

SUBJECT: POLICY FOR GYPSY AND TRAVELLER SITES & PROTOCOL FOR MANAGING UNAUTHORISED ENCAMPMENTS

MEETING: Cabinet

DATE: 3 June 2009

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

To consider adopting a policy for Gypsy and Traveller sites in Monmouthshire and a Protocol for managing unauthorised encampments.

2. RECOMMENDATIONS:

- 2.1 That Cabinet adopts the Policy Statement on managing Gypsy and Traveller sites in Monmouthshire - attached as Appendix 1.
- 2.2 That Cabinet adopts the Monmouthshire Protocol for the management of unauthorised encampments – attached as Appendix 2.

3. KEY ISSUES:

- 3.1 Although Monmouthshire does not have a significant issue with Gypsy and Traveller sites, it is important to prepare for such occurrences and act fairly and consistently. Any action must be proportionate to the specific situation.
- 3.2 The Council would wish to ensure, when dealing with Gypsy and Traveller sites, that –
 - Decision making is clear, consistent and appropriate in the circumstances
 - A balance is struck between the rights and responsibilities of both the settled community and Gypsies and Travellers.
 - Decisions taken will reduce exposure to legal challenge.
 - Communication to the Gypsies and Travellers, local residents, One Stop Shops, Members and media is provided regularly and consistently.
- 3.3 As the Local Planning Authority we need to identify suitable locations for Gypsies and Travellers sites in our development planning process. Although beyond the scope of this policy and protocol for managing sites, Members will wish to note there is a wider debate about future site provisions. The Development Plans team within RER are currently considering the Gypsy and Traveller site issue on a regional as well as local basis.

4. REASONS:

- 4.1 The Council recognises there will be times when it needs to manage Gypsy and Traveller sites in a variety of settings. The Policy document in Appendix 1 provides Officers, Members, residents and other interested groups with a statement of the Authority's approach to managing Gypsy and Travellers sites in Monmouthshire.
- 4.2 Although Welsh Assembly Government has produced useful guidance on managing unauthorised camping, (in February 2005), their expectation is that each Local Authority shall have a strategy for dealing with such encampments. As a responsible Authority we would wish to cater for this community group in the same way as any other settled community in the County. As well as covering options for removal of illegal encampments, the Protocol therefore covers the issues of assessing their needs, for example for social care, child education and waste provision.

5. RESOURCE IMPLICATIONS:

- 5.1 There is no specific budget for dealing with Gypsy and Traveller sites, with any costs generally being borne by the relevant service. For example Countryside Services have previously paid for refuse and other cleansing services in the parks they manage.

6. CONSULTEES:

Cabinet
Select Committee Chairs
Corporate Management Team

Results of Consultation

No adverse comments received

7. BACKGROUND PAPERS:

'Guidance on Managing Unauthorised Camping', WAG; February 2005

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MONMOUTHSHIRE COUNTY COUNCIL**POLICY STATEMENT ON MANAGING GYPSY AND TRAVELLER SITES****1. INTRODUCTION**

- 1.1 Monmouthshire County Council is committed to promoting and protecting the rights of all those who live and work in the County, together with visitors, irrespective of background or circumstance. The Council accepts that all members of the community have the right to protection under the law; to be protected from nuisance, harassment and discrimination; and to be able to access a range of fully inclusive services that meet their needs. Similarly members of the community in Monmouthshire, whether permanent or temporary, have a responsibility not to interfere with the rights of others. Equal standards of behaviour are expected by all. Those rights and responsibilities apply equally to Gypsies and Travellers as to members of the settled community in Monmouthshire.
- 1.2 The decision to adopt a travelling lifestyle, where housing need is met through living within a vehicle, either on a long or short-term basis, is made by many people for a wide variety of reasons. It is imperative that Gypsies and Travellers are not denied the right to mainstream services that the Council provides, simply by virtue of their lifestyle.
- 1.3 The Council recognises the importance of managing Gypsy and Traveller sites appropriately and with sensitivity. Officers of the Council will adhere to the guidelines set out in the document entitled 'Monmouthshire Protocol for the Management of Unauthorised Encampments', when such situations arise in the County.
- 1.4 Gypsies and Travellers will also be catered for within our strategy documents. For example, they will be covered by:-
- (1) *People can expect that services they need will be delivered safely and sensitively and will offer protection when it is needed.* Health, Social Care & Well Being Strategy 2008 - 11.
 - (2) *Every child and young person has access to a comprehensive range of education, training and learning opportunities including the acquisition of essential personal and social skills.* Children & Young People Plan 2008 - 11.
 - (3) *Anti-social behaviour - combating actions likely to cause harassment, alarm or distress to the community.* Community Safety Partnership Action Plan 2009 - 12.

