Guidance on Managing Unauthorised Camping

Section 1 – Introduction

1. Unauthorised encampments can be the source of community tensions and require sensitive handling as public authorities attempt to find a balance between the rights of campers and local residents.
2. An unauthorised encampment is an encampment of caravans and/or vehicles on land without the landowner's or occupier's consent and therefore constituting trespass.
3. Unauthorised camping does not relate to cases where land has been bought and occupied, without the appropriate planning permission. That is known as unauthorised development. These types of development will not be included in this Guidance.
4. An unauthorised encampment and its unauthorised campers, can be any group of individuals or vehicles trespassing on land. However this Guidance is aimed at addressing the specific issues around the unauthorised encampments of Gypsies and Travellers.
5. 'Gypsies and Travellers' is a generic term used to define a number of people who subscribe to the Gypsy or Traveller way of life, as well as to certain cultural and moral beliefs. This Guidance uses the following definition of Gypsies and Travellers:

*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 –*

- (i) 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*
- (ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such)¹*

Therefore, this Guidance may include:

- Romani Gypsies.
- Irish Travellers.
- Scottish or Welsh Gypsy / Travellers.
- European Roma².

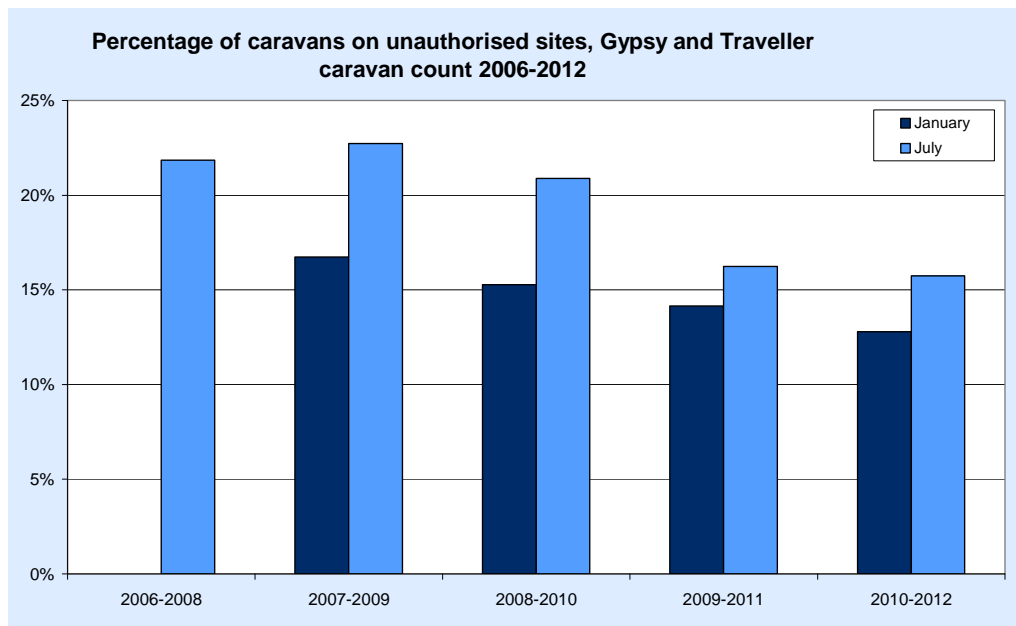
¹ Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (Wales) Regulations 2007.

- 'New' Travellers.
 - Show-people.
6. All of these groups are associated with the travelling way of life and can share some common beliefs and practices, but each group will have distinctive languages, traditions and ethnicity.
 7. The Equality Act 2010 prohibits discrimination on the grounds of race which includes colour, nationality and ethnic or national origins. Case law has established that both Romany Gypsies and Irish Travellers are recognised racial groups for the purposes of the Race Relations Act 1976. These groups continue to be recognised racial groups for the purposes of the Equality Act 2010.

The Picture in Wales

8. Gypsies and Travellers are indigenous to Wales. In 2006, the Welsh Government commissioned a report called, "*Accommodation Needs of Gypsy-Travellers in Wales*" (Niner, 2006), which estimated there were around 2,000 Gypsies and Travellers resident in Wales. However in 2009 a desk-based exercise conducted by the Welsh Government estimated that there were 4,000 Gypsies and Traveller living in Wales either on permanent sites, in transit or living in 'bricks and mortar' accommodation.
9. The Census 2011 included a new ethnic category for 'Gypsy or Irish Traveller' but the data suggested a total of just 2,785 Gypsies and Irish Travellers in Wales. Given that we know about this reluctance to disclose ethnicity, and having undertaken an informal exercise by Welsh Government officials to ask if the census 2011 had been completed by those living on sites, we recognise that this number may be an underestimate.
10. Due to the nature of a transitory population and the reluctance to disclose ethnicity, it is difficult to obtain more accurate figures. However, it is clear that there are more Gypsies and Travellers and caravans than there are permanent sites or authorised places to stop. At the time of publication, there were no authorised Temporary Stopping Places or Transit Sites in Wales. The distinction between these types of site can be found in the glossary at the end of this guidance.
11. Figures from the [Welsh Government Caravan Count](#) suggest that the proportion of Gypsy and Traveller caravans stationed on unauthorised encampments varies between 14-23% of the total. In July 2013, the proportion was estimated as 17%, accounting for 169 caravans in total.

² The term "Roma" used by the Welsh Government refers to Roma, Sinti, Kale and related groups in Europe, including the Eastern groups (Dom and Lom).



12. The Caravan Count figures are likely to underestimate the true amount of caravans on unauthorised encampments as not all encampments will be known to the local authority undertaking the survey. A report into the English Caravan Count system (Niner, *Counting Gypsies and Travellers: A Review of the Gypsy Caravan Count System*, for the Office of the Deputy Prime Minister, 2004), highlighted reasons why this data isn't always an accurate reflection of the Gypsy and Traveller population.
13. In Wales unauthorised encampments tend to occur along the main transport routes which traditionally provided opportunities for work as well as access to the main ports for Ireland. The main routes are found along the M4 corridor as the main route from east to west in the south of Wales, the A470 as the main route from north to south Wales and along the A55 as the link from east to west in the north of Wales. However, encampments are found throughout Wales, often nowhere near these busy routes.
14. As a reflection of these routes some local authorities in Wales are more at risk of unauthorised encampments than others. However all local authorities are likely to experience some unauthorised encampments and should have policies and procedures in place to ensure that they are dealt with in a way that is effective, safe and humane to all parties involved. To facilitate this, the Welsh Government has developed this Guidance to assist local authorities to develop their own policies.
15. Gypsies and Travellers will often travel to visit cultural shows or fairs. The most high-profile Welsh show is the Royal Welsh Show in Llanelwedd, Powys. Historically, a large unauthorised encampment of Romani Gypsies and Irish Travellers will gather for the duration of the show. In recent years, Powys County Council has provided temporary planning permission for the encampment.

16. The Welsh Government committed to revising its Managing Unauthorised Camping Guidance within the UK's first Gypsy and Traveller strategy, [Travelling to a Better Future: A Gypsy and Traveller Framework for Action and Delivery Plan](#). The Welsh Government also committed to create a generic protocol which local authorities could adapt to their specific area.
17. The Guidance aligns with the Welsh Government's [Strategic Equality Plan](#) by ensuring that Gypsy and Traveller communities are provided with the information and support they need to exercise their rights. The Welsh Government is committed to equality of opportunity for all, to allow people from different backgrounds to live harmoniously together.

Who is this Guidance for?

18. This Guidance is aimed at anyone regularly dealing with unauthorised encampments of Gypsies and Travellers, primarily local authorities in Wales.
19. However the Guidance may also be of use by other land owners including other public authorities, such as National Park Authorities or Health Boards, as well as those attending unauthorised sites and assisting local authorities in their duties, for example health visitors, Traveller Education Services (TES) and police forces.
20. The Association of Chief Police Officers (ACPO) has issued its own "*Guidance on Unauthorised Encampments*" (June 2011), which is designed specifically for members of the police visiting unauthorised sites. In conjunction with that guidance, Police may wish to consider this document when dealing with instances of unauthorised camping.
21. Though this Guidance is not aimed primarily at Gypsies and Travellers who may need to temporarily reside on an unauthorised encampment, some community members may find it to be a useful introduction to their rights and responsibilities in such a situation.
22. For the purposes of this Guidance the land owner will generally be referred to as the local authority. The Welsh Government recognises that unauthorised encampments do not occur exclusively on local authority owned land but different rules apply to private land owners. These rules will be explored briefly later in the document.

Aims of the Guidance

23. The Guidance aims to:

- Provide all parties involved in unauthorised encampments clear guidance on roles, responsibilities and rights.
- Ensure a fair and consistent approach to dealing with unauthorised encampments which complies with legislation to a standard that meets the needs of all involved.

- Set out recommended courses of action i.e. a step-by-step guide of what to do if you are dealing with an unauthorised encampment.
- Share current good practice examples.
- Provide templates for undertaking crucial welfare assessments, which local authorities across Wales can utilise.

Section 2 – Understanding Unauthorised Encampments and possible remedies

Why do unauthorised encampments occur?

