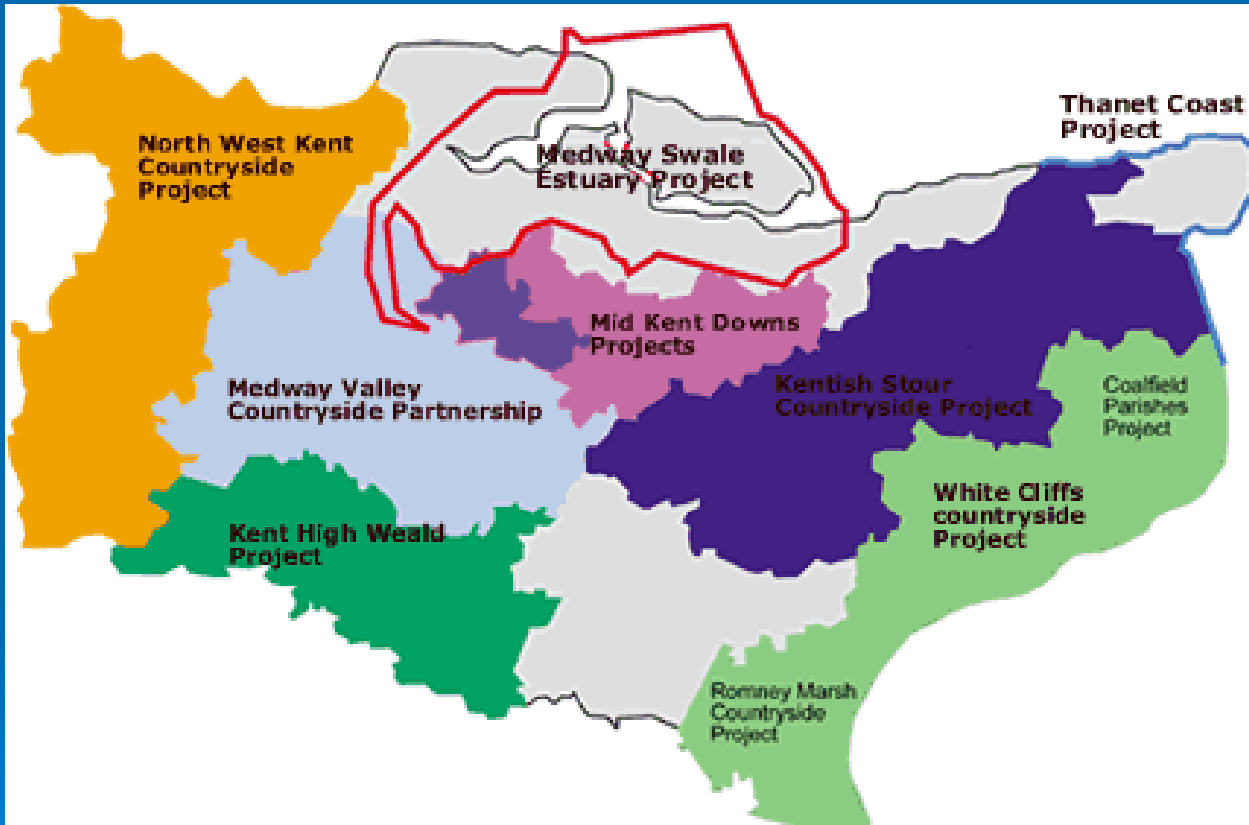


Medway Valley Countryside Partnership



Countryside Management Partnerships in Kent



About us

- Advice, education, events, and practical support to local groups conserving wildlife and the landscape
- Work with local councils, PROW to improve access along the Medway Valley and within our area
- Work in partnership with KWT, Natural England & landowners for the management of special habitats and protected species



River Warden Scheme

- 60 Wardens working on the Medway between Tonbridge and Maidstone
- 10 new (2010) River Wardens working in the Medway Gap
- Spring Clean ups and River Rubbish Round Ups



River Wildlife & beyond

- Water voles
- Barn owls
- Invasive species control
- Flora and fauna of all sizes



What's next

- Closer to Hadlow
- More so wildlife
- Develop contact partners network groups
- Parish C



Dene Park

Aerial Photography by ukperspectives.com

- Working in partnership with FC
- Establish “Friends of Group”
- Tie in with Parish Council
- Seek funding
 - Arts based project
 - Woodland archaeology
 - Biodiversity grants
 - Local members’ grants



Orchards project



- County wide
- Maintenance of traditional orchards as landscape features
- Cobnut plats
- Adding value to crop (juice)
- Community orchards



**Kent
Police**



Tonbridge and Malling
Community Safety Partnership
Making the borough even safer

September 2010

**Parish Partnership
Panel**

SWOT Analysis – Taken from last two Tactical Assessments

<p>Strengths</p> <ul style="list-style-type: none">• Arrests of 3 offenders who between them admitted to 16 offences of Burglary, Theft and Damage.• Key local offender arrested for breaching tag conditions.• 3 successful search warrants conducted, recovering stolen property on each occasion.	<p>Weaknesses</p> <ul style="list-style-type: none">• Op Blade offences have increased in recent weeks.• Insecurity Theft from motor Vehicle occurring across the District.• BDW using garden tools to gain entry continues.
<p>Opportunities</p> <ul style="list-style-type: none">• Analytical product on crime in Snodland and A20 corridor produced.	<p>Threats</p> <ul style="list-style-type: none">• Platinum prices are also showing signs of increasing lately, which can lead to increase in Cat Converter thefts. There have been catalytic converter thefts in Larkfield, Quarry Wood and Aylesford this period.• Lead prices have increased from £700/tonne to £850/tonne.• Potential cluster of BDW offences in the Mallings area, where vehicles are targeted, could become an issue.

Repeat Business – Crime & ASB

- The Allotments on Forstal Road, Aylesford, experienced a small cluster of shed breaks where hand tools and one lawn mower were stolen.
- There were four thefts of catalytic converters, all around the Aylesford area
- There was an Op BLADE offence at Shakespeare Ltd Lorry Park in Larkfield which was insecure at the time. Three commercial lorries had their sides slashed. Also Blade offences at Quarry Wood, Aylesford, Old Chatham Rd, Bluebell Hill and Larkfield industrial estate.

- **Larkfield** was a hotspot for “Teenagers hanging Around” calls. The only repeat location was Keats Road, from the same caller on consecutive evenings. Temporal analysis highlights **weekdays 18:00 to 19:00**.
- **Quarry Wood industrial Estate, Aylesford** – Sainsbury car park, mainly **mid week, early evening 20:00-23:00**, with a repeat caller.
- In total **Nuisance Vehicles** accounted for 17% of total reported ASB this period. Repeat locations for Nuisance Vehicle activity were:
 - o **Wouldham** – Sunday afternoon/evening 18:00-21:30.
 - o **Birling Hill (VOV)** – reports of morning activity.
 - o **East Malling** – noisy vehicles.

Tonbridge & Malling Summary

	Apr - Aug		No. Change	% Change
	2009	2010		
All Crime	2498	2611	113	4.5%
Burglary Dwelling	106	137	31	29.2%
Burglary Other	181	160	-21	-11.6%
Violent Crime	496	558	62	12.5%
Vehicle Crime	249	259	10	4.0%
Criminal Damage	563	513	-50	-8.9%
Anti-Social Behaviour (PP)	865	801	-64	-7.4%



Safer Garage Brand – Larkfield Road Shows



Each block took **ownership** of their target hardening with Police **support**



Sustainable long term objectives have been set for each block – **not** a one off moment



Safer Garage Brand – Kings Hill

Safer garage scheme

This area is part of the **Kings Hill Safer Garage Scheme**

Police regularly patrol this area.



WARNING
You may become **forensically** marked if the property has been **DNA** marked

Report it

If you see anything suspicious call Kent Police on **01622 690690**



Again, following on from a successful summer fete where NPU Officers attended with a road show



Safer garage scheme

This area is part of the **Kings Hill Safer Garage Scheme**

Police regularly patrol this area.



Members have taken extra security measures to keep their garages & sheds safe.

Report it

If you see anything suspicious call Kent Police on **01622 690690**.

Contact us

In an emergency, call **999**
Alternatively call Kent Crimestoppers anonymously on **0800 555111**
If deaf or speech impaired text 'police' and your message to **60066**
For non-urgent crime reporting and enquiries call **01622 690690**



Further example of the simple brand being used in **Kings Hill**

Safer garage scheme

This area is part of the **Kings Hill Safer Garage Scheme**

Police regularly patrol this area.