2. POLICY STATEMENT

- 2.1 The Council recognises the importance of celebrating the diversity of those who live in Monmouthshire and recognises that this is only possible if all communities feel safe and valued. The Council has a four-fold duty in relation to Gypsies and Travellers:
- To balance the rights and needs of the settled community with those of Gypsies and Travellers.

- To eliminate unlawful racial discrimination
- Promote equality of opportunity and treatment.
- Promote good relations between people of different racial groups.

2.2 The Council will adhere to the principles of community cohesion and support a culture where there is respect for others and a tolerance of racial and cultural difference.

2.3 The Council supports a multi-agency, co-ordinated approach to Gypsies and Travellers. It will aim to:

- Work corporately, across groups and other agencies to deliver real outcomes for the Gypsy and Traveller community in Monmouthshire.
- Promote good practice across the range of agencies.
- Recognise that there may be additional issues faced by Gypsies and Travellers because of their social group, ethnic background, age or disability.
- Where appropriate consult and incorporate the views of Gypsies and Travellers in the development of policies, procedures and services.
- Assess the need for Gypsy and Traveller accommodation within the County and develop a strategy to address any identified need.
- Use firm but fair enforcement powers against unauthorised sites and anti-social behaviour.

3. LAND USE

3.1 The Council acknowledges that there are more Gypsy and Traveller caravans in circulation than there are authorised places for them to stop. Having regard to the limited number of places available, the Council recognises that there will be unauthorised encampments from time to time. Furthermore there is an increasing expectation by the Courts and other agencies that alternative site provision should be available when eviction from unauthorised places is considered. Currently there is no provision for sites within Monmouthshire. The Council will ensure that it seeks advice from a number of sources in developing future provision and maximise the funding available where appropriate.

3.2 Monmouthshire experiences occasional unauthorised encampments, which can cause disruption and conflict locally, and can be expensive and time consuming to clear. Unauthorised camping can be a problem that requires a range of solutions, which may include swift and effective enforcement. As per Section 1.3 above the Authority has a protocol for managing such sites.

- 3.3 Another situation may arise where land is purchased privately by or on behalf of Gypsies and Travellers, with a view of providing a site with associated facilities. Planning permission may or may not be sought. Gypsies and Travellers are on the same footing in planning law as other citizens. In considering planning applications and the expediency of taking enforcement action the local planning authority shall have regard to its current development plan, policies and other material considerations, including relevant guidance from the Welsh Assembly Government.

4. COMMUNICATION

- 4.1 The policy will be available for distribution in different formats - electronically on the Council website and via hard copy for Gypsies and Travellers, settled community, businesses, etc.
- 4.2 'Frequently asked questions' will be put on the website, again available in hard copy format, at One Stop Shops, etc.
- 4.3 A briefing note will be available for distribution to local residents, local Members, Community Councils etc., when unauthorised encampments occur.
- 4.4 Monmouthshire County Council will liaise with relevant agencies when issuing press releases or responding to media enquiries.

5. MONITORING AND EVALUATION

- 5.1 This policy will be monitored annually to evaluate its continued relevance and effectiveness by the Equalities & Access Officer.

6. AUTHOR

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MONMOUTHSHIRE PROTOCOL FOR THE MANAGEMENT OF UNAUTHORISED ENCAMPMENTS

Management Guidance for use by Monmouthshire County Council, working in liaison with the
Monmouthshire Local Policing Unit of Gwent Police

JUNE 2009

1. INTRODUCTION

1.1 Aim

The aim of this Protocol is to address the need for an effective, inter-agency approach to the management of unauthorised encampments in Monmouthshire.

1.2 Scope

The scope of the Protocol extends to how the Council works with Gwent Police where these situations arise, recognising other Public bodies such as the Local Health Board and the Environment Agency may also need to be involved, dependant on local circumstances.