24. Unauthorised encampments vary in purpose and may occur for a number of reasons. The primary reason for unauthorised encampments is the lack of authorised sites and stopping places. Nomadic Gypsies and Travellers have suffered from a systematic closure of traditional stopping places through bye-laws, strengthening of laws relating to the use of common land for camping, and landowners blocking off historical resting points. Meanwhile, demand for authorised pitches has outstripped supply to such an extent that Wales now has a severe shortage of Gypsy and Traveller sites.
25. The Welsh Government does not condone unauthorised encampments by Gypsies and Travellers. However, without sufficient and appropriate site provision, effective and justifiable enforcement against unauthorised encampments cannot be achieved. Addressing the issue of unauthorised encampment must be considered in the context of the current availability of adequate site provision. Delivering more authorised sites coupled with effective site management will remove the reason for unauthorised encampments. It is vital that local authorities have protocols in place to deal appropriately and proportionately with unauthorised encampments. As the necessary sites and stopping places are developed these protocols will need to be invoked less and less, thereby reducing the administrative and financial implications of dealing effectively with the unauthorised encampments.
26. It is likely that each unauthorised encampment will differ from the next. They may vary in terms of:
- **Size:** typically encampments will consist of just a few caravans but can increase significantly in relation to major funerals or weddings or traditional cultural fairs.
 - **Location:** from concealed grassland areas to protected land or highly visible areas e.g. on the road side. Increasingly, encampments are occurring on industrial or business parks.
 - **Behaviour:** as with the settled population some encampments may cause a nuisance to the local community while others may not.
 - **Impact on the land:** some groups may leave an area unspoilt and tidy while others may damage the land and leave waste behind.
27. Gypsies and Travellers may be on unauthorised encampments for a variety of reasons. These might include (though this is not an exhaustive list):
- The occupiers have no authorised pitch on which to station their caravan.

- Newly married couples may have left their parents' pitches but have no legal pitch of their own.
- To attend a family event locally such as a wedding or funeral.
- Attempts to adjust to living in 'bricks and mortar' may have failed.
- To rest overnight whilst travelling to another location, for example to a permanent site or a port.
- Health reasons, for example if a member of the group requires urgent medical care, a visit to a GP for medication or if a pregnant woman has reached her due date.
- To find work.
- To allow school-age children to attend school and receive an education.
- To provide a respite from travelling for an elderly or sick member of the group.
- Poor site management may have led to the group leaving their authorised pitch.

28. Longer term encampments will generally occur for education or healthcare reasons, or simply because there is no legal alternative pitch available.

29. Shorter term encampments can occur for a wider range of circumstances and may only last for the duration of wedding celebrations or for an extended period of hospital treatment.

30. Both types of unauthorised encampment will have consequences for the local area in terms of the provision of services, enforcement action, and access to the occupied land.

31. Local authorities should recognise that it may be more cost effective to provide a site, even if that is a temporary tolerated site, than to enforce against unauthorised encampments in an area with no site provision and where there are a high number of unauthorised encampments. Such sites could reduce community tensions, remove the potential of damaged public land, and ensure that clear-up costs are reduced. Developing and providing authorised, permanent sites would provide revenue for local authorities as occupants would be required to pay a pitch fee and Council Tax.

32. An authorised site is a site where Gypsies and Travellers are permitted to stay with the permission of the land owner and normally enter into a contract with the land owner and pay a rental for the pitch they stay on. These sites also require the appropriate planning permission. There are two types of pitches on authorised sites: permanent residential pitches and transit pitches.

33. A transit pitch is another name used for a pitch on an authorised site where Gypsies and Travellers may stay for a short period of time of up to 3 months (see the Mobile Homes Act 1983 Schedule 1 Part 1 Chapter 3).

34. Currently there is only one transit pitch located on permanent sites in Wales and no designated transit sites ([Welsh Government Caravan Count data](#), July 2013). Local authorities have confirmed that mixing permanent and transit provision on one site has not often been achieved successfully due to tensions that can arise between residents on different types of pitch.
35. Local authorities can consider providing temporary stopping places, which are intended to serve a particular short-term purpose and are not considered to be the permanent solution. Tolerated encampments are similar to temporary stopping places, though the latter have been set aside explicitly for the purpose of occupation and should provide basic amenities for occupiers, including waste disposal, water supply and sanitation. Temporary stopping places can also be proactively provided to relocate encampments from inappropriate locations. The difference between these and transit sites is explained in the glossary.
36. The Welsh Government accepts that some unauthorised encampments can cause problems of anti-social behaviour and can raise community tensions. Part of the solution to this is the provision of adequate sites within the local authority area though some encampments are always likely to occur. Providing adequate sites should allow local authorities to relocate inappropriate encampments to more appropriate locations.
37. Local authorities must undertake a Gypsy & Traveller Accommodation Needs Assessment (Commonly referred to as the GTAA), as required by a combination of section 8 of the Housing Act 1985 and section 225 of the Housing Act 2004. This assessment is to identify the housing needs in a local authority area. Where the assessment identifies a lack of provision for Gypsies and Travellers a local authority may wish to consider identifying locations for new sites, providing for the identified needs and, where possible, Welsh Government encourage them to make full use of Welsh Government grants to develop new sites and expand or improve existing sites.
38. In 2011, the Welsh Government estimated a need for 350 extra pitches on Gypsy and Traveller sites in Wales. As there are currently only 366 pitches on local authority Gypsy and Traveller sites, this figure represents a severe shortage of culturally appropriate accommodation for these communities. The Welsh Government outlined its intention in the White Paper, "*Homes for Wales: A White Paper for Better Lives and Communities*", to introduce a statutory duty on local authorities to provide Gypsy and Traveller sites, where there is identified need. The Housing (Wales) Bill, introduced in the National Assembly for Wales in November 2013 makes provision for this duty.
39. The expectation is that new authorised sites should lead to a significant reduction in unauthorised encampments.
40. The Welsh Government Gypsy and Traveller Sites Grant will provide £1.5m in 2013-14 and offers up to 100% of the costs of site build costs or

refurbishment. The guidance can be found on the Welsh Government website³.

Approaches to Resolving Unauthorised Encampments

41. Effectively, if an unauthorised encampment arises and there are no alternative authorised pitches in the area, local authorities have three clear paths relating to how they can resolve the encampment. **Each** option should be carefully considered:
- **Path 1** – To seek and obtain possession of the occupied site (eviction proceedings).
 - **Path 2** – To ‘tolerate’ the Gypsy or Traveller occupiers, if only for a short time, until an alternative site can be found or the occupiers move on voluntarily.
 - **Path 3** – To find an alternative site, if only on a temporary basis, and offer the Gypsy or Traveller occupiers the chance to move onto it.
42. Deciding which path to take is about finding a critical balance between considering the welfare and human rights of Gypsies and Travellers, whilst safeguarding the human rights of landowners, occupiers and the public, and protecting them from health and safety hazards or public nuisance. Each encampment should be dealt with on a case-by-case basis.
43. It is recommended that local authorities undertake an initial visit to the encampment before deciding which option is the most appropriate. This will enable the gathering of key information about why the encampment has occurred, if there are any urgent welfare concerns and how long the occupiers plan to stay. There is an initial assessment pro-forma available as **Annex 2** of this document.
44. Encampments will often be first identified by local residents and businesses who are concerned about the potential impact on them. Concerns will range from anti-social behaviour, fly-tipping, expanding camps, permanent occupation, or harm to house prices or business interests. Many of these concerns prove to be unfounded but some encampments have certainly had a direct and substantial impact on the lives of local residents. Therefore, the public may have expectations that encampments may be cleared as quickly as possible after the local authority has been notified.
45. The initial encampment visit by the lead local authority officer (preferably the Single Point of Contact for unauthorised camping, which is discussed later in this document) should establish any immediate concerns with the condition of the encampment or behaviour and the intentions of the occupiers. If little annoyance or impact on local residents is identified, it should not be assumed that possession action will be taken against the encampment.

³ <http://wales.gov.uk/topics/housingandcommunity/grants/gypsytravellergrant1213/?lang=en>

46. Some form of effective welfare enquiry is necessary to identify whether needs exist and the local authority should liaise with other services that might have responsibilities towards the campers' families. These checks should be done as quickly as possible, ideally within 24 hours of the local authority becoming aware of the encampment.
47. The determination of whether eviction action should be taken should be made after consideration of whether the interference with Gypsy or Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The human rights of members of the settled community are also material if an authority fails to act to curb nuisance from an encampment.
48. If there is no substantial risk to public safety and no inappropriate behaviour, and no alternative authorised pitches available, the impact and benefit of evicting the occupiers should be considered carefully.
49. Tolerated encampments can be pragmatic and cost-effective in terms of finding a long-term solution to unauthorised camping in the area. Evicting the occupiers will often lead to extensive costs to the local authority and police force. Furthermore, if the occupiers had settled in the area due to a lack of alternative pitches, it is likely that they will settle on another unauthorised camp within the area in the near future. This would then be accompanied by even greater costs incurred by the local authority and police force. Toleration can also be a useful tool where local authorities have not provided enough Gypsy and Traveller accommodation in their area.
50. Proactively identifying temporary stopping places can also provide a pragmatic and cost-effective solution, which enables the local authority to relocate an encampment from an inappropriate location whilst recognising the need to provide support to the occupiers.
51. Gypsies and Travellers living in caravans with nowhere to legally station them are likely to be legally homeless under section 175 of the Housing Act 1996. The circumstances of every individual will inform what duties a local authority is subject to under the Housing Act 1996 in respect of those individuals. local authorities may wish to consider, in certain circumstances, whether it would be appropriate to tolerate the encampment until the outcome of any homelessness application is known, unless the encampment is an immediate threat to public safety or community cohesion. [Welsh Government circular 30/2007 – Planning for Gypsy and Traveller caravan sites](#) – states that, *“a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. In cases where there is:*
- *unmet need and;*
 - *no available alternative Gypsy and Traveller site provision in an area and;*

- *a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need;*

local planning authorities should give consideration to granting a temporary permission”.