WARNING
You may become **forensically** marked if the property has been **DNA** marked

Report it

If you see anything suspicious call Kent Police on **01622 690690**

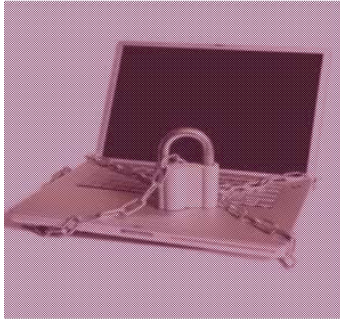


Safer Schools Brand – Security Guide

Tonbridge & Malling

Safer School

Security Guide



Useful guide for developing school security

This pack is about providing long term **sustainable** support to schools

By identifying issues **early** and helping to finding suitable, cost effective **solutions** making schools feel **less vulnerable** during school breaks

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1.0 Introduction
The need for safety and security around public areas, particularly where young people are in the proximity, is of paramount importance. The aim of this guide is to provide information and practical advice that provides a framework for discussion for the needs of individual premises.

The open design of schools can make security difficult, but with a little thought and modest expense a great deal can be done to mitigate the risk of theft and vandalism.
Further information on the implementation of recommendations within this guide can be obtained by contacting the local Safer Schools Partnership Co-ordinator PC or PCSO, Neighbourhood/Volice Team or Crime Reduction Officer.

1.1 Acknowledgments
This booklet has been compiled using information supplied by the Crime Reduction College.

2.0 Exterior Security
2.1 Perimeter Security
It is understandable that schools don't want to take on the appearance of a prison, as they are a central focal point within the community, however, schools are often very open and inviting to pupils and unwanted visitors out of hours. There can be weaknesses in perimeter fences especially if the school is not responsible for such boundaries. It is preferable that the school owns the perimeter.
The first line of defence for physical security is often the provision of boundary

2.4 Landscaping
It is important that bushes, trees and hedges are well maintained in order that hiding places do not start to develop. Also, it is important that landscaping is such to aid natural surveillance. Ground coverage used should not be in the form of stones or shrubs that could be used as missiles.
2.5 Out of Hours Activities
The school may want to consider opening the school up to renting playgrounds to the community for external activities. This could give increased surveillance as well

Neighbourhood Watch

Update



**Kent
Police**



**Kent
Police**

Neighbourhood Watch Update for Tonbridge and Malling

Working very closely with PCSO's and residents of Kings Hill to start Neighbourhood Watch Schemes/Initiatives, with a start up meeting at Lapin Lane held on Friday 3rd September.

Approaches made to residents in Silver Close, Lambs Bank and Brickworks, Tonbridge.

Currently undertaking letter drops in a number of roads in East Malling, as direct approaches have yet to yield any results or new Watches.

Meeting scheduled with residents in Saltings Road, Snodland next week with a view to NHW.

New watches started at Frome Court and Leslie Tew Court in Tonbridge, both retirement/sheltered housing accommodation.

Contact made with residents in Woodbury Road, Walderslade regarding the possibility of a NHW scheme.

Working to start new NHW scheme in British Legion Village, Aylesford.

Following acceptance at last weeks WKNHA Exco meeting, once funds are agreed by T & M B Council, we will be proceeding with a Cold Call Control Zone in Eccles.

Plans to set up a Country Eye (a rural watch) scheme for T & M are being considered.

Ongoing efforts are also being made to keep up the level of contact with existing Watches to ensure their vitality endures.

TONBRIDGE AND MALLING BOROUGH COUNCIL

GUIDANCE NOTE ON POWERS TO REMOVE UNAUTHORISED CAMPERS

The following notes have been prepared to assist in understanding the options available when the Council becomes aware of unauthorised campers within its area. It should be read in conjunction with the County wide protocol, to which the Borough Council is a party, and the Government Guidance on Managing Unauthorised Encampments. As the powers of a private land owner are not constrained by matters such as the Human Rights Act and the health and welfare of trespassers to the extent that local authorities are, then the accepted policy for trespass on private land is for the land owner to take action.

Action by the land owner

A land owner may apply to the County Court under Order 24 of the County Court Rules for a summary order for possession of land which has been occupied by unauthorised campers. The High Court has similar powers. This form of procedure can be used even where the identity of the unauthorised campers is not known. A warrant to enforce an order for possession can be issued at any time after the making of the order. If the unauthorised campers return to the land after being evicted under a possession order a warrant of restitution may be obtained from the Court.

A possession order may be made in respect of land not yet occupied by the unauthorised campers but to which there is a real danger that they may move. It may also be made, and executed, notwithstanding ill health on the part of an unauthorised camper.

Should there be exceptional circumstances where a private land owner should not be expected to use or cannot use their civil powers, then the police and/or the Council may be involved. If the unauthorised encampment is on public land then the following powers would always be considered.

Action by the police

Where there are two or more unauthorised campers, who have with them six or more vehicles (including caravans), and they have refused to leave when requested to do so by the owner of the land, the police have powers under section 61 of the Criminal Justice and Public Order Act 1994 to direct the unauthorised campers to leave the land and remove their vehicles any other property they have with them on the land. The power is also available where the unauthorised campers have caused damage to the land or used threatening or abusive behaviour towards the occupier of the land or his family, employees or other agents.

It is a criminal offence for a person, knowing that such a direction has been given to him, to fail to comply with it as soon as practicable. It is also an offence for a person so directed to re-enter the land concerned within three months of the date of the direction.

Action by the Borough Council

Local Authority Directions

Section 77 of the Criminal Justice and Public Order Act 1994 empowers the Borough Council to direct persons residing unlawfully in vehicles within the Borough of Tonbridge and Malling to leave the land and remove their vehicles any other property they have with them on the land.

The power is available where the persons are residing on highway land, other unoccupied land or occupied land without the consent of the occupier.

It is a criminal offence for a person, knowing that such a direction has been given to him, to fail to comply with it *as soon as practicable*. It is also an offence for a person so directed to re-enter the land concerned with a vehicle within three months of the date of the direction.

In any proceedings brought for an offence, it is a defence for an accused person to show that his failure to comply with a direction or his re-entry of the land was due to mechanical breakdown, illness or other immediate emergency. If a person who has been directed to leave does so as soon as practicable, and does not re-enter the land within three months of the date of the direction, no offence is committed.

It is not usually expedient to issue a direction where the unauthorised encampment is expected to be of short duration, for example on the occasion of family weddings and funerals, as the encampment will usually disperse within a few days.

Magistrates' Court orders

Section 78 of the 1994 Act provides that a magistrates' court may, on a complaint by a local authority, make an order requiring the removal from land of any vehicle and property and any person residing in it, and authorising the local authority to enter the land and remove the vehicle and property. It is an offence for a person wilfully to obstruct any person authorised to carry out the order.

A recent letter from the Secretary of State for Communities and Local Government suggested that temporary stop notices might be a possible remedy for "unauthorised development on land owned by travellers". The phrasing is very important as such a remedy has severe limitations for preventing unauthorised encampments as can be seen by looking at section 171F of the Town and Country Planning Act 1990:-

"171F Temporary stop notice: restrictions

(1) A temporary stop notice does not prohibit–

(a) the use of a building as a dwelling house;

(b) the carrying out of an activity of such description or in such circumstances as is prescribed"

The circumstances prescribed by sub-section (1)(b) are found in the Town and Country Planning (Temporary Stop Notice)(England) Regulations 2005/206 which provide:-

“2.— Circumstances in which temporary stop notice does not prohibit stationing of caravan

(1) The stationing of a caravan on any land in the circumstances specified in paragraph (2) is prescribed for the purposes of section 171F(1)(b) of the Town and Country Planning Act 1990.

(2) The circumstances are that—

(a) the caravan is stationed on the land immediately before the issue of the temporary stop notice; and

(b) the caravan is at that time occupied by a person as his main residence; unless the local planning authority consider that the risk of harm to a compelling public interest arising from the stationing of the caravan is so serious so as to outweigh any benefit, to the occupier of the caravan, in the stationing of the caravan for the period for which the temporary stop notice has effect.”

As can be seen, a Temporary Stop Notice is clearly not effective where the action would be against a caravan used as a person’s main residence.

In some cases an application may be made to the Courts for an **injunction**. If the evidence allows, such orders can be made in anticipation of a trespass occurring and can be sought against unidentified individuals. However, as can be seen from the following quote from what is one of the leading cases in the matter, injunctions should not be used other than in exceptional circumstances:-

“Buckinghamshire DC v Porter (No.1)

Chichester DC v Searle

Wrexham CBC v Berry

Hertsmere BC v Harty

Also known as:

South Bucks DC v Porter

House of Lords

22 May 2003

Local planning authorities are enjoined to adopt a humane and compassionate approach to the exercise of their powers in the case of gypsies: see Department of the Environment Circular 18/94: "Gypsy Sites Policy and Unauthorised Camping" para 9; Department of the Environment, Transport and the Regions Circular 26 July 2000, para 9; R v Lincolnshire County Council, Ex p Atkinson (1995) 8 Admin LR 529 and Guildford Borough Council v Smith [1994] JPL 734. Thus, hardship and availability of alternative, suitable accommodation ought to be considered at the injunctive stage.