1.3 Definitions

There are three main Gypsy and Traveller groupings travelling or 'residing' in England and Wales. These are traditional British (Romany) Gypsies, traditional Irish Travellers and New Travellers. The first two groupings are accepted as ethnic minorities for the purpose of race relations legislation. All of these groups have different economic, social, cultural and lifestyles characteristics. For the purpose of this document, groups and individuals belonging to any of these groups will be referred to as 'Gypsies and Travellers'.

Unauthorised encampments refers to encampments of caravans and/or other vehicles on land without the landowner or occupier's consent and constituting trespass.

1.4 Local Situation

Although unauthorised encampments are infrequent in Monmouthshire, it is important the Council is prepared for such eventualities and acts consistently.

Gypsies and Travellers have previously occupied, for example, M.C.C.'s Countryside sites in Clydach South, (various occasions) and Castle Meadows, Abergavenny (once to date, in July, 2008). They have also pitched on a site in Usk and on lay-by's on the A465 trunk road between Abergavenny and Hereford. Although land occupied is typically owned by the Council, it could belong to National Assembly Wales (trunk roads), Forestry Commission or others.

2. POLICY CONTEXT

2.1 The WAG Guidance on Managing Unauthorised Camping (NAFWC 04/2005) came into effect in February 2005.

This Guidance's overall objective is to assist local authorities, Police and others to tackle unauthorised camping to minimise the disruption it can cause. In doing this, it aims:

- To help strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsy-Travellers.

- To set out recommended courses of action which all local authorities and Police forces should follow to provide an effective response to unauthorised camping in their areas.
- To encourage a more consistent approach, building on current good practice and sharing experience.
- To show how to engage the settled and Gypsy-Traveller communities in order to achieve 'buy in' to the strategy, which is vital to ensure its effective delivery.

The Guidance is primarily aimed at local authorities and Police who share responsibility for managing unauthorised camping, but will also be relevant to all bodies likely to be involved in partnership approaches. While the Guidance is advisory, local authorities and Police are strongly advised to bear it in mind when devising and implementing their approaches and are reminded that the courts may refer to it as a material consideration in eviction or other enforcement decisions.

In the interests of avoiding repetition the guidance is not included within this Protocol. Monmouthshire County Council and Gwent Police have agreed to adopt the recommendations contained within the guidance as a model of good practice. Officers will be referring to this guidance in the course of their work in relation to the management of unauthorised encampments.

2.2 The Race Relations Act 1976 makes it unlawful to treat someone less favourably on the grounds of colour, race, nationality, ethnic or national origins. Both Romany Gypsies and Irish Travellers are recognised in law as racial groups. The Race Relations Amendment Act 2000 places a general duty on public bodies to promote racial harmony between different racial groups. The Human Rights Act 1998 also protects Travellers from unlawful discrimination.

2.3 Section 255 of the Housing Act (2005) requires local authorities to:

- Include Gypsy and Traveller accommodation needs within the Local Housing Assessment process
- Consult on new planning guidance so that local authorities will have to ascertain local need for Gypsy and Traveller sites and identify suitable locations accordingly
- Ensure accurate information on the levels of need for sites and other types of provision will in future be provided via Local Housing Needs Assessment, rather than via the Gypsy and Traveller Caravan Count
- Recommend that the use of Anti-Social Behaviour Orders (ASBOs) be extended to Gypsies and Travellers where anti-social behaviour accompanies an encampment.

3. THE ROLES AND RESPONSIBILITIES OF THE PUBLIC SECTOR IN DEALING WITH UNAUTHORISED CAMPING

3.1 The Council

3.1.1 Local authorities have responsibilities under the Criminal Justice and Public Order Act 1994 to consider unauthorised camping and to take appropriate action. In addition the Council has responsibilities for the welfare and education needs of the people of Monmouthshire. These include Gypsies and Travellers living in or visiting Monmouthshire.

Social, Health and Education Services have the same responsibilities for Gypsies and Travellers as they have for other groups and individuals within the community and will normally be involved whenever an unauthorised encampment occurs. Social and/or Education Services will be invited to attend any Case Conferences relating to unauthorised Gypsy and Traveller encampments should the need arise.