Section 3 – Legislation

52. There is a range of legislation that is applicable with regard to unauthorised encampments. Some of this is detailed below. It is important to remember that legislation and protection by law, applies to both the land owner and also to Gypsy and Traveller communities.

Housing Act 2004

53. In December 2007, section 225 of the Housing Act 2004 was brought into force in relation to Wales. This section places a duty on local housing authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers (GTAA) residing in or resorting to their district when undertaking a review of housing needs in their district under section 8 of the Housing Act 1985. The assessments will allow proper consideration to be given to the accommodation needs of Gypsies and Travellers and result in any provision being properly researched and therefore needs-based.

54. The GTAA must inform the development of a local authority Housing Strategy where that local authority has been directed by the Welsh Ministers under section 87 of the Local Government Act 2003 to prepare a strategy in respect of meeting such accommodation needs.

55. Section 225(5)(a) of the Housing Act 2004 states that the meaning of “Gypsies and Travellers” has the meaning given by regulations made by the appropriate national authority. The Welsh Ministers prescribed the definition for the purposes of section 225 of the Housing Act 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 –

(i) 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

(ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such)⁴.

56. This definition clearly shows that Gypsies and Travellers who have settled in bricks and mortar housing, for any of the reasons stated, still need to be included in the GTAA. This is important as many of these people will have moved into houses as there was no legal alternative and a large proportion will fail to adjust to their new homes effectively, sometimes becoming homeless again within a short period of time. Many unauthorised encampments will occur directly because of this reason. Therefore, it is in local authorities’ interests to ensure their GTAA is completed thoroughly,

⁴ See Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (Wales) Regulations 2007 (S.I. 2007/3235).

including surveying those who they may have believed were happy living in conventional housing.

57. Many Gypsies and Travellers have a recognised cultural aversion to living in houses but currently local authorities only currently have to provide bricks and mortar accommodation. The cultural aversion to conventional housing has been established in case law⁵ and has been evidenced by various psychiatric assessments of Gypsies and Travellers. Many Gypsies and Travellers have lived their entire lives in trailers, surrounded by family and used to regular travel. Transition to housing can cause significant emotional and mental stress, as families adjust to a more sedentary lifestyle and not surrounded by their support networks. This isolation, and often prejudice from new neighbours, has led to substance abuse and mental illness amongst some. Other families have resorted to only sleeping on the ground floor and references to feeling “claustrophobic” in conventional housing are common. Many Gypsies and Travellers are simply unable to even contemplate moving into conventional housing. As a result, many families are made re-homeless due to their inability to cope with the transition within a short period of time.

Criminal Justice and Public Order Act 1994

58. Sections 61 and 62 of the Criminal Justice and Public Order Act 1994 confer powers on the police to remove any trespasser and vehicle from land. Exercise of the power is conditional on a number of factors and in any event only where the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land with the common purpose of residing there for any period. Reasonable steps must also be taken by or on behalf of the occupier⁶ to ask them to leave. [A landowner who is a local authority or another public authority, may wish to consider this guidance in exercising their functions as it may show reasonable steps have been taken if possession action is taken.]

59. There are further conditions which must exist before the police may exercise the powers in section 61 and 62. These include:

- Any of the trespassers have caused damage to land or property (this includes to gain entry to the site);
- Any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier of the land, their family, or an agent acting on their behalf, or;
- The trespassers have between them six or more vehicles (including caravans).

60. Subject to the above, the senior police officer present at the scene may direct the unauthorised campers to vacate the site as soon as is

⁵ The phrase ‘cultural aversion to conventional housing’ first appeared in *Clarke v Secretary of State for the Environment, Transport and the Regions*, [2001] EWHC 800 Admin.

⁶ The reference to occupier is a reference to the person entitled to possession of the land in question.

reasonably practicable. The ACPO Guidance sets out that the police should consider becoming involved, including the use of their powers under sections 61 and 62 where:

- Local amenities are deprived to communities or significant impact on the environment.
- There is a local disruption to the economy.
- There is other significant disruption to the local community or environment.
- There is a danger to life; and
- There is a need to take preventative action.

61. It is also an offence for any trespasser who has left the land as a result of this order to return within three months of the direction being given.

62. Sections 62A – E provide further powers for the police in relation to trespassers. The police may direct a person to leave land and remove any vehicle and other property from the land if certain conditions are satisfied. The conditions are:

- There must be at least two persons trespassing on the land.
- The two persons between them have at least one vehicle on the land.
- The trespassers are on the land with the common purpose of residing there for any period.
- It appears to the police officer at the scene that the person has one or more caravans in his possession or under his control on the land and that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans; and
- The occupier of the land, or a person acting on their behalf, must also have asked the police to remove the trespassers from the land.

63. In this guidance, a relevant caravan site is one which is situated in the same local authority area as the land on which the trespass has occurred, and which is managed by the local authority. The meaning of suitable pitch is not defined in this legislation. It is for the courts to interpret legislation, but the Welsh Government considers that a suitable pitch is one that provides basic amenities including water, toilets and waste disposal facilities. This could include a transit site or temporary stopping place, or permanent residential site. There should be a reasonable expectation that the pitch will be available for peaceful occupation for at least three months, except where the trespasser is expecting to move on before that time. In determining if a suitable pitch is available, the police officer must consult the local authority within whose area the land is situated. Normally, a suitable pitch will only be available if there are currently no waiting lists for that site.

64. In advising on whether a suitable pitch is available, the local authority should take account of the results of welfare enquiries undertaken at the

encampment, which may give rise to human rights issues. In particular, efforts should be made to find suitable pitches that would enable the unauthorised campers to remain together. If the size of the encampment is such that this is not possible, then efforts should be made to ensure that any dependent members of the encampment are not separated from necessary support. For example, parents and dependent children, or adults supporting elderly or infirm relatives, should not be separated.

65. Section 77 of the Criminal Justice and Public Order Act 1994 gives local authorities the power to direct persons to leave land and remove any vehicles or property. Failure to comply with a direction is an offence and punishable by a fine. In addition, if a direction is not complied with the local authority may obtain an order from the magistrates' court under section 78 of the Act. The order may require the removal of any person on the land together with vehicles and may authorise the local authority to take such steps that are reasonably necessary to ensure that the order is complied with.

Highways Act 1980

66. Section 143 of the Highways Act 1980 gives a power to a highway authority to remove, on one month's notice, any structures set up on a highway. The definition of structure includes a caravan or vehicle and a court order is not necessary to use this section.

Civil Procedure Rules 1998

67. A possession order can be obtained in the civil courts requiring the removal of any trespassers from property under Part 55 of the Civil Procedure Rules. This remedy is also available to private landowners.

European Convention on Human Rights /Human Rights Act 1998

68. The Human Rights Act 1998 (HRA) came into force in October 2000, incorporating the European Convention on Human Rights into British law. Broadly speaking, the European Convention on Human Rights requires that all decisions made by public authorities must be compliant with the rights conferred by the European Convention on Human Rights. Public law requires that decisions of public bodies are reasonable and proportionate having regard to all the circumstances. A public authority must determine if any interference with a Gypsy or Traveller's home and private and family life is justified and proportionate. It is recommended that all decision-making is fully recorded and evidenced. This is in order to ensure that all decisions are supported by the relevant information and evidence and in the event of the decision being revisited or reviewed, the relevant information would be readily available to the local authority. If any decision is the subject of any legal challenge the information would also assist the local authority to present their rationale for the decision so as to assist the court to determine any challenge.

69. Article 8 of the European Convention on Human Rights is of major importance in connection with the home of a Gypsy or Traveller. Article 8 states that:

“(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

70. “Home” can include a caravan even if it is unlawfully or illegally parked. Therefore Article 8 may apply to those persons on unauthorised encampments as well as tenants of authorised sites.

71. The European Court of Human Rights has established that Article 8 imposes a positive obligation on the United Kingdom to “facilitate the Gypsy way of life” (*Chapman v UK* (2001) 33 EHRR 399 refers). However, this is to be balanced against what is proportionate and does not prohibit a local authority taking steps to address instances of unauthorised camping.

72. Article 14 concerns prohibition of discrimination and should be read in conjunction with Article 8:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Equality Act 2010

73. Section 149 requires public authorities, including local authorities and the Police, must, in the exercise of their functions, have due regard to the need to eliminate unlawful discrimination; advance equality of opportunity; and foster good relations. Both Romani Gypsies and Irish Travellers are recognised as ethnic minorities which is a protected characteristic under the Act.