The proper approach to section 187B(2), save in exceptional circumstances, is only to grant relief in cases which are regarded as being clear: where the court is satisfied, first, that the planning authority has properly reached a final conclusion that the gypsies' continuing occupation of the site could no longer be tolerated in the public interest, and

secondly, that it is appropriate to enforce their removal by injunction even though that would drive the gipsies either onto the road, into homeless accommodation or, on non-compliance, into prison.”

Clearly to pursue an injunction would require the Council to have significant information to justify commencing the proceedings. Much of that information would be the same as would be required to inform the consideration of the use of the further power under the planning acts to serve an **enforcement notice**. These are after the event actions and normally require the authority of the Area Planning Committee. Circular 10/97 provides guidance on the enforcement of planning control:-

“2.2 The power (in the amended **section 172** of the Town and Country Planning Act 1990 (“the 1990 Act”)) to issue an enforcement notice is discretionary. A notice requires remedial steps to be taken within a specified time-limit. It should only be used where the LPA are satisfied that there has been a breach of planning control *and* it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.”

The question of expediency will require consideration not only of planning policy but of all material considerations. This can include the personal circumstances of the trespassers and their families and their human rights. The necessary information will take a period of time to collect and, again, I refer you to the provisions of the protocol.

In conclusion, there is very rarely an opportunity or a justification for action to be taken out of hours whilst balancing all the relevant elements. Any enquiries received from the public, parish councils or others concerned about possible problems with unauthorised encampments should be answerable from the information above or by reference to the protocol and government guidance. Please note, however, that with the change of administration at Westminster the guidance and local authority powers may change quickly.

Ian Henderson

May 2010.

Guidance on Managing Unauthorised Camping

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government.

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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1. Introduction

Background to the Guidance

1.1 *Managing Unauthorised Camping: A Good Practice Guide* was first issued by DETR and the Home Office in 1998 and has influenced the approaches adopted by local authorities, police and others. There have been a number of developments since 1998, which together have led to a need to re-examine and revise this guidance.

1.2 Relevant developments since the issue of the previous guidance in 1998 include:

- Amendments to DETR Circular 18/94 and to Chapter 5 of the *Good Practice Guide* were issued in July 2000. The amendments dealt with advice about 'toleration' of encampments and made clear that there will always be some circumstances where an unauthorised encampment cannot to be allowed to remain and where prompt action is required.
- The Association of Chief Police Officers (ACPO) issued guidance to its members on Collective Trespass or Nuisance on Land (including unauthorised camping) in 1996, 1999 and again in August 2000 in parallel with the DETR/Home Office *Guide*.
- In 2001 the results of research monitoring the impact of the DETR/Home Office *Good Practice Guide* were published. The report, by Edinburgh College of Art/Heriot-Watt University in conjunction with the Universities of Bristol and Cardiff, concludes that the *Guide* has been fairly influential in how local authorities and police forces tackle unauthorised camping. The research also highlights some perceived inadequacies and gaps in the guidance which this new Guidance aims to address. (See Annex C for a summary of the main findings.)
- The Human Rights Act 1998 (HRA) came into force in October 2000, incorporating the European Convention on Human Rights into British law.
- The Act means that all eviction and enforcement decisions made by public authorities must be 'proportionate'. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny (see 5.7-5.9 and Annex D).
- The Race Relations (Amendment) Act 2000 has extended responsibilities given by the Race Relations Act 1976. Public authorities - including local authorities and the police - have a general duty to eliminate unlawful discrimination, promote equality of opportunity and good race relations in carrying out their functions. The 2000 Act also gives public bodies specific duties. Both Gypsies and Irish Travellers are now recognised as ethnic minorities against whom discrimination is unlawful. (See Annex D for more details.) In October 2003, the Commission for Racial Equality published a consultation draft entitled *Gypsies and Traveller - A Strategy 2003-2006* which sets out the Commissions own proposed role. It will be finalised during early 2004.
- A new £17 million Gypsy Sites Refurbishment Grant (GSRG) challenge fund was established with funding made available for three years from 2001/2. GSRG meets 75% of approved refurbishment costs for local authority Gypsy sites, with the aim of raising standards and helping to keep existing sites available for use - in part to help reduce the disruption of unauthorised camping. In its third year (2002/3) GSRG was extended to provide 100% funding for provision of transit and stopping place sites on a pilot basis. A

further sum of £16 million has been announced for two further years of GSRG support (2004-6) for both site refurbishment and transit site and stopping place provision.

- The *National Policing Plan 2003-2006* identifies that the primary objective for the police service for the Plan's three-year duration is to deliver improved police performance and greater public reassurance with particular regard to four priorities including tackling anti-social behaviour and disorder.
- In March 2003, the Government published a White Paper *Respect and Responsibility*, which sets out the stand to be taken against anti-social behaviour. Communities, public services and authorities will be empowered to tackle anti-social behaviour. In return everyone is expected to play their part in setting and enforcing proper standards of behaviour. This guidance should be read in the context of that agenda.
- The Anti-social Behaviour Act 2003 includes measures to tackle anti-social behaviour, littering and fly-tipping. Part 7 introduces a new police power to evict unauthorised campers (see 6.12-6.13).

1.3 The Guidance has been produced against this developing background:

- In July 2002, the Office of the Deputy Prime Minister (ODPM) and the Home Office issued a joint press release outlining the Government's new approach to tackling unauthorised camping and signalling its intention to introduce stronger police powers to move on unauthorised encampments provided there was adequate site provision; these enhanced powers have now been provided in Part 7 of the Anti-social Behaviour Act 2003.
- In December 2002, the Government set out, and consulted upon, its broad policy towards unauthorised camping in a *Draft Framework Guide on Managing Unauthorised Gypsy/Traveller Encampments*. Central to the approach is the view that the use of stronger enforcement powers and adequate site provision must be linked.
- *Managing Unauthorised Camping Operational Guidance* was issued as a consultation paper by ODPM and the Home Office in April 2003 (closing date 23 May 2003). The consultation paper was sent to 1,500 organisations and a total of 87 responses were received from a wide range of organisations and individuals.
- Following consultation on the *Draft Framework Guide* and the *Operational Guidance*, it was decided that it would be clearer and less confusing to combine the two documents. The current Guidance therefore reflects the Government's broad policy towards unauthorised camping and incorporates comments received through consultation on both documents.
- As noted above, Part 7 of the Anti-social Behaviour Act 2003 introduces a new police power to evict unauthorised campers. ODPM and the Home Office will consult on guidance on the operation of these new powers in early 2004. Once finalised, it is intended that this will be incorporated into Chapter 6 of the current *Guidance on Managing Unauthorised Encampments* in the section on 'Powers Available to the Police'.

Aims of this Guidance

1.4 This Guidance takes account of all the changes outlined above. Its 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 Gypsies and 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 across the country, building on current good practice and sharing experience.
- To be practical yet creative in the face of a difficult reality.
- 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 effective delivery.

1.5 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 mind when devising and implementing their approaches, and are reminded that the courts may consider it as a material consideration in eviction or other enforcement decisions.

Use of Terms

1.6 Certain terms, conventions and abbreviations are used throughout the Guidance, and these are summarised in Box 1. A distinction is made between 'unauthorised camping' (a form of trespass) and 'unauthorised development' (a form of development of land without planning consent). This distinction is important because it affects the enforcement powers, which can be used. While paragraphs 6.20 to 6.24 refer specifically to planning enforcement powers available for dealing with 'unauthorised developments'; most of this Guidance deals with managing 'unauthorised encampments'.

Box 1 : Terms and abbreviations used in the Guidance

Gypsies and Travellers: used as a generic term to denote the whole population of those groups, families and individuals who subscribe to Gypsy/Traveller culture and/or lifestyle. The term encompasses ethnic Gypsies and Travellers and those who fall within the legal definition of a 'Gypsy' (s24 of the Caravan Sites and Control of Development Act 1960 as amended by s80 of the Criminal Justice and Public order Act 1994).

Unauthorised campers: people living on unauthorised encampments.

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

Unauthorised development: Gypsy sites are among the types of development, which require planning permission. This term is used where such development is carried out on land with the agreement of the landowner, but without the appropriate

planning permission.

Unauthorised sites: term used in Chapter 2 when describing findings from the Gypsy caravan count which include both unauthorised encampments and unauthorised development.

Sites or Gypsy/Traveller sites: term generally restricted to authorised sites with relevant planning consents (includes sites owned by local authorities and private owners).

Occupier of land: term used in its legal sense as 'the person entitled to possession of the land by virtue of an estate or interest held by him'. This might include a landowner, tenant or licensee but **not** unauthorised campers temporarily in 'occupation' of the land without any legal estate or interest.