3.1.2 Powers Available to Local Authorities

The Government believes that local authorities should always follow a route that requires a court order. Local authorities and public bodies must have regard to considerations of common humanity or other statutory duties and must ensure that the human rights of unauthorised campers and the neighbouring community are safeguarded. Local authorities have a range of powers to tackle unauthorised encampments:

- a) A landowner (including a local authority) can obtain a possession order in the civil courts requiring the removal of trespassers from property, including land. Under the Civil Procedures Rules Part 55 the claim must be issued in the County Court in whose jurisdiction the property or land is situated. Exceptionally the claim may be issued in the High Court if there is substantial risk of public disturbance or of serious harm to persons or property which properly require immediate determination.
- b) The Criminal Justice and Public Order Act 1994 (CJPOA) gives local authorities in England and Wales powers to make directions to leave land being used by itinerant groups (s77). It is an offence to fail to comply with such a direction. In proceedings for an offence under this section, it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable, or his re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency. If the direction to leave is not complied with, the local authority can apply to magistrates' court for an order requiring the removal of vehicles and any occupants from the land (s78).
- c) Local highways authorities have powers to evict unauthorised campers from highway land in certain circumstances under the Highways Acts. Section 143 of the Highways Act 1980 requires unauthorised campers to be given 28 days notice to leave.
- d) Under Section 33 of the Environmental Protection Act 1990, it is prohibited to deposit, treat, keep or dispose of controlled waste on any land, unless an appropriate licence is in force. Officers of the Environment Agency or the local authority may stop (with Police support) any vehicle believed to be carrying "controlled waste". Drivers of vehicles used without relevant documentation may be subject to being reported to the Court and their vehicle seized.
- e) Where Gypsies and 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 above against trespass cannot be used. A breach of planning control is not in itself an offence; enforcement is a matter for the discretion of the local planning authority. Decisions to enforce must be made on planning grounds. Some key factors may include whether the breach of control unacceptably affects public amenity, highway safety, public landscape, or the existing use of land or buildings meriting protection in the public interest. The action taken should be proportionate to the breach.
- f) Other - there are a range of other powers available to Monmouthshire County Council. For example, the Clean Neighbourhoods and Environment Act 2005 provides local authorities with powers to keep areas clean and safe.

The Anti Social Behaviour Act 2003 could also be used.

3.2 The Police

3.2.1 Powers are available to the Police under the Criminal Justice and Public Order Act 1994 ss61-62. Gwent Police work closely with the County Council and are supportive of the approach involving discussion, dialogue and negotiation with Gypsy and Traveller groups. Police representation will be present at Case Conferences called to discuss an unauthorised encampment.

3.2.2 Powers Available to the Police

Powers are available to the Police under the Criminal Justice and Public Order Act 1994. Under s61 of the CJPOA, the Police have discretionary powers to direct trespassers to leave land. The senior Police Officer present can direct trespassers to leave if reasonable steps have been taken by or on behalf of the landowner/ occupier to ask them to leave and there are two or more people intending to reside on the land. Any one of three further conditions must be met:

- if any of those persons has caused damage to the land or to property on the land; or
- used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or
- those persons have between them six or more vehicles on the land.

Section 61 cannot be used on land on the highway (with limited specific exclusions listed by s61 (9)(b)). It is an offence to fail to leave the land as soon as reasonably practicable or to enter the land again as a trespasser within three months of the date the direction was given.

The current guidance from the Association of Chief Police Officers (ACPO) refers to some of the circumstances in which it might be appropriate to use s61 against an encampment.

- The statutory conditions must be met. In other words, the unauthorised campers must clearly have failed to respond to requests from or on behalf of the legal occupier of the land to leave before the Police can act. (Some Police forces have streamlined this process by drawing up standard documents which, when signed by the owner/occupier of the land, give the Police authority to act as their agents in dealing with the encampment. This will be a future consideration for Gwent Police)
- The fact that a landowner initially allows an encampment to remain does not preclude subsequent Police action so long as it is clear that reasonable steps have since been taken by the landowner/occupier to get the unauthorised campers to move, and that they have failed to do so.
- The fact that a local authority has started to make welfare enquiries cannot be taken as an indication that the encampment is being allowed to remain since this is an essential precondition for eviction action.
- The decision to use s61 is an operational one. Its early use should always be considered where it is likely to be a proportionate response and especially where there is evidence of:
 - unacceptable behaviour by unauthorised campers at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction;
 - significant disruption to the life of the surrounding community;
 - serious breaches of the peace or disorder caused by the encampment.

- Where triggers such as the above are experienced, good practice suggests that Police should be prepared to act as long as the statutory conditions are met. Police forces/commands should not adopt blanket policies or presumptions either for or against the use of s61.