74. For the purposes of the Equality Act, this ethnic minority status is not dependent on a requirement to travel.

Environmental Protection Act 1990

75. Local authorities have powers under this Act to address issues of waste, statutory nuisance and litter in its area. Local authorities may therefore wish to consider the use of such powers in appropriate circumstances.

Town and Country Planning Act 1990

76. The results of the Gypsy and Traveller Accommodation Needs Assessment are expected to provide key evidence to inform the preparation by individual local planning authorities (LPAs) of policies for caravan sites for Gypsies and Travellers in their Local Development Plan (LDP). Welsh Assembly Government Circular 30/2007, "[Planning for Gypsy and Traveller Caravan Sites](#)", provides the main source of national planning guidance for LPAs in respect of Gypsy and Traveller sites. Key guidance includes:

- a) where there is unmet need for Gypsy and Traveller accommodation, sufficient sites should be allocated by the LPA in their LDP;
- b) the LPA should work with the Gypsy and Traveller community, encouraging them to put forward candidate sites;
- c) co-operation between neighbouring authorities can provide more flexibility in identifying sites;
- d) fair, reasonable and realistic criteria based policies should also be included in LDPs, to cater for future or unexpected demand.

77. Where Gypsies or Travellers (or anyone else) buy land and develop it as a caravan site without planning consent, any enforcement must be through the planning system; the powers described earlier (and in **Annex 4**) against trespass cannot be used. Enforcement is a matter for the discretion of the local planning authority. Decisions to enforce must be made on planning grounds. Case law has determined that all enforcement measures must be proportionate in the context of the European Convention on Human Rights, and in particular the Gypsy or Traveller's rights under Article 8. LPAs should assess what effect, if any, the absence of existing site provision would have on the ability to take, and defend, such actions successfully in any subsequent appeal.

78. Guidance on using planning enforcement powers is available in Welsh Office Circular 24/97 and Technical Advice Note 9: *Enforcement of Planning Control*. The current enforcement regime provides a mix of powers with which to deal with breaches of planning control in a controlled but flexible manner including the issue of enforcement and stop notices.

Section 4 – Roles and Responsibilities

The Welsh Government

79. If you experience an unauthorised encampment this document sets out Welsh Government guidance about good practice. However, the Welsh Government does not have an enforcement role in regards to unauthorised Gypsy and Traveller encampments and cannot intervene on behalf of a land owner or a member of the public.
80. Where an unauthorised encampment occurs on Welsh Government land the same guidelines and statutory responsibilities outlined in this guidance apply.

Public Authorities:

81. Local authorities and other public authorities (including National Parks) as land owners have a responsibility to their local community, including Gypsy and Traveller communities. Where an unauthorised encampment occurs on public authority land, it is recommended that officials within the authority appoint a Single Point of Contact (SPOC) or other lead officer, who would undertake the appropriate assessments (which are detailed further on), coordinate other relevant authorities and provide advice to senior officials who will determine the appropriate action to take.
82. It is recommended that the SPOC will have a role that is involved with direct management of, or liaison with, unauthorised encampments in the local area. To work most effectively, the role should have 24 hour emergency fallback cover to ensure that any developments associated with the unauthorised encampment are dealt with properly and consistently at any time of the day.
83. As local authorities have appropriate skills and resources to enable them to make (or co-ordinate) welfare assessments, it is considered good practice for local authorities to respond positively to requests for assistance in undertaking these assessments from the police or other public authorities.

Other Land Owners:

84. Private land owners experiencing unauthorised Gypsy and Traveller encampments on their land are not bound by the same statutory responsibilities as public authorities, but should in the first instance contact their local authority to determine if a Gypsy and Traveller Liaison Officer (or equivalent) is in place to mediate. Alternatively, the SPOC / lead officer or the local police force may be able to assist.
85. Private land owners will need to seek their own legal advice when attempting to resolve unauthorised encampments on their land.

Police Forces:

86. Police officers should not be used as a standard way of dealing with unauthorised encampments, but the involvement of police officers should not presume an eviction. The police, as with other public authorities, also have responsibility to assess the situation and the impact of the encampment before making an informed decision which minimises the impact on the safety or health of any party involved.
87. Where possible it is recommended that police officers visit the unauthorised encampment with a local authority officer, the landowner or an officer from another relevant agency. Police visits can be perceived as confrontational and the presence of police officers may inflame a situation, so police personnel should be kept to a minimum while ensuring the safety of officers. The level of personnel should be determined by the attending police force in conjunction with the [ACPO Guidance](#).

Section 5 – Step-by-Step Guide to Resolving Unauthorised

Encampments

This section of the Guidance is intended for local authorities to use when addressing an unauthorised encampment that has occurred in their area. Encampments should be assessed on a case-by-case basis but this section should provide the tools for authorities to develop their approach.

Step 1 – Encampment Reported

88. Usually, the first knowledge of an unauthorised encampment will come from reports by local residents or businesses in the vicinity of a newly-formed encampment.
89. Local authorities must ensure that they have an effective means of responding to encampments as they occur. It is recommended that local authorities appoint a Single Point of Contact (SPOC) to deal with unauthorised encampments in their area and all staff should be made aware of their existence and contact details. It is especially important that complaints officers and switchboard operators have these details.
90. The SPOC does not necessarily need to be the same officer for every encampment. The value of having a single contact in relation to all developments related to a particular encampment is that the local authority should be able to respond swiftly to any change in circumstances. Nevertheless, the SPOC will not be the only officer involved in the response and should not be isolated in this regard. Senior leadership is required to ensure that all relevant officers can be coordinated and decisions are made on how to resolve the encampment at a senior level.

Good Practice

The role of the Single Point of Contact (SPOC)

Each local authority should develop its own protocol for responding to unauthorised camping, which will establish the procedure and personnel necessary. However, it is recommended that a lead officer is identified to undertake the following roles:

1. Liaise with occupiers and other affected parties.
2. Undertake or coordinate the necessary assessments and involvement of relevant officers to ensure needs are addressed.
3. Communicate the evidence and provide recommendations to senior officials who will ultimately decide what action to take.
4. Ensure that all stakeholders are made aware of the proposed action and disruption to all is minimised.

Be sufficiently trained to provide culturally appropriate support and to understand how various actions and circumstances may impact upon the human rights of occupiers (particularly children and vulnerable others).

91. Regardless of who notified the local authority about the existence of the encampment, managing the expectations of local communities and businesses should be considered. The publication and dissemination of information about myths and facts, or question and answer booklets may help the local authority as it responds to the encampment.

92. In the first instance the local authority should try and obtain as much information from the informant as possible, whilst taking account of the fact that the informant may wish to remain anonymous. For example, useful information may include:

- The location of the encampment.
- How long the encampment has been established.
- The number of people and vehicles present.
- If contact has been made between the informant and occupiers.
- Details of any nuisance or anti-social behaviour reported by the informant.
- Contact details for the informant if they wish to be informed of developments relating to the encampment.

Step 2 – Initial Encampment Visit

93. Once the informant's report of the encampment is logged, it is recommended that the SPOC or lead officer aims to conduct an Initial Encampment Visit within 24 hours, as far as this is reasonably practicable. Completing this first visit within that time period will

reassure local residents or businesses that their concerns are being considered and can ensure that any immediate health and safety or welfare concerns affecting the encampment occupiers can be dealt with promptly. If the local authority becomes aware of the encampment without complaints being received, there may be less need for the SPOC to respond so quickly unless they become aware of possible welfare issues that need investigation.

94. The SPOC should be deployed to undertake an Initial Encampment Assessment (a universal template is available at **Annex 2**). This assessment is to determine whether the encampment poses any immediate threat to the residents of the encampment or the local community. This visit should also determine the intended duration of the stay and whether a full Welfare Assessment is required.

95. The purpose of the Initial Encampment Visit is to:

- Check the accuracy of the initial report.
- Determine the safety of the encampment.
- Collect basic information such as the number of occupiers and vehicles, the intended length of stay, any potential problems and the state of the land and the encampment.
- Collect initial welfare information and determine whether a full Welfare Assessment is required.
- Determine whether the involvement of additional agencies is required, such as Traveller Education Services or Health Visitors.
- Determine whether any services will be provided on the site.
- Willingness and ability of occupiers to pay for services provided;
- Inform the occupiers of the expected standard of behaviour and consider negotiating a Code of Conduct.
- Inform the occupiers what will happen next.
- Provide the occupiers with key local contact details, including healthcare and education professionals and the SPOC / lead officer.

96. The local authority SPOC or other lead officer should be given sufficient training to help them to gather all the relevant information from encampment occupiers and local residents. This would include cultural awareness training and some basic knowledge of important indicators of welfare concerns, such as training on the United Nations Convention on the Rights of the Child. It is recommended that the local authority offers the informant an opportunity to meet with the SPOC shortly after the initial encampment assessment, as this will show that concerns are being dealt with.