ABCs : Acceptable Behaviour Contracts

ACPO : Association of Chief Police Officers

ASB : anti-social behaviour

ASBOs : Anti-Social Behaviour Orders

CJPOA : Criminal Justice and Public Order Act 1994

GSRG : Gypsy Sites Refurbishment Grant

HRA : Human Rights Act 1998

LPA : Local Planning Authority

ODPM : Office of the Deputy Prime Minister

PPG : Planning Policy Guidance Note

RSL : registered social landlord

TCPA : Town and Country Planning Act 1990

1.7 In the course of consultation on this Guidance a number of policy documents and leaflets were submitted as examples of current practice. Some of these are referred to in boxes at various points throughout the Guidance. Rather than reproducing submitted items in full or in part, the titles and author organisations are referred to and can be contacted by those who are interested. No more than five examples have been included under any heading. Chapter 9 provides useful references to other material referred to in this Guidance together with details of how they might be accessed.

2. Context

2.1 Gypsies and Travellers are a part of British life, and have been so for many centuries. They make up a very small minority within the wider population. Some Gypsies and Travellers live in caravans or other vehicles and follow a lifestyle, which is nomadic or semi-nomadic, in that it involves travel during at least part of the year.

2.2 At present there are more Gypsy/Traveller caravans in circulation than there are 'authorised' legal places for them to stop. At any one time there are around 3,500 Gypsy/Traveller caravans on unauthorised sites in England. Hardly any of these could be accommodated on existing authorised sites specifically provided for Gypsies and Travellers.

2.3 Unauthorised encampments vary enormously

- in size : from a couple of vehicles to groups with over 100 caravans
- in location : from the hidden away and unobtrusive to neighbours, to the highly visible and intrusive
- in behaviour of unauthorised campers : from those where no-one on the encampment causes any nuisance to others, to those where many cause nuisance
- in impact on the land : from groups who leave a camping area tidier than they found it, to those who leave the land damaged and with mountains of fly-tipped trade waste and domestic refuse

Numbers and Scale

2.4 Local authorities carry out the twice-yearly Gypsy caravan count for ODPM. It gives an indication of the numbers of Gypsy caravans on authorised (public and private) and unauthorised sites on set dates in January and July. While the counts may not be completely accurate - not least because of the technical problems of counting all Gypsy caravans over a large area - they provide local authorities with useful information about the accommodation needs of Gypsies who reside in or resort to their areas on the count dates. They also provide authorities; the Planning Inspectorate and the Secretary of State with some of the background information required when planning matters (development plans, planning applications, appeals and enforcement actions) are being considered.

2.5 The count has been carried out for over twenty years. Over this period the total number of Gypsy caravans has increased by some 70% while the number on unauthorised sites has decreased by between 500 to 1,000 from 4,600 (as counted in July 1979) thanks to the growth of private and public authorised site provision as well as movement of Gypsies and Travellers into housing.

2.6 In July 2003, about 14,700 Gypsy caravans were counted, of which 3,979 were on unauthorised sites. This latter figure can be split between 2,315 caravans on unauthorised encampments and 1,664 on Gypsy-owned land, which are likely to represent unauthorised developments. July counts consistently reveal higher numbers of Gypsy caravans on unauthorised sites. Over the past few years, on average, there have been about 800 more Gypsy caravans on unauthorised sites across England in July than in January, reflecting a

seasonal element in travelling patterns.

2.7 Geographically, the counts consistently show highest numbers of Gypsy caravans on unauthorised sites in Eastern, Southeast and Southwest regions. Some local authorities, for example South Gloucestershire and some districts in Cambridgeshire and Norfolk, consistently have large numbers on unauthorised sites. Very generally, the patterns reflect traditional areas of resort for Gypsies and Travellers and - importantly - work opportunities for Gypsies and Travellers involved in various contracting (eg aspects of the building trade, garden and tree work), trading (eg carpets and furniture) and seasonal agricultural work.

2.8 There are three main Gypsy/Traveller groupings in England: traditional English (Romany) Gypsies, traditional Irish Travellers, and New Travellers. The first two groupings are accepted as ethnic minorities for the purposes of race relations legislation. There are smaller numbers of Welsh Gypsies and Scottish Travellers. The different groupings have different economic, social, cultural and lifestyle characteristics. While there are many examples of peaceful co-existence of Gypsy/Traveller groups, mixing can sometimes lead to friction.

Recent Research

2.9 Research for ODPM on the provision and condition of local authority Gypsy/Traveller sites in England was carried out by the Centre for Urban and Regional Studies at the University of Birmingham. A summary report was published in October 2002, and the full report in July 2003. The research made the following points.

- There is some evidence of a trend towards greater 'settlement' among some Gypsy/Traveller groups. However, other individuals and families have no desire to 'settle' and will continue to travel actively. Other more 'settled' Gypsies and Travellers - or their children - may take up active travelling when personal or family circumstances allow it. Some Gypsies and Travellers will continue to travel for the foreseeable future.
- In order to accommodate the desire for nomadism, between 2,000 and 2,500 additional authorised transit/mobility pitches were estimated to be needed before 2007. At present there are only about 500 transit pitches provided on authorised local authority and private sites.
- The research also estimated a requirement for up to 2,500 further pitches on residential sites for Gypsies and Travellers, which could be provided either by local authorities or Gypsies and Travellers themselves.
- Gypsies and Travellers, police and local authority personnel acknowledged to the researchers the existence of a minority of 'problem families' among the Travelling community who - whether on sites or on the roadside - are associated with criminal and anti-social behaviour, damage to property and fly-tipping. 'Problem families' cause problems for the majority law-abiding Gypsies and Travellers who also fear that this very visible minority disproportionately affects settled community images and stereotypes of the Travelling community as a whole.

2.10 The general context and recent research suggest:

- While unauthorised camping is much more significant in some areas, almost any local authority is at risk of encampment and should be prepared to deal with encampment.
- Unauthorised encampments vary widely. Local authorities, police and others dealing with unauthorised camping therefore need to be prepared to react to individual circumstances.
- Getting to know local travelling patterns and groups is critical to building a sound strategy. Getting to know individuals and building trust at a personal level with regular Gypsy and Traveller visitors can prevent problems developing.
- The nature of travelling and unauthorised encampment means it cannot be sensibly seen as a purely local phenomenon. An eviction in one area may have the effect of merely pushing the encampment over a local boundary for another authority to deal with. Local authorities and police forces should work together across boundaries to assess needs and determine strategies in response to unauthorised camping over the wider area. At a minimum, authorities should work together at county level, ideally at regional or sub-regional level.
- Good preparation and planning can minimise the disruption of unauthorised encampments. For this, sound intelligence and good networking is essential between local authorities and police forces in an area to keep everyone informed of Gypsy/Traveller groups and their movements. At the least, neighbouring authorities and other agencies that offer services for Gypsies and Travellers should always be informed when a large encampment is to be evicted.

3. Developing a Strategy for Unauthorised Camping

3.1 It is often impossible to predict just where and when an unauthorised encampment will occur. However, a purely reactive response to encampments as they arise is likely to be both inefficient and ineffective. Local authorities, police forces and other bodies need to be clear how they will respond to an encampment, who will take the lead, who else will be involved and under what circumstances.

3.2 To be effective this information should be clearly set out in an unauthorised encampments strategy and protocol. The strategy must be developed through consultation with all key stakeholders if it is to be effective; and it must seek to balance the rights and responsibilities of the travelling and settled communities.

Objectives of an Unauthorised Camping Strategy

3.3 The key objectives in a strategy for unauthorised encampments should include:

- Being able to plan ahead to minimise problems and to avoid the need to deal with everything on a crisis basis.
- Ensuring that the needs and legitimate expectations of all parties - Gypsies and Travellers, landowners and the settled community - are considered.
- Setting a framework within which clear, consistent and appropriate decisions can be made on unauthorised encampments to minimise disruption.
- Linking the approach to unauthorised camping firmly to other strategies and policies affecting Gypsies and Travellers (site provision, planning, health, education, housing etc).
- Directly involving all those with an interest in the process of developing the strategy so as to achieve maximum 'buy-in' and ownership.
- Reaching - as far as is possible - agreement so that all relevant parties will sign up to the strategy and its implementation.
- Clarifying roles and responsibilities so all parties to the strategy know who will do what in different circumstances, within the realistic limits of what is possible and allowing some flexibility for individual stakeholders.
- Ensuring that policies and approaches reflect the human rights of both the settled and travelling communities, and are compliant with race relations legislation including new requirements actively to promote equality of opportunity and good race relations.
- Ensuring the prevention of anti-social behaviour and effective enforcement against perpetrators.

3.4 Each local strategy will have its own objectives. Possible objectives are illustrated in Box 2.

Box 2 : Objectives of a Local Policy on Gypsy and Traveller Issues

The objectives of the policy are:

- To balance the rights and needs of resident communities with those of Gypsies and Travellers.
- To manage unauthorised encampments in an efficient and effective way taking account of the potential level of nuisance for local residents and the rights and responsibilities of Gypsies and Travellers.
- To work with partners in other authorities, the voluntary sector and the Police to address issues of social exclusion amongst Gypsy and Traveller communities.