The decision whether or not to issue a direction to leave is an operational one for the Police alone to take in the light of all of the circumstances of the particular case but within the Protocol framework. In making their decision the senior Officer at the scene may wish to take account of the personal circumstances of the trespassers. For example, the presence of elderly persons, invalids, pregnant women, children and other persons whose well-being may be jeopardised by a precipitate move. While Police Officers do not have to undertake welfare enquiries as such, they must be aware of humanitarian considerations in reaching their decisions and must ensure that all decisions are proportionate. A decision may be taken to explicitly exclude individuals or families with serious welfare needs from a s61 direction to leave. CJPOA Section 62A to 62E provides the Police with a power to direct trespassers to leave land and to remove any vehicles and other property from the land, where there is a suitable pitch available on a caravan site elsewhere in the local authority area. Where a direction has been given to a person, it is an offence for that person to enter any land in the local authority as a trespasser within three months of the direction being given.

3.3 Powers Available to Other Landowners

Private landowners may obtain a possession order through the civil courts requiring the removal of trespassers from their land, using Civil Procedures Rules Part 55 in the County Court. Private landowners have no welfare responsibilities towards Gypsies and Travellers and would not be expected to take unauthorised campers' needs into account when deciding to evict.

Some private landowners seek to avoid the expense and costs of going to court by using common law powers to recover land from trespassers using 'reasonable force' as necessary. Such action is lawful and some firms of bailiffs have carried out many evictions effectively and without trouble. Good practice guidelines for common law evictions would seek to ensure that no more than necessary 'reasonable force' is used. In addition:

- Police should always be notified of an eviction and called in to stand by to prevent a breach of the peace.
- If Police advise that it is inappropriate to carry out an eviction, it should always be delayed until an agreed time.

There is a role for local authorities and Police in managing unauthorised camping on private land:

- As a minimum, local authorities should inform private landowners about their rights to recover land from trespassers, through the courts or using common law powers. Authorities should not offer legal advice to landowners but rather refer them to Citizens' Advice Bureaux or solicitors. Authorities should remind landowners about the importance of using reputable bailiffs and only 'reasonable force'.
- Within the overall strategy for managing unauthorised camping, the local authority might consider acting more directly against encampments when requested by a private landowner, particularly if the Police are not prepared to use s61 to evict the encampment.
- Police should take action if any criminal offences are perpetrated during eviction action by bailiffs or private firms.

4. GUIDELINES FOR MANAGING UNAUTHORISED ENCAMPMENTS

4.1 First Response

The party receiving initial notification of an unauthorised encampment should take the initiative in advising the likely lead authority. Where there is an immediate risk of a large illegal encampment on an open space, there may well be an emergency response from the Police which is likely to involve blocking access points.

4.2 The Lead Authority

- The Council will act as lead authority in respect of unauthorised camping on the highway, on land owned by the Council, or on common land.
- The Police will lead when the decision has been taken to enact powers under Section 61-62E of CJPOA.
- In some cases the lead authority will not be easily identified, for example where an encampment is on both public and private land. In such cases the decision as to who will be lead authority should be based on the extent to which the encampment is on the highway or private land. If the majority of the land occupied is Council owned or Highways, the Council will lead; if the majority is private land Gwent Police will usually take the lead.

4.3 Action Following Notification of an Unauthorised Encampment Site Visit

When notification of an unauthorised encampment is received, an Officer representing the lead authority will visit the site at the first opportunity (normally within 24 hours) to consider the acceptability of the encampment. The Officer may choose to make a joint visit with a Police Officer. The lead authority will give attention to any complaints received or other issues that may arise from the encampment and location.

A Needs Assessment will be undertaken during the site visit. This will be recorded as outlined in Appendix 3. Thereafter the authorities concerned will consult and decide upon the most appropriate course of action, normally by means of convening a Case Conference.

Enquiries will commence in advance of the Case Conference to establish if vacancies exist at nearby official sites, (e.g. Blaenau Gwent and Torfaen). If vacancies do exist at any of these sites then the group will be directed to relocate to the appropriate location.

4.4 The Case Conference

Where a Case Conference is convened, representatives from the Council, Police, Education and Health Services will be consulted as necessary. Members or representatives of both the settled and travelling communities may be invited to attend at the lead authority's discretion. Social Services, Education and other agencies may be asked to attend where this is considered appropriate.