97. If the SPOC is not usually the lead officer for incidents of unauthorised camping they should know who is and act quickly to ensure the information is passed on.
98. The local authority should adopt a protocol for attending encampments. It is recommended that Police personnel are kept to a minimum or that Police are not involved at all during the initial encampment assessment as this can lead to tensions.
99. The Welsh Government would recommend a full Welfare Assessment be undertaken if:
- There are any obvious signs of welfare requirements, such as pregnant women, sick or disabled residents, frail elderly residents or children under 5.
 - The likely duration of the encampment is over 3 days.
 - There are immediate risks to the occupiers or residents such as contaminated land or traffic issues.
 - There are school-age children present, within four weeks of the end of term.
 - If there are obvious issues that are affecting the landowner's business or quality of life, making urgent possession action likely.
100. A full Welfare Assessment may not be required if:
- the expected duration of the encampment is 3 days or less;
 - the occupiers intend to move on directly following a family event;
 - the occupiers are in transit to another destination (such as to meet family or to a harbour) and are only stopping overnight.
101. In these circumstances a decision may be made to allow the encampment to remain on a short-term basis. However, this agreement should be monitored and if the encampment exceeds the expected stay, the initial assessment and the issue of a full Welfare Assessment should be revisited.
102. Where the decision is made not to undertake a full Welfare Assessment, officers should satisfy themselves that due process has been followed, satisfy themselves that they do not consider there to be a danger to either the residents of the encampment or the local community and ensure that the appropriate action has been taken.
103. Even when the encampment is likely to be 3 days or less, exceptionally the decision may be made not to allow the campers to remain. Reasons for this are detailed below.
104. During the initial encampment visit, the local authority may wish to negotiate an agreed Code of Conduct. A generic template is available at **Annex 1**. Local authorities should consult encampment

occupiers and affected local businesses, landowners and neighbours when finalising the Code. The objective should be to reach consensus on expected standards and responsibilities, which are sensitive to cultural differences between travelling and settled communities.

105. When providing occupiers with useful information and contacts, or when negotiating the Code of Conduct, it will be necessary to consider the need for accessible materials.

Good Practice

Leeds City Council & Leeds GATE – Negotiated Stopping

In January 2011, Leeds City Council published the findings of the Neighbourhoods and Environment scrutiny panel, which recommended a pilot 'Negotiated Stopping' scheme. The scheme reviewed possible land for temporary stopping places using the following criteria:

- That the land was a 'defensible space' in that land available was restricted and any encampment therefore would be restricted in size.
- That there was some 'buy-in' to the project among local business owners, the police and elected members.
- The location was safe for the families and that they were prepared to stay there.

The initial agreement lasted 3 months and the authority provided waste disposal and toilets for each family. Leeds Gypsy and Traveller Exchange (GATE) provided liaison support between occupiers and the local authority.

A second location was found soon after and local elected members have expressed that they are content for the scheme to be extended. Leeds City Council estimates that it has saved in excess of £100,000 so far through reduced eviction and cleanup costs associated with unauthorised camping.

106. Many Gypsies and Traveller have limited literacy so it is important that local authorities ensure that occupiers are able to read the Code of Conduct and other materials provided. If literacy is a problem, the local authority should ensure that occupiers are made aware of the contents of the supplied documents.

Step 3 – Completing the Welfare Assessment

107. A local authority is subject to a number of duties, including those contained in education, children and housing legislation. These duties apply equally in respect of Gypsy and Traveller communities and therefore local authorities should conduct an effective Welfare Assessment to ensure compliance with their legal duties.

108. All public authorities are bound to act reasonably and proportionately in exercising their functions. As local authorities have appropriate skills and resources to enable them to make (or co-ordinate) welfare assessments, it is considered good practice for local authorities to respond positively to requests for assistance in undertaking these assessments from the police or other public authorities.
109. Welfare Assessments have invariably differed in content across Wales. In order to provide consistency and to assist authorities who have previously not had a protocol in place for dealing with unauthorised encampments, we have devised a universal template for Welfare Assessments contained at **Annex 3**. The Welsh Government recommends that all local authorities utilise this template.
110. It is recommended that the full Welfare Assessment is undertaken **no later than 3 working days** after the encampment has been reported. The purpose of the assessment is to understand the needs of the encampment occupiers and to ensure that the local authority provides for any vulnerable members of the group.
111. It is recommended that the SPOC / lead officer undertakes the Welfare Assessment, gathering crucial information about the encampment including:
- How many occupiers and vehicles (including caravans) are present.
 - How many of the occupiers are children.
 - How many of the occupiers are elderly.
 - If any occupiers are disabled.
 - If there are any health issues /medical conditions affecting the occupiers e.g. hospitalised relatives, pregnant women, post-natal mothers and babies, those recovering from serious illness or injury etc.
 - If there are school examinations impending.
 - What local authority services are considered appropriate e.g. refuse collection, portable toilets, water etc.
 - Reasons for and intended duration of stay.
112. When undertaking the Welfare Assessment, it is recommended that the SPOC is capable, or accompanied by another colleague who is capable, of assessing the needs of the encampment occupiers. Local authorities should be aware that for cultural reasons some female occupiers will not participate in this process if they are approached by male visitors. It would be good practice for a mixed gender team to undertake the Welfare Assessment, where possible.

113. It should also be recognised that the quality and quantity of information gathered during the Initial Encampment Assessment and Welfare Assessment will depend, to some extent, on the relationship the occupiers have with those asking the question. Cultural-awareness training and some time spent listening to the reasons for the encampment can often go a long way towards producing better results. It may also be advantageous to ensure that officers undertaking the welfare assessments are not the same officers who conduct enforcement proceedings.
114. These Welfare Assessments will provide the necessary information for the SPOC to liaise with relevant colleagues in the education and housing departments of the local authority or with Police and Health professionals. Some camp occupiers may be reluctant to provide full information so those undertaking the assessment should ensure that occupiers are made aware of how the information may help them if there are welfare concerns present.
115. Information gathered in the course of visits and enquiries is subject to data protection legislation. Photographs of individuals can also be considered as personal information, if those individuals are identifiable. Authorities should make clear the purpose for which information is being collected and give assurances about how it will be used and to whom it might be passed. These Welfare Assessments must be kept for audit purposes and may be required if any legal challenge is taken in response to any possession proceedings.
116. Local authorities have no power to insist that information be given to it as part of the Welfare Assessment. Where information is not disclosed, the fact that questions were asked and not answered should be clearly recorded to avoid any subsequent claim of failure to take some relevant consideration into account. If occupiers give reasons for not responding, these should also be noted. Occupiers should be informed of any possible consequences of not providing information when requested. If they want to provide information through another person they trust, they should be able to do so provided that arrangements can be made quickly.
117. When unauthorised encampments are evicted there can be considerable clean-up costs incurred by local authorities. However, providing refuse collection, toilets, and water to occupiers can drastically reduce clean-up costs after an encampment has been moved on. Welfare Assessments can help local authorities to check which of these services might be required by the occupiers and also to discover if the occupiers would be prepared and able to pay for the services. If the occupiers are willing to pay for the services used, local residents could be informed of this so as to dispel the perception that encampment occupiers do not pay for services.

118. Local authorities should seek to assess the circumstances of each family to ensure that the decision-making process about how to resolve the encampment is informed by the full facts.

Good Practice

Wrexham County Borough Council & Betsi Cadwaladr University Health Board – Welfare assessments

In Wrexham, the local authority and local health board work have an established agreement for Betsi Cadwaladr university health board to attend unauthorised encampments to undertake welfare assessments when required.

This system allows welfare needs to be properly assessed by professionals who are not involved in eviction procedures. This may lead to increased participation on the part of the occupiers.

Step 4 – The cost-benefit analysis and resolving the issue

119. Unauthorised encampments are, by definition, unlawful. However it is recognised by the Welsh Government that until the issue of site provision is properly addressed unauthorised encampments will continue to occur.
120. Each encampment location must be considered on its merits against criteria such as health and safety considerations for the unauthorised campers, traffic hazard, public health risks, serious environmental damage, genuine nuisance to neighbours and proximity to other sensitive land-uses.
121. When assessing the campers' circumstances it is particularly important that local authorities consider how the encampment impacts on children and how eviction actions will also impact on those children. This process should help local authorities to assess what action would be in the best interests of child occupants, which should be a key factor in deciding how to proceed.
122. Local authorities may consider that some encampments will be allowed to remain either on a long-term or short-term basis.
123. This decision will be determined by factors including:
- The Initial Encampment Visit Assessment.
 - The Welfare Assessment.
 - Local circumstances.
 - General considerations such as health and safety hazards, traffic issues, public health risks and other land users.

124. There will be locations where the encampment may not be considered acceptable, because they fall into one of the categories listed below:
- National Nature Reserves, Special Areas of Conservation and Special Protection Areas and sites of Special Scientific Interest.
 - School car park or playing fields.
 - Car parks for other key facilities, such as hospitals.
 - An urban park.
 - Public playing fields.
 - A site where pollution or waste from vehicles could damage ground, water or water courses.
 - An area with toxic waste or other serious land contamination.
 - The verge of a busy road which poses a danger to the occupiers of the encampment.
 - Sites where there is potential for significant harm or disturbance to protected species known to be present at, or in close proximity to, the site.
125. The circumstances of other locations may also be material considerations for local authorities when determining whether an occupation can be acceptable. This may include flood risk on the site or that the occupation is in sensitive location of a National Park or Area of Outstanding Natural Beauty. Natural Resources Wales (NRW) can advise local authorities on consideration of these issues.
126. The local authority and relevant partner agencies will need to decide whether the individual circumstances of the encampment, for example the risks to public safety or the impact on the local community, outweigh other factors such as the welfare and human rights considerations of the encampment occupiers.
127. If the Initial Encampment Assessment identifies serious safety and welfare concerns, a local authority may wish to consider taking immediate action to either rectify the safety concerns, temporarily relocate the encampment, or evict the occupiers altogether. All possession actions will require welfare assessments to be undertaken. Relocating an encampment will be far easier if the local authority has established temporary stopping places to be utilised.
128. The Initial Encampment Assessment may also identify urgent welfare concerns, which may suggest the need of immediate medical or social care responses from the local health board or local authority. In this scenario, a local authority may consider that the encampment should be tolerated, if only for a short period of time.