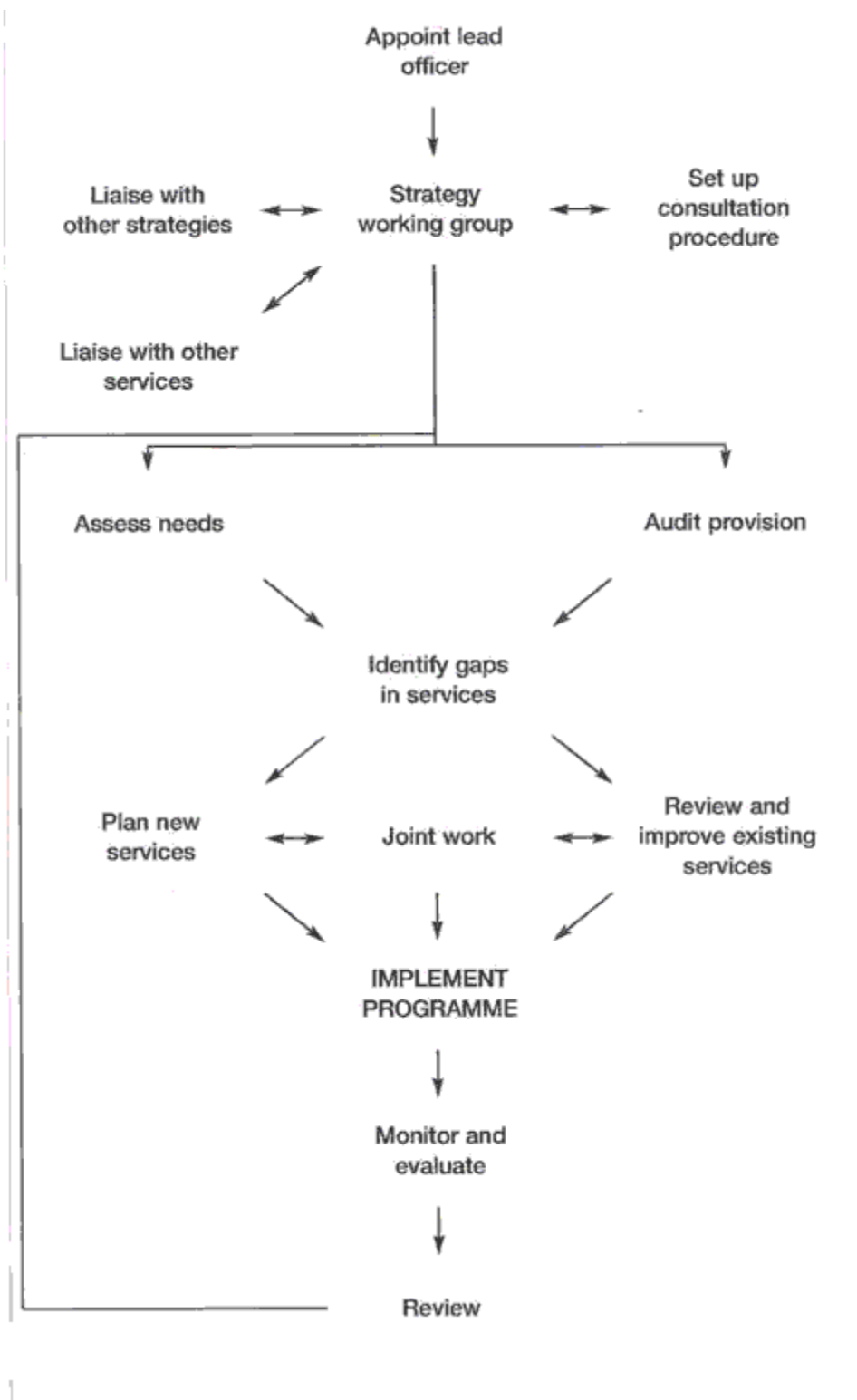
Formulating the Strategy

Taking the Lead

3.5 It is appropriate that local authorities take the lead in formulating the strategy, and have responsibility for overseeing and monitoring its implementation, and for ensuring that the process is driven forward and does not become bogged down in inter-organisational wrangles and unacceptable delays. In areas of two-tier local government there should be clear agreement whether the county or district council will take the lead; both are clearly key players. Greater consistency and a wider perspective may be achieved where county councils take the lead.

3.6 The process of producing a strategy involves a number of key stages (see Box 3), which must be planned out and timetabled at the start. A named officer of the local authority should undertake this essential task, with the task fully recognised in his/her job description. It would be appropriate for the lead officer to be familiar with Gypsy and Traveller communities and their needs, and able to call on other experienced officers with skills suited to each stage of strategy development.

Box 3 : Key Stages in Developing a Strategy



Who Should be Involved?

3.7 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.

3.8 Annex E shows the stakeholders - including Gypsies and Travellers - who might be involved in the strategy process and the ways in which they might be engaged. Key players should be closely involved, perhaps within a working party or steering group charged with moving the strategy process forward. Focus groups or consultative meetings could be used to engage other stakeholders. A designated local authority officer should be given overall responsibility for seeing the process through; he or she must have sufficient seniority to negotiate commitment from partners.

Box 4 : Consultation and Involvement in Developing a Strategy

Dorset County Council consulted widely on a Gypsy and Traveller Issues Report. Following this consultation a County Council Member Policy and Scrutiny Review Panel was formed which met nine times and heard evidence from a wide range of people including district council officers, county council officers concerned with education and children, police, groups representing Traveller views and a solicitor. One meeting was a site visit to residential site, an unauthorised encampment and to meet a farmer and residents neighbouring another unauthorised encampment.

West Sussex County Council adopted its strategy for Gypsies and Travellers in West Sussex following extensive consultation with interested parties and stakeholders. Bodies consulted included: district, town and parish councils, other local authorities, the police, business interests, landowners and farmers, residents' associations, organisations representing Gypsies, and members of the public.

Elements to be Included in the Strategy

3.9 There are ten essential elements to be thought through in any strategy for dealing with unauthorised camping:

- The legislative background for the strategy (this is summarised in Annex D which also deals more fully with human rights and race equality issues).
- Local information and data on which the strategy is based (see 3.10 and 3.11).
- Arrangements and protocols for sharing information (see 3.12).
- The approach to be taken on site provision (see Chapter 4).
- The policy to be followed when unauthorised encampments arise, setting out clearly the alternative courses of action to be taken and the circumstances which determine that action (see Chapter 5).
- Working arrangements and protocols for the involvement of different agencies (see 3.13-3.21).
- Resources for the strategy and constraints within which partners operate (see 3.22-3.24).
- Arrangements for communicating the strategy widely (see 3.25-3.28).
- Arrangements for monitoring the strategy and ensuring that it remains appropriate and is effective in practice, and meets race equality objectives (see 3.29-3.30).
- Involvement of other parts of the local authority, for example planning, education and social services, to ensure that there is a coherent authority-wide holistic approach to Gypsies/Travellers. In two-tier authorities this will involve both county and district councils (see 3.31).

Local Information for the Strategy

3.10 The starting point for a local strategy must be sound information on the characteristics and cultures of Gypsies and Travellers who reside in and resort to the area. Such information might include numbers, family structures, economic activity, travelling patterns, accommodation needs, health and education needs. Information on Gypsy/Traveller culture is relevant in helping to develop an effective strategy, which will actually work.

3.11 Gypsy caravan counts provide a starting point. Other potential sources of information include monitoring of unauthorised encampments, planning applications and education records. Box 5 provides examples of Gypsy/Traveller needs assessments, which have used information from a range of sources.

Box 5 : Examples of assessments of Gypsy/Traveller accommodation needs

Assessments of accommodation needs have been made by:

LB Southwark

Derbyshire (through the Derbyshire Gypsy Liaison Group)

Wychavon

Sevenoaks District Council (through the PPG 3 housing needs assessment process)

In addition to information from the caravan count and other secondary sources, these also drew on experience of local professionals and research with local Gypsies and Travellers through interviews and discussions. Detailed references are in Chapter 9.

Fenland District Council has undertaken a one-year information gathering exercise, which has involved Gypsies and Travellers on all local authority and private sites and on the roadside. This identified travelling routes and reasons for coming to the District and highlighted Gypsy/Traveller expectations on health and welfare and led to wider understanding of needs.

Sharing Information

3.12 Sharing information at county and sub-regional level can help particularly when looking at travelling patterns and considering site provision. Where information is shared between partner agencies working together, protocols may be developed to deal with issues of professional confidentiality and data protection. Arrangements will already have been made for sharing information in relation to crime and disorder matters between partners in Crime and Disorder Partnerships.

Working Arrangements and Protocols - Towards Implementation

3.13 A strategy needs to spell out working arrangements. The local authority should be the

lead agency in managing unauthorised camping in its area, and the strategic working arrangements should reflect this. The lead authority might, by agreement, be either the county or the district council in two-tier areas. There will be circumstances - which should be spelled out clearly - when other agencies will take the lead, for example the police may lead in the use of Criminal Justice and Public Order Act (CJPOA) s61 where urgent action is needed.