The Case Conference will consider the encampment in relation to its location, any health, welfare and educational needs, criminal or anti-social behaviour, environmental impact and human rights considerations. Following careful consideration of all these factors, recommendations around how to proceed will be decided. Any decision will need to be notified to Chief Officers of Monmouthshire (Chief Executive or Corporate Director) and Gwent Police.

A summary of the purpose of the Case Conference, and how its conducted, is provided in Appendix 1.

4.5 Action Following a Case Conference

Following the case conference, if the recommendation is taken to evict an unauthorised encampment the aim should be to act quickly and efficiently; to use powers most appropriate to the circumstances and to reduce scope for challenge through the courts by ensuring that policies and procedures are properly followed.

4.6 Management of an Unauthorised Encampment

Whether or not a decision is made to tolerate the encampment for up to 28 days, the local authority will need to decide whether it is necessary or appropriate to offer or to provide basic facilities. Such facilities may include toilets, waste disposal and where economical, running water.

The local authority will ensure, so far as is reasonably practicable, that any waste is removed both during the encampment and immediately upon its vacation, except when an encampment is on private land, when clearance costs are the responsibility of the landowner.

Where costs are incurred, for example for the provision of toilet facilities and refuse collection, the Authority will seek payment from the Gypsies and Travellers where practicable.

4.7 Consideration of Existing Unauthorised Encampments

If it is agreed to allow an unauthorised encampment to remain, or if an encampment has been in place for some time, the lead authority will keep the encampment under review to ensure broad compliance with standards set for acceptability of continuation. In some cases it may be necessary to call a further case conference, particularly if there is an escalation in the scale or impact of unauthorised camping (or significant change in the level of anti-social activity in the area). In such instances a case conference will follow the same format and

principles set out in this Protocol for dealing with newly established encampments.

Any decisions taken regarding the unauthorised encampment should be communicated to all parties concerned.

4.8 Media Contact

Contact with the media is the responsibility of the lead authority, to which all enquiries should be referred. Should a press release be necessary, and where time allows it, Monmouthshire County Council and Gwent Police should be asked for their comments. Copies of press releases should be distributed to all relevant parties prior to its release. A press release should refer to the Protocol process jointly undertaken by the agencies and give the context under which any decision has been reached.

4.9 Unacceptable Encampment Locations

Unauthorised encampments are almost always, by definition, unlawful. However, while there are insufficient authorised sites, it is recognised that some unauthorised camping will continue. There are locations, however, where an encampment will not be acceptable under any

circumstances. Each encampment location must be considered on its own 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. Set out below is a list of the types of site where unauthorised camping would not normally be acceptable:

1. A site of special scientific interest (S.S.S.I.).
2. A school car park or playing field.
3. A verge of a busy road where an encampment would pose a danger to both campers and road users.
4. Locations where there is significant health and safety risk to campers.
5. A site where pollution from vehicles or dumping could damage water or water courses.

Government guidance suggests that wherever possible, local authorities and/or Police should seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location. Where this proves impossible, they should attempt to encourage the unauthorised campers to move to an authorised site where available. Identification of possible alternative sites could assist local authorities and the Police in the management of unauthorised encampments in circumstances where there are no available pitches on authorised sites. If the unauthorised campers refuse to move from an unacceptable location, eviction processes (including appropriate welfare enquiries) should be commenced.

4.10 Procedure Summary

A summary of the general procedure for managing unauthorised encampments is provided in Appendix 2.

5. ACTION TO BE TAKEN FOLLOWING THE DEPARTURE OF THE ILLEGAL ENCAMPMENT.

- 5.1 A meeting will be convened to review the decisions and the effectiveness of the management process. This will be treated by all Officers concerned as an opportunity to learn and improve practice and not apportioning fault in relation to any difficulties that occurred during time that the illegal encampment was present. Officers will be reminded at the outset of the meeting that the purpose of this Protocol is to balance the need to protect property from trespass and consider the human rights and the ongoing welfare of Gypsies and Travellers in our area.
- 5.2 Consideration should be given to the contents of any press statement or response to press enquiries. The principle purpose of any statement should be to reduce any community concerns, protect social cohesion and demonstrate fairness in how the Council has carried out its responsibilities. Officers will exercise their discretion as to whether any press releases might serve a positive purpose.
- 5.3 The appropriate teams for example Environmental Health or Countryside will inspect the conditions at the vacated site and commission arrangements for the removal of any waste left over from the encampment. If any dangerous or harmful products be discovered at the site location arrangements should be made for their removal in accordance with standard public protection procedures. If any graffiti is within

found within the immediate locality this should be removed. Racist graffiti should be removed as a priority in accordance with standard procedures.