129. Many encampments may fall between these two immediate concerns. The full Welfare Assessment will provide the necessary information about the occupiers to understand the reasons for the encampment and to balance the impact on the local community against the likely impact of eviction on the occupiers.
130. This cost-benefit analysis must consider the European Convention on Human Rights and whether the local authority has fulfilled its duties towards Gypsy and Traveller communities, contained in the Housing Act 2004, by undertaking thorough GTAA. Such factors may be taken into account by a court if any subsequent possession proceedings are brought. More information on this legislation can be found between paragraphs 53-57 (Housing Act) and 68-72 (European Convention on Human Rights/Human Rights Act).
131. When assessing unauthorised encampments with children and young people under 18 years of age, it is important to recognise that these children may be statutorily homeless and, as such, may be considered as 'Children in Need'. The Children Act 1989, section 20(1)(c) states that:
- “Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of...the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.”*
132. Furthermore, section 17(1) of the Children’s Act 1989 states that it is, *“the general duty of every local authority –*
- (a) to safeguard and promote the welfare of children within their area who are in need; and .*
- (b) so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children’s needs.”*
133. Conducting robust welfare assessments can help public authorities to ensure that they have fully considered the needs of these children and can safeguard against potential harm.
134. The Rights of Children and Young Persons (Wales) Measure 2011 enshrines the United Nations Convention on the Rights of the Child in Welsh law. Currently the Welsh Ministers must have due regard to Part 1 of the Convention in making any decision as to any provision to be included in an enactment, the formulation of new policy or a review or change of any existing policy. From May 2014 this will be expanded to the requirement to have due regard in exercising any of their functions.

135. Local health and education professionals have anecdotally reported upon the benefits of tolerating encampments, if only for a short period of time, as children are able to benefit from education and healthcare. That is not to say all encampments should be tolerated, as some can certainly be unsafe and potentially damaging to children's welfare. Nevertheless, it is crucial that local authorities fully consider the impact of potential eviction proceedings on the welfare of children, disabled or ill occupiers when undertaking their decision-making procedure.
136. There are also financial costs to consider. Local authorities who provide sites, rather than simply take quick enforcement action against unauthorised encampments, will often save money in the long-term. Adopting the following approaches to unauthorised encampments can be cost-effective:
- Providing authorised legal pitches and sites for Gypsies and Travellers if there is identified need in the area. Authorised pitches allow for local authorities to charge rent, rates and council tax to residents.
 - Local authorities could avoid unnecessary enforcement costs if the encampment is likely to last three days or less.
 - Providing services such as refuse collection, toilets, and fresh water can reduce clean-up costs.
 - Encouraging the occupiers to pay for the services that the encampment uses can recoup a significant amount of the local authority's expenditure. Occupiers may be minded to do this if it will ease community tensions and allow them to remain at an encampment for a reasonable period of time.
 - Identifying alternative temporary stopping places within the locality where unauthorised encampments could be relocated and tolerated for a short time.
137. In most circumstances, local authorities will have three paths from which to choose when resolving the issue of an unauthorised encampment and it is important that they carefully consider **each** option (see *R(Casey) v Crawley BC*):
- **Path 1** – To seek and obtain possession of the occupied site (eviction proceedings).
 - **Path 2** – To tolerate the Gypsy or Traveller occupiers, if only for a short time, until an alternative site can be found.
 - **Path 3** – To find an alternative site, if only on a temporary basis, and offer the Gypsy or Traveller occupiers the chance to move onto it.
138. If **Path 1** is chosen: It may be sensible to liaise with the Police about the intention to evict the occupiers. ACPO Guidance explains the Police procedure for dealing with encampments.

139. Public authorities following this path need to be satisfied that they can demonstrate that possession action is a justified and proportionate interference with the rights of the occupants, as enshrined in the European Convention on Human Rights. Proper welfare assessments should help in this regard.
140. If possession action is to be taken against the unauthorised encampment, occupiers will be served with the appropriate documentation relating to the power under which they are being removed. This may be the Criminal Justice and Public Order Act 1994 or Civil Procedures Rules Part 55. For more information, refer to paragraphs 58-65 and 67 under Section 3 – Legislation and the ‘Summary of Powers’ document at **Annex 4**.
141. If **Path 2** is chosen: cost-benefit analysis has shown that maintaining the encampment is the best short-term solution for all. All parties should be informed of the decision and encouraged to agree to a voluntary negotiated Code of Conduct. This Code formally explains what is expected of occupiers and, if the Code is violated, provides documentary evidence that occupiers have broken the agreement. The local authority should search for an alternative site if the occupiers plan to stay in the area.
142. The Code of Conduct template at **Annex 1** is intended as a generic example of a negotiated code between the local authority and the encampment occupiers. The specific requirements of each encampment may require an amended version of this template. The Code may outline the provision of services, including any arrangements for water supply, refuse and sanitation. This example suggests that the local authority will provide this access, as anecdotal evidence suggests that clean-up costs are much reduced as a consequence of this provision. As the Code is voluntary, it is not enforceable but it may provide evidence of the character of the occupation during planning enforcement process or possession proceedings.
143. Though it is acceptable to request payment for services that the local authority has opted to provide to occupiers, it should be recognised that some occupiers may not be able to afford to pay. The local authority should consider whether access to these services can be provided despite costs not being met by occupiers. This is especially relevant where children, elderly, disabled, pregnant or sick individuals are present on the encampment. If authorities are not providing waste disposal facilities to an encampment, they should also consider whether occupants can utilise the local Civic Amenity Site with the vehicles they possess. Information about this service should be provided, where appropriate.
144. If **Path 3** is chosen the local authority’s cost-benefit analysis has identified the current encampment as unsafe or inappropriate but the need for culturally-appropriate accommodation in its area is recognised. The occupiers may have submitted a homelessness

application, which will need to be processed by the local authority. For this path to be followed alternative stopping places should be identified and the encampment moved, if only on a temporary basis.

145. Local authorities should have included a 'criteria-based' Gypsy and Traveller sites policy in their local development plan, which would allow the authority to identify appropriate sites in their area when the need arises. This should assist the local authority to find temporary stopping places in the short-term and permanent residential sites or transit sites in future.
146. When making decisions about encampments, local authorities will need to ensure that they follow the process outlined in their protocol and produce decisions that are reasonable, balanced, and proportionate. The local authority unauthorised camping protocol should establish the process and personnel required to make the decision on which path to take in relation to encampments on a case-by-case basis.
147. Whichever path is chosen, the local authority and relevant agencies should document all of their assessments and decision-making processes, including welfare assessments and the assessment of which path to pursue. All stakeholders, including local residents, the occupiers, and agencies involved, should be informed of the decision.
148. If tolerated, the local authority may wish to revisit the decision about provision of services to the encampment. The encampment should be monitored to ensure that the negotiated Code of Conduct is not broken and to ensure that problems do not develop in the local community.
149. There is no formal limit on the duration of tolerated encampments. However, local authorities should make provision of sites where there is identified need for sites. The presence of a long-term tolerated encampment would suggest the need for a permanent site in the area, which local authorities should seek to provide.

Section 6 – Communicating Decisions

150. Regardless of which decision the Local authority takes, it is crucial that all affected parties are properly informed. It is good practice for the SPOC / lead officer to communicate the decision directly to occupiers and local residents / businesses. Written briefings could be posted to local residents and businesses explaining the reasons for the decision and how it relates to current legislation, policies and the local situation.
151. Due to low levels of literacy within Gypsy and Traveller communities, it is good practice to ensure that occupiers are able to read and comprehend the documents that they have been served with. This applies equally to accessible possession orders or a negotiated Code of Conduct. The SPOC / lead officer should direct occupiers to Gypsy and Traveller Liaison Officers, if one is employed by the local authority. In areas without this role, local Gypsy or Traveller advocacy groups, local Citizens Advice Bureaux or Regional Equality Councils may be able to help. If in any doubt, the SPOC / lead officer should be able to direct occupiers to useful support staff.
152. Key points of contact between Gypsy and Traveller communities and local services need to be made aware of any possession actions and potential knock-on effects on their service users. It is recommended that Traveller Education Services, Health Visitors and any support group involved, in particular, are informed so that they are able to support the families effectively.
153. If the decision is to evict the occupiers, the local authority may also wish to notify neighbouring local authorities to alert them to the possibility of unauthorised encampments in their area.
154. It is important that local authorities inform the landowner, if it is another public body, of its decision to take possession action or not.
155. Local authorities should consider publishing their reasoning for any actions taken in response to unauthorised camping. This document would make the case for the decision that has been reached by balancing the legal obligations of public authorities to both occupiers and local residents or businesses. By publishing this reasoning, local authorities can avoid accusations from either side that their decision was biased in some way. Transparent communication of the reasons why an encampment has been tolerated or evicted may lead to greater public understanding of what considerations need to be addressed and may possibly reduce community tension.
156. Liaising with the police and other appropriate bodies on a multi-agency media strategy may be sensible where an encampment has received considerable news coverage.