3.14 Named officers should be identified in each local authority and police basic command unit with clear responsibility for dealing with unauthorised camping. These officers need to be at a level, which enables them to take on the ground operational and enforcement decisions. It is important that all key stakeholders - including Gypsies and Travellers, elected members, members of the public and other local authority/police officers - know who these officers are. The information could be made available through the local authority web pages and in leaflets provided to the settled and travelling communities.

3.15 The responsible officer in a local authority should establish procedures for reporting to and informing elected members about encampments. It is particularly important that local members (and parish councils in areas where they exist) are kept closely in touch with action affecting encampments in their wards. They can provide a valuable channel for communication between local authority officers and members of the public as a supplement to direct contacts. It is important that elected members are fully aware of the legislative background, local strategies and policies on managing unauthorised encampments including, for example, their race relations responsibilities.

3.16 Other organisations, departments and sections likely to be involved in dealing with unauthorised encampments and in providing services to Gypsies and Travellers should be identified. These are likely to include Traveller Education Services, social services, environmental health, housing and health services. It may be appropriate to include the RSPCA where unauthorised campers are known to have horses, dogs or other animals. Where trading activities are a cause for concern, trading standards officers, Inland Revenue and Customs and Excise officers might also be included. Lists should be compiled of named contact officers in each stakeholder body with full contact details including telephone, fax and e-mail addresses; these lists must be kept up-to-date as people change jobs or responsibilities.

3.17 Responsibilities within the strategy for dealing with unauthorised camping must be recognised within the job descriptions and workloads of all these officers. While calls on their time will be variable and responsive to the number and nature of encampments arising, it is important to think through cover arrangements for their release from other duties when needed. Over time it should be possible to build up an estimate of the likely demands on their time.

3.18 Regular liaison meetings involving officers in all stakeholder organisations encourage good personal and working relationships to develop. People respond more easily to requests from people they know and trust. Liaison meetings provide an opportunity to discuss current issues and concerns and to review on-the-ground working arrangements in the light of experience.

Box 6 : Examples of Liaison Groups

Bedfordshire County Council set up a multi-agency forum in January 2002, which
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has commissioned independent research on Traveller community needs.

Kent Unauthorised Encampments Monitoring and Liaison Groups, between them, include representatives of all three tiers of local government, the police, health and Gypsy organisations.

Wiltshire County Council has set up a Gypsy and Traveller Officers' Liaison Group comprising officers from all departments actively involved in managing unauthorised camping; The Group's membership may be widened in the future to include police, health services, district council housing officers and certain voluntary agencies. The County Council has also established a Residents' Consultation Group for residents of its semi-permanent Gypsy sites in the county.

3.19 In some areas working relationships have been further cemented by joint training events where officers from different organisations, with different perspectives and professional interests learn together. Training should be balanced in coverage and include human rights, equalities and race relations. In some places Gypsies and Travellers have been directly involved in providing training to local authority and police personnel.

Box 7 : Examples of Joint Training

Derbyshire Gypsy Liaison Group has been extensively involved in training with the police. In conjunction with **Derbyshire Constabulary** they have produced inter-agency interactive training exercises and facilitation notes on unauthorised encampments.

Fenland District Council runs training for all members of their local strategic partnership, Primary Care Trust, police, fire and rescue and voluntary organisations. This aims to explain the culture and traditions of Gypsy people. A freelance Gypsy journalist is central to the training and explains how public bodies can better work with the media over Gypsy issues.

West Sussex County Council has reached agreement at county level with **Sussex Police** on the way training should be approached. The County Council is encouraging relevant local authority staff in each district to get together with district police commanders to agree local implementation plans.

3.20 In many areas across the country working arrangements between relevant bodies have been formalised into protocols or service level agreements. These set out the respective responsibilities of signatories, lines of command and communication, and may include performance targets.

- Protocols commonly involve local authorities (county and district councils in two-tier local government areas) and police.
- Protocols or service level agreements may also be relevant between lead local authority departments and education, health and welfare departments involved in making welfare enquiries at encampments. Such agreements set out the means of communication to be followed and provide targets for response times.

Box 8 : Examples of Protocols between Local Authorities and Police

Derbyshire: Good practice guide for unauthorised encampments: Joint protocol between Derbyshire County Council, Derbyshire Gypsy Liaison Group, Derbyshire Constabulary and the NHS.

Devon: Joint Policy and Practice Guidelines relating to people of nomadic lifestyle residing in or resorting to Devon: Devon County Council and Devon & Cornwall Constabulary.

Essex: A joint protocol for managing unauthorised encampments in Harlow: Essex County Council, Harlow District Council and Essex Police.

Kent: Kent protocol on the management of unauthorised encampments: Kent County Council, district and unitary councils, Kent County Constabulary.

Leicestershire: The Code of Practice for Travellers in Leicestershire, Leicester and Rutland: county council, district and unitary councils and Leicestershire Constabulary.

Wiltshire: Wiltshire County Council and Wiltshire Constabulary are currently developing a protocol for managing unauthorised camping incidents. This builds upon a successful Inter-Departmental protocol already in place within the County Council, which includes, amongst other sensitive issues, a Disclosure Statement, which addresses data protection and information sharing constraints.

3.21 In a few areas (for example Milton Keynes) arrangements for joint working between the local authority and police are still closer in a jointly staffed 'unit'. Advocates refer to the consistency of approach possible through true joint working; it avoids unnecessary duplication of effort; it means that there is less possibility of people being referred backwards and forwards between organisations. In such a structure it is important that reporting lines and accountability arrangements are carefully thought through.

Box 9 : Joint Working

Northamptonshire: A Countywide Traveller Unit has been established jointly funded by district councils, the county council, police and primary care trust, with a contribution from the Northamptonshire Chamber. Police and health workers are seconded to the Unit.

Resources

3.22 The Government believes that spending to achieve the pro-active approach towards site provision and managing unauthorised camping as set out here represents better value for money than the current position. Spending now on site provision should reduce the costs of dealing with unauthorised camping.

3.23 Local authorities and police should seek to apply Best Value principles to their strategy for dealing with unauthorised camping. Box 10 sets out some of the actions, which might be helpful in an area with extensive and/or frequent unauthorised encampments.

Box 10 : An Application of Best Value Principle to Dealing with Unauthorised

Camping

Best Value principles suggest that local authorities and the police should:

- Identify what they are spending at present on dealing with unauthorised camping. Few organisations keep accurate records, which accurately identify all the costs involved in unauthorised camping, for example responding to complaints from the public.
- Estimate the costs borne by others, including local businesses and landowners. It may not be possible always to arrive at a monetary value, but attempting it ensures that wider implications of actions are clearer.
- Consider the indirect costs of unauthorised encampments in terms of, for example, additional costs to health and education services and others involved in fostering the greater social inclusion of Gypsies and Travellers.
- Compare these with the possible costs and benefits of taking a more pro-active approach to site provision and managing unauthorised camping on a partnership basis.

3.24 At present not all authorities have a budget for dealing with unauthorised camping, and staffing responsibilities are sometimes vague. Good practice suggests that all authorities should have a formal budget, based on past experience and best intelligence on future needs.

Communicating the Strategy

3.25 The strategy for unauthorised camping should be published and widely disseminated to local businesses, landowners, local residents, and Gypsies and Travellers. Objectives in publishing and publicising the strategy include:

- Making clear what can be achieved and over what time scales so as to mould realistic expectations among both the settled and Gypsy/Traveller communities.
- Making clear who is responsible for what elements of the strategy and its implementation. For example, it is appropriate that all members of the public should contact the police directly over matters involving crime associated with unauthorised encampments and that Gypsies and Travellers are encouraged to do so. The local authority might be the appropriate point of contact for other issues. This means listing names, telephone numbers and addresses.

3.26 A number of local authorities already provide information leaflets and/or have material on their web-sites dealing with unauthorised camping. Use of web-sites to provide information on local policy accords well with the Government's local e-government strategy.

Box 11 : Example of Information Leaflet on Unauthorised Camping

In **Bedfordshire**, the county council, district councils, Bedfordshire Police and the Bedford & Luton Community NHS Trust have jointly produced a leaflet *Travellers and the Law*.

Kent Unauthorised Encampments Working Group has produced a leaflet *Unauthorised Encampment : a document to answer your frequently asked questions.*

Suffolk County Council has produced a leaflet *Unlawful Traveller Encampments in Suffolk*, which is largely based on questions and answers.

Telford Borough Council has leaflets primarily intended to provide information to members of the public and landowners; these are also available on its web-site.

3.27 A 'communications strategy' is itself an important element in the strategy towards unauthorised encampments. A positive and co-ordinated approach to managing communication is an important element of a comprehensive strategy. Many bodies are likely to be involved in dealing with unauthorised encampments and other Gypsy/Traveller matters. A key aim of this strategy is to assure the travelling and settled community that effective action is being taken where necessary.