6. REPORT AUTHOR

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Protocol incorporates comments made through consultation with:

Corporate Management Team
Strategic Development Group of Community Safety Partnership
Environmental Health & Planning, Monmouthshire CC
Equalities & Access Officer, Monmouthshire CC

When an unauthorised encampment occurs, the lead Authority needs to establish who is living there, the likely period of occupation, and its impact on the local community. The Needs Assessment is intended to provide sufficient background information to enable balanced and informed decisions to be made concerning its tolerance or otherwise. The checklist should be completed by the lead authority and copies distributed thereafter.

Those taking part in the case conference should be reminded that the Race Relations Act 1976 makes it an offence to discriminate against someone because of race, colour, nationality or citizenship, or ethnic or national background. Furthermore, the Race Relations Amendment Act of 2000 also places a duty on public bodies to promote good relations between people of different ethnic groups.

As Gypsies have been recognised as an ethnic group since 1989 and Irish Travellers since 2000 both groups are protected under the Race Relations legislation. Those participating in a case conference should be mindful of the legislation and at all times use language and behaviour that is appropriate and respectful.

Data Protection Act 1998

The Data Protection Act regulates the holding and processing of personal data, that is information relating to living individuals, which is held either on computer or in manual form. The Act gives enforceable rights to individuals (data subjects) and places obligations on those legal persons (data controllers) who control the manner and the purpose of the processing of personal data. It will be the responsibility of the signatories to this Protocol to ensure that information supplied to them under this Protocol will be used solely for the purpose for which it was obtained. They should also ensure that such information is not disclosed to unauthorised personnel and keep all relevant data confidential and comply with the Data Protection Act and all other relevant legislation and guidance.

UNAUTHORISED CAMPING PROCEDURE

General Procedure	
Step 1	<p>The Lead Officer is the Officer with responsibility for overseeing this procedure. For Monmouthshire County Council it will be the Head of Community & Environmental Protection. Upon notification of an unauthorised encampment, an initial site visit will be carried out by an Environmental Health Officer (E.H.O.) and the Needs Assessment will be completed normally within 24 hours notice of the arrival of the encampment.</p> <p>In addition the E.H.O., in liaison with Countryside or Estates, will complete an assessment to ascertain whether the land is a suitable location for the Gypsy/Travellers. Gwent Police will liaise with the E.H.O. to share information when they receive it.</p> <p>A brief statement will be drafted by Environmental Health, will be given to the local One Stop Shop agreed by the Head of Community & Environmental Protection, so that all complaints can be handled locally. The team must ensure that all complaints are given to the One Stop Shop Team so that they can be directed to the appropriate department. This will be updated when the issues progress.</p> <p>The Assistant Chief Executive will co-ordinate and answer the enquiries from Members. The Corporate Director R.E.R. or Chief Executive will undertake this role in the absence of the Assistant Chief Executive.</p>
Step 2	Officers in Estates will determine if the site is on local authority land.
Step 3	The E.H.O. will check if there are any available pitches/spaces at authorised sites at neighbouring authorities for example Torfaen and Blaenau Gwent.
Step 4	Where it is determined that the site is on local authority owned land, a decision will be taken as to if and when proceedings should be implemented. There may be occasions when occupation can be tolerated for a short period of time and will depend on the circumstances of each particular case. Certain sites will be deemed unacceptable locations where any trespass will not be tolerated, (as provided in 4.9 of Protocol).
Step 5	The Corporate Director, R.E.R., in consultation with Head of Community & Environmental Protection and Head of Legal Services, shall decide whether possession proceedings shall be taken and refer to Legal Services to issue proceedings or to tolerate the trespass in accordance with the following procedure.