Section 7 – Local Strategies

157. The Welsh Government recommends that all local and public authorities adopt their own protocol for dealing with unauthorised encampments.
158. By having this in place, it can help to ensure a fair and consistent approach to the issues of unauthorised encampment.

Developing a Strategy

159. It is usually impossible to predict just where and when an unauthorised encampment will occur. However, a purely reactive response to encampments as they arise is both inefficient and ineffective. Local authorities, police forces and other bodies need to agree and be clear how they will respond to an encampment in a specific area, who will take the lead in what circumstances, and who else will be involved.
160. To be effective, this information should be clearly set out in an unauthorised encampments strategy and protocol. It is recommended that the strategy is developed through consultation with all key stakeholders to ensure that it is agreed and effective; and it should seek to balance the rights, responsibilities and legitimate expectations of the travelling and settled communities.

Objectives of an Unauthorised Camping Strategy

161. The key objectives in a strategy for unauthorised encampments might include:
 - a. Eliminating or at least minimising problems and avoiding the need to respond on a crisis basis by advance planning.
 - b. Ensuring that the needs, legitimate expectations and human rights of all parties – Gypsies and Travellers, landowners and the settled community – are considered.
 - c. Setting a framework within which clear, consistent and appropriate decisions can be made in a transparent manner, to comply with the law.
 - d. Linking the approach to unauthorised camping firmly to other strategies and policies affecting Gypsies and Travellers (site provision, planning, health, education, housing etc).
 - e. Involving all those with an interest in the process of developing the strategy.
 - f. Clarifying roles and responsibilities, including establishing who will co-ordinate responses and who will make the key decisions.
 - g. Ensuring the prevention and detection of anti-social behaviour and crime, and effective enforcement against perpetrators.

Each local strategy will have its own objectives.

Formulating the Strategy

Taking the Lead

162. Local authorities should take the lead in formulating the strategy, being responsible for overseeing and monitoring its implementation, and for ensuring that the process is driven forward.
163. The process of producing a strategy involves a number of key stages and these might include:
 - Appoint a lead officer or Single Point of Contact (SPOC).
 - Set up a strategy working group, with adequate support/resources and ensuring key players are involved and ensuring liaison with other services.
 - Set up consultation procedures/mechanisms.
 - Ensure consistency with other strategies.
 - Review information from evidence gathering stage on the assessment of needs, existing provision and gaps in services/provision.
 - Plan new services/improve existing ones, through joint working.
 - Implement the programme.
 - Monitor/evaluate/review.

Who should be Involved?

164. While local authorities take the lead, it is essential that many others are involved in the process and are willing to sign up to the strategy when it is agreed and published. Generating commitment among participants is an important part of the strategy building process.
165. Gaining participation from the local Health Board, Police force, Gypsies and Travellers themselves as well as advocacy groups who support them, Community Cohesion Co-ordinators, Community Safety officers, and local Councillors responsible for Gypsy and Traveller encampments, will strengthen the local authority's capacity to respond effectively to the situation and ensure that the services of other participations are accessible by occupiers and the settled community. Other organisations, such as Natural Resources Wales, or private landowners could be involved in this multi-agency way of working when the circumstances are appropriate.
166. Local authorities should also consider working on a regional basis to ensure that their approach to unauthorised camping and site provision is consistent.

Good Practice

North Wales Gypsy & Traveller Coordination Group

The Group was established after the conclusion of the North Wales Gypsy-Traveller Accommodation Needs Assessment. The group aims to take responsibility for coordination and oversight of the planning, monitoring and evaluation of activities focused on the Gypsy and Traveller community across the six counties and the Snowdonia National Park Authority. To date the group have discussed a unified needs assessment process; approaches to Gypsy and Traveller policies within Local Development Plans; and establishing a rolling needs assessment.

Elements to be Included in the Strategy

There are a number of elements that could be included in the local strategy, many of which are laid out in this document.

1. The legislative background.
2. Local information on which the strategy is based, for example, the Gypsy and Traveller Accommodation Needs Assessments (GTAA), the Bi-Annual Caravan Count data, local figures for unauthorised encampments (including police figures) and any recurring encampment information etc.
3. Local information on the current level and locations of authorised sites.
4. The approach to be taken when informed of an unauthorised encampment, including the appointment of a lead officer or Single Point of Contact (SPOC).
5. Protocol for the sharing of information with other agencies and for contacting / involving / informing other relevant agencies.
6. The approach to be taken when entering an unauthorised encampment, setting out the roles and statutory responsibilities of all involved, the assessments to be undertaken and possible courses of action.
7. Arrangements for eviction.
8. Protocol for informing neighbouring authorities of families being “moved on”.
9. Resources, constraints, and possible risks to being able to implement the strategy. This should also identify any training required for officers dealing with unauthorised encampments.
10. Monitoring and review period for the strategy.

Section 8 – Evaluation of the Guidance

The Welsh Government is committed to evaluating the impact of this Guidance to check:

- the extent to which local authorities have adopted the guidance; and
- its effectiveness in bringing about improvements on the ground.

In the light of the evaluation – and changing circumstances – further guidance may be issued in future as appropriate.

The Welsh Government will informally evaluate progress against these objectives on an on-going basis. A formal review will take place in 2017.

The Welsh Government's Fairer Futures Division will be pleased to receive comments on the guidance and suggestions for ways in which it might be improved.

The address is:

Fairer Futures Division
Local Government and Communities Department
Welsh Government
Rhydycar Office
Merthyr Tydfil, CF48 1UZ

Negotiated Code of Conduct for Tolerated Stopping

You and your family (insert name) have been permitted to remain on this land as a tolerated but unauthorised Gypsy or Traveller Encampment for a period of Until
This is because.....

By staying on this land you are agreeing to this negotiated Code of Conduct which explains the standard of behaviour which is expected of you and your family.

You are expected to treat the land you have occupied and the surrounding neighbours with respect. You must also respect the rights and freedom of those who also wish or need to use the land.

- You have been permitted to park your caravan and vehicles on a particular area of land. You must not camp on any land other than that which you have been given permission to remain on.
- Camping on other publicly used land, such as parks, school fields, car parks or play areas, may lead to immediate eviction action.
- You must not force entry onto any other part of the land or buildings on the land.
- Be careful not to cause any damage to the land itself or property on it including fencing or boundary walls, fixtures or fittings. This includes any flood defences or defences to prevent trespassing. Particular care should be taken not to cause damage to parks, woodlands, school fields, or play areas.
- Vehicles should not be driven on footpaths or highways not designed for road vehicles. Doing this could put others at risk and is unlawful.
- Vehicles and caravans should also be parked in a way that does not block access for other people who want to pass or to public facilities.
- Dumping, tipping rubbish or placing waste materials or trade waste such as rubble or tree cuttings on this land may lead to eviction proceedings. Please use bins that are provided for domestic waste or dispose of trade waste at the local Civic Amenity Site (local tip).
- Burning of commercial or domestic waste is not allowed on this site. Open fires will only be permitted where basic fire safety is observed and agreed with the local authority / fire service.
- You must not dispose of or deposit any human waste on this site. You will be issued with a portable toilet.
- You will be provided with access to water supply.
- Abuse, harassment or intimidation of any person using this land lawfully will not be tolerated.

- The local authority asks that those who are willing and able to pay for received services (portable toilet, water supply, bins) notify the local authority and pay. Services may be withdrawn if they are being used inappropriately.
- You must ensure the welfare of other occupiers and animals, as far as reasonably practicable.

Initial Encampment Assessment

Date of Assessment	
Time of Assessment	
Assessor/s	

		Response	Comments/ Follow Up
1.	Location of Encampment		
2.	Landowner Identified		
3.	Landowner Complaint Made		
4.	Number of Occupants How many Men? How many Women? How many Children (under 18)?		
5.	Number of Vehicles How many Cars and Vans? Any other vehicles?		
6.	Number of Caravans		
7.	Number of Animals and general welfare conditions		
8.	Damage to Land Evident	Existing state of land: Any damage caused by gaining entry:	
9.	Litter or Waste Present		
10.	Immediate Welfare Issues Identified May include: pregnancy, elderly people, sickness, disability, receiving urgent, planned or a course of		

		Response	Comments/ Follow Up
	medical treatment, children close to exam period		
11.	Impact of encampment to public, neighbours or Landowner		
12.	Environmental impact? (Is this a Site of Special Scientific Interest, in a flood risk area, contaminated land, protected species known, risk of polluted watercourses? Consult Natural Resources Wales)		

Survey of Occupants			
13.	Have you stayed in this area before?		
	Where?		
	When?		
	Any problems encountered?		
14.	Reasons for this stay? There may be multiple reasons, including: Passing through, Local to the area, Work in the area, No authorised pitch, Family event, Visiting/ Holiday, Illness, Hospital Visit, Other.		
	Date of arrival?		
	How long are you expecting to stay here?		
	Are you expecting more people to arrive?		
	How many? When?		