3.28 Deciding a co-ordinated approach to media briefings will reduce confusion and the possibility of conflicting accounts. The Commission for Racial Equality has issued Guidance to journalists on *Travellers, Gypsies and the media* which local authorities may find useful in encouraging a positive, or at least neutral, local press coverage for local encampments and other Gypsy/Traveller issues.

Monitoring the Strategy

3.29 It is important to monitor the strategy as it is implemented and review the need for change in the light of that monitoring.

- Monitoring arrangements need to be planned and resourced from the beginning. It would be appropriate for the local authority, as lead agency, to take responsibility, perhaps reporting back to a steering group including representatives of other key agencies.
- Obviously monitoring should identify progress towards meeting the objectives of the strategy. Protocols and other arrangements for partnership working are other obvious areas to be monitored and reviewed. In all cases, monitoring should identify areas, which have worked well and less well in order to learn from the process in recasting the strategy and/or its implementation.
- Above all, monitoring is required to ensure that the strategy leads to action on the ground. The strategy should not be merely a paper exercise.

3.30 Sound information is essential to monitoring. The Government sees great merit in encouraging local authorities, along with their police partners, to develop improved standard records of unauthorised encampments. As a minimum, information should be collected and monitored on the location of encampments, the number of caravans/vehicles involved and the duration of each encampment. Standardisation of information would allow aggregated data to be assembled across a county or region and would facilitate the exchange of data about unauthorised encampments between different areas. A review of the national Gypsy counts system has been undertaken and an amended system is to be introduced shortly.

A Holistic Approach

3.31 Unauthorised camping does not exist in a vacuum. Developing a strategic approach towards managing unauthorised camping provides an opportunity for local authorities and others to consider policies towards Gypsies and Travellers in a holistic manner, if they have not already done so. Relevant policy areas are land use planning (including development planning, planning control and enforcement), housing and homelessness, environmental health, health and education. Many general strategic approaches to dealing with local issues, crime and social exclusion are also very relevant and might refer to Gypsies and Travellers. Under-pinning all such work is policy on diversity, equality and human rights - not just towards Gypsies and Travellers, but towards the whole population of a local authority area.

Box 12 : Example of Contents of a Policy on Gypsy and Traveller Issues

The Dorset County Council Gypsy and Traveller Policy 2003 is comprehensive in coverage. Its sections are:

1. Introduction
2. Objectives
3. Travelling patterns in Dorset
4. Policies on site Provision and the management of unauthorised encampments
5. Site protection
6. Land use planning
7. Housing
8. Education, health and welfare
9. Making decisions on unauthorised encampments
10. Provision of services for encampments
11. Keeping people informed
12. Strategic background and joint working arrangements
13. Staff and other resource issues

Box 13 : Strategies and Partnerships Relevant to Gypsies and Travellers

- Local strategic partnerships and community strategies
- Community Cohesion Policies
- Supporting People
- Homelessness Strategies
- Children and Young People's Partnerships
- Sure Start and Early Years
- Connexions
- Primary Care Group Trust commissioning plans
- Crime and Disorder Reduction Strategies
- Race Equality Schemes
- Anti-poverty strategies
- Local Agenda 21 strategies

In **Devon** there are examples of holistic working:

- *Travellers Making Connexions : A good practice guide for multi-agency work*, Connexions Cornwall & Devon and Devon County Council
- The Health Forum Social Inclusion Task Group has identified Travellers in Devon as a group where inequalities in health exist alongside other service provision issues. A Traveller Forum has been formed with a wide membership including Travellers. A report is being finalised addressing *Travellers Wellbeing*.

4. Site Provision and Unauthorised Camping

4.1 Local authorities do not have a duty to provide sites for Gypsies. They do, however, have the power to do so (under s24 of the Caravan Sites and Control of Development Act 1960). Circulars 1/94 and 18/94 both encourage authorities to consider the need for site provision. Local Planning Authorities essentially control the creation of new public and private authorised sites through development plan policies and development control.

A Range of Accommodation

4.2 Site provision is an essential element in any strategy. In a context where the number of Gypsy caravans exceeds the number of authorised places where they can stop - which is the case in England - provision of suitable accommodation for Gypsies and Travellers must be seen as a vital part of an approach to dealing with unauthorised camping. Population increase and family growth among Gypsies and Travellers must also be considered.

4.3 All local authorities should review the provision of sites for Gypsies and Travellers. Site provision can be provided publicly or privately and take a variety of forms:

- Residential sites provide long-term settled accommodation. Most current local authority site provision is residential. Many private sites also provide long-term accommodation for individual families on an owner-occupier basis or commercially.
- Transit sites are also provided both by local authorities and private owners, though much less frequently. Transit sites, with varying levels of amenities, provide for Gypsies and Travellers who want to stay for a period of up to about three months in an area.
- Less formal stopping places are also rare. These would be identified areas of land to which Gypsies and Travellers could be directed when they come to an area, and where they could stop for a short time - perhaps up to a month.
- Emergency stopping places would be locations where families have stopped which are judged suitable for a short stay. Facilities might be temporarily provided at such locations.

4.4 All local authorities experiencing unauthorised encampments should provide either transit sites or stopping places to cater for Gypsies and Travellers moving within or passing through their area. This might be done on a collaborative basis between neighbouring authorities. Some provision could be made by private individuals at no cost to the local authority.

4.5 Gypsies and Travellers should be involved in site planning and design to ensure that sites are well used and are safe and appropriate to the cultures and lifestyles of Gypsy and Traveller families, including children.

Site Provision and Land Use Planning

4.6 The Government's policy on Gypsy sites and planning is set out in DoE Circular 1/94 and it

provides for a flexible approach. The Circular puts Gypsies on the same footing in planning law as everyone else whilst recognising their special circumstances. It is designed to ensure that applications for Gypsy caravan sites are treated in the same way as any other form of development. It places emphasis on assessing the need for Gypsy site provision (also stressed in *Planning Policy Guidance (PPG) 3: Housing*, para 13). Local authorities should identify suitable locations for Gypsy sites in their development plans wherever possible (re-iterated in *PPG 12: Development Plans*, para 4.14). Failing this they should identify clear and realistic criteria for suitable locations as a basis for their site provision policies. Local authorities should encourage Gypsies to consult with them on planning matters before buying land on which they intend to camp and for which planning permission would be required.

4.7 Instances of unauthorised camping may be reduced if local planning authorities follow the advice in DoE Circular 1/94 which encourages them to identify suitable sites in their local plans wherever possible for Gypsies to buy and to settle (see 4.6).

- Sites on traditional routes are likely to be well used and sustainable. It may be easier to gain acceptance for sites in areas where Gypsies and Travellers traditionally stop and are a known part of the local community.
- Sites, which are screened from view, may be deemed suitable by Gypsies and Travellers as well as by the settled community.
- Granting temporary planning permissions for sites in a planned sequence might make provision more acceptable to the settled community. This is particularly appropriate for stopping places where little fixed infrastructure may be involved. Temporary sites could be provided in advance of longer-term development proposals.

Authorised Sites and Managing Unauthorised Camping

4.8 If authorised sites are to contribute effectively to reducing the disruption caused by some unauthorised camping, site management and management of unauthorised camping must be integrated. At the least:

- Local authority and police officers dealing with unauthorised encampments should have information about vacancies on local authority sites within their area, and ideally in neighbouring areas. Ideally, local authority officers should also be prepared to assist unauthorised campers without local accommodation to find places on privately-owned sites and in permanent housing if this is requested.
- There must be close working between site managers and local authority and police officers dealing with unauthorised camping over allocations of pitches on sites. Site managers may be aware of issues around Gypsy/Traveller group and family compatibility, which must be taken into account when allocating pitches on residential sites.
- More specifically, where police are seeking to use the new powers under s62A of the Criminal Justice and Public Order Act 1994 (inserted by the Anti-social Behaviour Act 2003), a police officer must consult the local authorities in whose area the encamped land lies about the availability of suitable pitches on relevant sites. ODPM and the Home Office will be consulting in detailed guidance on the use of these powers, which will then be incorporated into a revised version of this Guidance.
- Transit sites and stopping places must be managed to prevent Gypsies and Travellers

staying longer than the maximum permitted stay. Site turnover must be maintained if such sites are to continue to cater for Gypsies and Travellers with a nomadic lifestyle. Reluctance to move from transit sites and stopping places may indicate a need for further residential site provision.

Site Protection

4.9 Protection of land, which is vulnerable to unauthorised encampment, is a valid part of a strategy, but should not be the sole strategy. Some authorities have undertaken protection works on their own land and/or have advised private landowners how best to secure their land.