Toleration/Eviction Procedure	
Step 1	<p>An E.H.O. submits the Needs Assessment. An E.H.O. will carry out site visits in order to monitor conditions and circumstances at the site.</p> <p>The following matters will be monitored:</p>

	<ul style="list-style-type: none"> • Confirmation of persons/vehicles • Public health issues. • Welfare/health needs of travellers, for example advanced pregnancy, ill health, educational needs. This would be done by referring it to a health visitor and/or education/social services. • Compliance with agreed departure date. <p>Encampments will be provided with/arrangements will be made for the provision of the following essential services as soon as practicable.</p> <ul style="list-style-type: none"> • Domestic refuse collection. • Toilet facilities (Portaloos) <p>The Lead Authority will seek payment for the provision of the above services, from the Gypsy/Travellers, where practicable.</p>
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Step 2	<p>The Case Conference Group will consider the Needs Assessment and Education/Social Services input (if applicable) and decide recommended action regarding the site. The Case Conference Group will consist of Gwent Police, Environmental Health, Countryside or Estates, Solicitor from Legal Services, and (if relevant) officers from Education/Social Services. (Formal Minutes of the meeting will be taken and it should take place no longer than one week after the arrival of the encampment.)</p> <p>Proposed recommendation for action will be either:</p> <ul style="list-style-type: none"> • S.77 Serving of Direction on campers (Monmouthshire County Council) or S.61 (Gwent Police), under Criminal Justice and Public Order Act 1994. <p>Or</p> <ul style="list-style-type: none"> • Tolerate encampment for up to 28 days. <p>Other landowners (see Section 3.3) may wish to pursue the civil procedure route.</p> <p>Authorisation will then be obtained from the Corporate Director of R.E.R. or other Director/Chief Executive in his absence.</p>
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Step 3	Evict: Refer Legal Services.	Tolerate: Monitor site in accordance with toleration procedure.
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Step 4	<p>Steps 1, 2 and 3 will be repeated until:</p> <ul style="list-style-type: none"> • Travellers leave in accordance with agreed departure date. <p>Or</p> <ul style="list-style-type: none"> • Eviction procedure implemented.
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**MONMOUTHSHIRE COUNTY COUNCIL
ILLEGAL ENCAMPMENT NEEDS ASSESSMENT**

Date

GENERAL INFORMATION				
Location of encampment				
Date of occupation		Intended duration of stay		
Name of spokesperson representing family group(s)				
Number of adults in Group by Sex	Male		Female	
Number of Children in Group by Sex and Age Group	Male	0-5	6-10	11-16
	Female	0-5	6-10	11-16
Number of caravans	Number of occupants in caravan	Available details on occupants	Identifying features of caravans	

HEALTH ISSUES				
Are any of the adult females in the group pregnant and if so how many and stage of pregnancy?	0 to 3 months	3 to 6 months	6 to 9 months	Confinement imminent
Do any members of the group require medical treatment on a regular basis?	Details			
Has any member of the group sought and received emergency medical treatment since arriving at this location?	Details			
Do you require the services of a Health Visitor and/or Nurse for any of your group at this location?	YES/NO (Delete where not applicable)			
If YES , for what specific purpose i.e. advice on inoculations, general health/nutrition advice, etc.	Details			
If NO , do you or any of your group object to the details of your group and it's current location being passed to	YES/NO (Delete where not applicable)			

the health visitor service?		
SOCIAL ISSUES		
Do you or any member of your group require the services of a social worker for your group at this location?		YES/NO (Delete where not applicable)
If YES , for what particular need i.e. guidance, advice, etc.	Details	
If NO , do you or any member of your group object to the details (not medical) of the group and it's current location being passed to Social Services?		YES/NO (Delete where not applicable)
EDUCATION ISSUES		
Do you or any member of your group require the services of an Education Officer at this location?		YES/NO (Delete where not applicable)
If YES , for what purpose i.e. children and or adult educational needs?	Details	
Are any of the children in school? YES/NO	Name of School	Names of children
If NO , do you or any member of your group object to the details (not medical) of the group and it's current location being passed to an Education Officer?		YES/NO (Delete where not applicable)
HOUSING ISSUES		
Do you or any member of your group regard		YES/NO (Delete where not applicable)

OTHER MATERIAL INFORMATION

Do you or any of your group have any further information to give that may be of assistance to the Council in deciding on what course of action it intends to take in respect of your presence for residential purposes at this location?	YES/NO (Delete where not applicable)
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If YES , what information do you or any member of your group wish to give?	Details
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I confirm the above details appear to be an accurate reflection of the current needs of our group

Signature of Travellers Representative

Date