15.	Do you have permanent accommodation (pitch or bricks and mortar) anywhere else?		
	Do you want permanent accommodation (pitch or bricks and mortar) in the area? Do you want to discuss your options with a housing advice officer?		
	Are you seeking a transit pitch in the area?		
16.	Are you willing and able to pay for services on this encampment? (provide estimated cost; services should not be withheld purely due to lack of payment)	Toilets: Water: Refuse: Other:	
17.	Are there school age children on site? Are they accessing school?		
Initial Assessment			
18.	Are there urgent concerns that may necessitate possession action? May include: obstruction, health and safety concerns e.g. dangerous place to stop, damage to land, threats or violence		
Agreement that information collected is correct			
	Signature of occupier		Date:
	Signature of lead officer		Date:

Welfare Assessment

Date of Assessment	
Time of Assessment	
Location of Encampment	
Initial Encampment Assessment Completed?	Date
Names and Positions of Assessors At least TWO assessors required	1. 2. 3.

		Response	Comments/ Follow Up
1.	Location of Encampment/Address		
	Map or Grid References		
	When was the last encampment on this land? (if known)		
	Were services provided to the site? If so what services? May include: Water, Refuse/Skips, Toilets		
	Were services paid for? (only applicable if these are the same occupants)		
2.	Date informed of encampment		
	How was the report made? By Who?		
	How was access gained by assessors?		
	Condition of Site Compare to condition at time of Initial Encampment Assessment		
3.	Group Origin (if known) Romani Gypsies, Roma, Irish Travellers etc.		
	Number of Family Groups It may be that the		

	encampment is one extended family		
	Number of Adult Occupants	Male: Female:	
	Number of Child Occupants	0-5: 6-10: 11-15: 16-17:	
4.	Number of Caravans	Static: Tourer size: Motor Homes: Other (describe):	
	Number of other vehicles	Cars: Vans: Lorries: Other:	
	Number and Type of Animals Please note whether these are tethered and any welfare concerns		
5.	Reason for encampment?		
	Expected duration of stay?		
6.	Services provided at encampment?	Toilets: Water: Refuse: Other:	

Welfare Issues			
7.	Are any women pregnant?	Yes/ No	
	Name		
	DOB		
	Due Date		
	Concerns		
	Doctor/ Practice		
	Receiving Urgent, Local Medical Treatment		

	<p>Is the resident in good health generally? A health professional may be required to give an accurate assessment in regards to being 'moved on'.</p>		
	<p>Overall assessment of condition. Health professionals may need to be consulted with regard to 'moving on'.</p>		
	Name		
	DOB		
	Due Date		
	Concerns		
	Doctor/ Practice		
	Receiving Urgent, Local Medical Treatment		
	<p>Is the resident in good health generally? A health professional may be required to give an accurate assessment with regard to being 'moved on'.</p>		
	<p>Overall assessment of condition. Health professionals may need to be consulted with regard to 'moving on'.</p>		
8.	Does anyone within the group require regular medical treatment/ examinations?	Yes/ No	
	Name		
	DOB		
	<p>Are they receiving treatment now? Please note the resident does not have to disclose information on their condition unless they choose to do so. However, this may impact on the decision whether or not to tolerate the encampment on a short-term basis.</p>		
	Is that one of the		

	<p>reasons for the encampment? Explain if possible</p>		
	<p>Overall assessment of condition. Health professionals may need to be consulted with regard to 'moving on'.</p>		
	Name		
	DOB		
	<p>Are they receiving treatment now? Please note the resident does not have to disclose information on their condition unless they choose to do so. However, this may impact on the decision whether or not to tolerate the encampment on a short-term basis.</p>		
	<p>Is that one of the reasons for the encampment? Explain if possible</p>		
	<p>Overall assessment of condition. Health professionals may need to be consulted with regard to 'moving on'.</p>		

9.	<p>Have any of the group received or are they currently in receipt of urgent medical treatment?</p> <p>Do any of the group require urgent medical treatment which has not yet been sought?</p>	Yes/ No	
	<p align="center">Name</p> <p align="center">DOB</p> <p align="center">Treatment received/ required Please include length of stay if being treated as an 'in patient' and whether or not the patient is still in hospital.</p> <p align="center">Hospital/ surgery</p> <p align="center">Is a doctor or health visitor required to visit the encampment?</p> <p align="center">Ongoing treatment or long term care required?</p> <p align="center">Overall assessment of condition. Health professionals may need to be consulted with regard to 'moving on'.</p>		
	<p align="center">Name</p> <p align="center">DOB</p> <p align="center">Treatment received/ required Please include length of stay if being treated as an 'in patient' and whether or not the patient is still in hospital.</p> <p align="center">Hospital/ surgery attended</p> <p align="center">Is a doctor or health visitor required to visit the encampment?</p> <p align="center">On going treatment or long term care required?</p> <p align="center">Overall assessment of condition. Health professionals may need to be consulted with</p>		

	regard to 'moving on'.		
10.	Are there any disabled or elderly persons that are unable to move on currently? Health professionals may need to be consulted.		
11.	Number of children attending local schools?		
	Number of children within 4 weeks of examinations?		
	Would you like the Traveller Education Service to visit?		
Other Issues			
12.	Did occupiers refuse to provide information?		
	If yes, what reasons were provided?		
13.	Have there been significant changes to the encampment since the Initial Encampment Visit? (Please explain)		
Agreement that information collected is correct			
	Signature of occupier		Date:
	Signature of lead officer		Date:

Annex 4

Summary of Powers

Below is a list of potential legal avenues for resolving unauthorised camping. Please be aware that other powers may exist. Landowners should seek their own legal advice when utilising these powers.

The Method of Eviction	Who can use it?	What Court?
Civil Procedure Rules (CPR) Part 55	Anyone with a sufficient interest in the land including a licensee	Usually County Court, exceptionally in the High Court
Criminal Justice and Public Order Act (CJPOA) 1994 Section 61	The Police	Magistrates' Court
CJPOA 1994 Section 62A-E	The Police	Magistrates' Court
CJPOA 1994 Section 77	Local authority	Magistrates' Court
Highways Act 1980 Section 149	Highways Authority	Magistrates' Court
Bye-laws	Local authority and certain other public authorities	Magistrates' Court
Common law powers	Anyone entitled to possession of the land including a licensee	No need for Court "approval"
Planning Enforcement Powers	Local authority	Depends on type of enforcement action

Glossary

Words used in this document and what they mean:

Association of Chief Police Officers (ACPO): This is a group made up of high level police officers who help the police force make decisions and decide what they should be doing about certain issues. They also produced guidance on unauthorised encampments.

Authorised: This is something that is allowed. An authorised site has been given permission for Gypsies and Travellers to live on by the local authority. It can include publicly provided sites or privately owned sites with the necessary planning permission.

Guidance: This document is 'guidance'. This means it gives people advice on a subject but is not law.

Gypsies and Travellers: This is a term used to define lots of groups who are part of the Gypsy or Traveller way of life. Different groups can include:

- Romani Gypsies.
- Irish Travellers.
- Scottish or Welsh Gypsy/Travellers.
- European Roma⁷.
- 'New' Travellers.
- Show-people.
- Occupational Travellers.

Protocol: This is an agreed plan for how services will deal with an issue.

Public Authority: As well as councils, there are other groups like the National Parks or Natural Resources Wales who look after large areas of land for the public. Sometimes they have to evict families who have stopped in their area.

Temporary Stopping Place: These are intended to be temporary in nature to assist local authorities where a need for Gypsy and Traveller site accommodation is accepted but none is currently available. Temporary stopping places can be provided to relocate inappropriately located encampments whilst alternative sites are progressed. Unlike transit sites, these are not intended only for transient communities and should not be a permanent solution. Temporary stopping places must make provision for waste disposal, water supply and sanitation at a minimum. The Mobile Homes Act 1983 does not apply on these places as occupiers would not be legally entitled to a place on this site. These sites are also known as Emergency Stopping Places.

⁷ The term "Roma" used by the Welsh Government refers to Roma, Sinti, Kale and related groups in Europe, including the Eastern groups (Dom and Lom).

Tolerated encampments: This is land that Gypsies and Travellers do not have permission to stay on for good but where the local authority may decide to allow them to stay for a set period. This might be because this is a better option for everyone than the cost or impact of evicting the encampment.

Transit Site: Transit sites must be permanently designated as such and cannot be occupied by residents for longer than 3 months at a time. This is to ensure that pitches can be used for the intended purpose of facilitating the Gypsy and Traveller nomadic way of life. Transit pitches can exist on permanent residential sites but this practice has led to negative impacts on the site in the past. Specific terms under the Mobile Homes Act 1983 apply on these sites.

Traveller Education Service (TES): These are teachers who work closely with Gypsy and Traveller children to make sure they can get an education.

Unauthorised Development: This is a camp or group of caravans and vehicles on land that belongs to the occupier but which doesn't have the necessary planning permission. This guidance does not apply to unauthorised developments. Guidance on using planning enforcement powers is available in Welsh Office Circular 24/97 and Technical Advice Note 9: *Enforcement of Planning Control*.

Unauthorised Encampment: This is a camp or group of caravans and vehicles on land which does not belong to the occupier and does not have the necessary planning permission.

Unauthorised Campers: These are the people who are living on an Unauthorised Encampment.