- Site protection work is not cheap. A risk assessment should be carried out before investing, including consideration of risks of encampment, nuisance arising from encampment on that land, and cost of effectively protecting the site.
- Site protection and continuing development of open land can have the effect of forcing Gypsies and Travellers to camp in prominent and still more unsuitable places including farmland and other private land, prompting complaints from the landowner. Site protection must only be considered alongside the creation of permanent sites, transit sites and stopping places to ensure that there are places for Gypsies and Travellers to stop without causing disruption.

5. Making Decisions on Unauthorised Encampments

5.1 This chapter deals with some of the considerations to be borne in mind by local authorities, police and others when making decisions about how to deal with unauthorised encampments as they occur. Its aim is to help:

- To make clear, consistent and appropriate decisions on unauthorised encampments.
- To ensure that a balance is struck between the needs of all parties.
- To ensure that decisions taken will withstand challenge.

5.2 Sections below cover the policy statement; carrying out welfare enquiries; and reaching decisions.

A Policy Statement

5.3 It is important that the local authority produces a policy statement, which includes:

- A statement of which travelling people the policy relates to. Many policies relate to **all** travelling groups including non-traditional Travellers since the issues raised by encampments are similar and the education, welfare and homelessness duties owed are identical.
- Identification of the action to be considered in respect of land not owned by the local authority (see 6.17).
- The responsibilities of different authorities and agencies. The statement should set out which authority will act in specified circumstances where county and district councils, and sometimes other agencies including national ones, share responsibilities (for example on highways), and the circumstances in which the police might take the lead.
- The alternative courses of action to be taken. This should set out clearly the circumstances in which eviction processes would be instigated and the circumstances in which an encampment might remain for a period under regular review.
- The characteristics of encampment sites, which would normally trigger rapid eviction proceedings (see 5.4-5.6).
- The standards of behaviour expected from unauthorised campers on encampments (see 7.3).
- The circumstances in which an authority might provide rubbish storage and collection services, water supply or toilets to an encampment (see 7.15).

Box 14 : Examples of Policy Statements and Procedures Guides

Adur District Council: Policy and guidance: Travellers and unauthorised encampments.

Dorset County Council: Dealing with unauthorised camping: procedure.

Leicestershire County Council : Policy and Administration Procedure statement in relation to unauthorised encampments by Gypsies and Travellers

Suffolk County Council : Unlawful Traveller encampments in Suffolk : a strategy

Wiltshire County Council: Policy statement in relation to unauthorised Gypsy and Traveller encampments.

Unacceptable Encampment Locations

5.4 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 encampment will not be acceptable under any circumstances. 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. The list in Box 15 of sites where an unauthorised encampment would not normally be acceptable is illustrative only and is not intended to be exhaustive.

Box 15 : Some Examples of Types of Site where Unauthorised Camping would Normally be Unacceptable

- A Site of Special Scientific Interest (SSSI) where an encampment endangers a sensitive environment or wildlife
- School car park or playing fields (especially in term time)
- An urban park
- Car parks, including hospital, supermarket or leisure facility car parks
- An industrial estate
- Recreation ground and public playing fields
- A site where pollution from vehicles or dumping could damage ground water or water courses
- A derelict area with toxic waste or other serious ground pollution
- A village green or other open area within a residential area
- The verge of a busy road where fast traffic is a danger to unauthorised campers' children

5.5 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 'acceptable' 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.

5.6 To be effective, such an approach requires a very swift response from the local authority and/or police. Ideally, initial contact should be made within 24 hours of the encampment being

established.

Welfare Enquiries

Requirements to Make Welfare Enquiries

5.7 Local authorities may have obligations towards unauthorised campers under other legislation (mainly regarding children, homelessness and education). Authorities should liaise with other local authorities; health and welfare services who might have responsibilities towards the families of unauthorised campers. Some form of effective welfare enquiry is necessary to identify whether needs exist which might trigger these duties or necessitate the involvement of other sectors, including the voluntary sector, to help resolve issues. The police and other public bodies who might be involved in dealing with unauthorised encampments do not have comparable duties but must still, as public servants, show common humanity to those they meet.

5.8 The Human Rights Act (HRA) applies to all public authorities including local authorities (including town and parish councils), police, public bodies and the courts. With regard to eviction, the issue that must be determined is whether the interference with Gypsy/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.

5.9 Case law is still developing with regard to the sorts of welfare enquiries, which the courts consider necessary to properly taken decisions in relation to actions against unauthorised encampments. Cases are testing the requirements under different powers, and the requirements placed on different agencies (authorities, police, and other public landowners). Very generally, court decisions to date suggest:

- All public authorities need to be able to demonstrate that they have taken into consideration any welfare needs of unauthorised campers prior to making a decision to evict.
- The courts recognise that the police and other public bodies have different resources and welfare duties from local authorities. Generally the extent and detail of appropriate enquiries is less for police and non-local authority 'public authorities'.
- In the case of local authorities, the onus of making welfare enquiries appears to be greater when using Criminal Justice and Public Order Act 1994 s77, where the use of the section can result in criminal sanctions, than when using landowners' civil powers against trespass. Local authorities should, however, make thorough welfare enquiries whatever powers they intend to use.

5.10 Because local authorities have appropriate skills and resources to enable them to make (or to co-ordinate) welfare enquiries, it is considered good practice for local authorities to

respond positively to requests for assistance in making enquiries from the police or other public bodies.

Procedures for Making Enquiries

5.11 Speed of response is key to managing unauthorised encampments so as to minimise disruption. There should be a recognised system, which ensures that all reports of new encampments reach the lead officer as quickly as possible. Passing on information rapidly should be part of protocols and joint working arrangements between agencies/departments (see 3.20). Staff on local authority switchboards and at call centres should know how to handle calls from the public and to whom they should be referred. Police call handlers require similar briefing and information that might take the form of frequently asked questions (FAQs) based on mutually agreed policies.

5.12 Ideally, an initial visit should be made to a new encampment within 24 hours of the authority becoming aware of it unless the location is very unobtrusive or remote. An encampment should always be visited very rapidly if initial reports indicate exceptional problems. The initial visit is the first step in making decisions about, and effectively managing, unauthorised encampments. It has several functions:

- To check the accuracy of initial reports/complaints of an encampment, and to gather basic information on its location and size. This information enables issues such as land ownership to be checked.
- Where an encampment location is likely to prove unacceptable (see 5.4-5.5), officers at the initial visit might try to encourage the unauthorised campers to move to an authorised site where a place is available, or to a less immediately unacceptable location chosen by the unauthorised campers themselves.
- To collect basic information from the unauthorised campers about the families and vehicles involved, and about past and intended future movement, anticipated length of stay and reasons for stay.
- To collect initial information from unauthorised campers on any perceived welfare, health or educational needs. Such information is the starting point for liaison with other relevant departments. Where school-age children are present, the Traveller Education Service should be notified. Similarly social services or health authorities should be notified where there seem to be social, welfare or health needs to be further assessed and met.
- The initial visit should note the state of the encampment - how well it is kept, any damage, rubbish accumulation and so on. This will provide baseline information from which subsequent changes can be monitored. Photographs can provide a useful record of potential health and safety issues; people should not be photographed without their express consent.
- Officers at an initial visit can also note any features of the encampment or its location that is likely to be particularly problematic or which might affect future decisions.
- The initial visit is also an opportunity for giving information to unauthorised campers about:
 - o the standard of behaviour expected of them. Where a Code of Expected Behaviour has been developed (see 7.3 et seq), copies should be provided and, where necessary in the event of any reading difficulties, be clearly explained to avoid misunderstanding;

- o what is going to happen next, what procedures the authority or police are likely to follow and what this means for the unauthorised campers; and
- o names and addresses of local services and sources of advice likely to be useful to the unauthorised campers. Information ideally should include locations of housing providers, health, education and social services, and waste disposal facilities.

Box 16 : Examples of Information Leaflets Provided to Gypsies and Travellers

Information leaflets for Gypsies and Travellers normally set out the main policy approach adopted by the local authority, a code of expected behaviour and useful contact addresses for services and advice.

Devon County Council: On the Road - Guidelines for people of a nomadic lifestyle

Dorset County Council: Notice to Travellers

Essex County Council: Guidance notes for Gypsy/Travellers in Essex

Suffolk County Council: Notice to Travellers on unauthorised camp sites

5.13 Welfare enquiries should always be carried out as swiftly as possible where the initial visit indicates that the unauthorised campers may have serious unmet health or welfare needs or where it seems likely that the encampment will lead to serious disruption or nuisance.

5.14 It is vital that all information given and received during visits and enquiries is clearly recorded. This is helpful to the local authority, especially if different officers are involved at a later date. It will also form the basis of an audit trail for subsequent decisions in case of challenge. Pro formas have been developed by many authorities (see Box 17) to collect and record this initial information. Some authorities and police forces have developed scoring matrices as an aid to assessing risk and decision making.

Box 17 : Example of a Pro-Forma used to Record Data on Encampments

Adur District Council: Welfare checks for Travellers

Coventry City Council: Traveller enquiry form, and Form for guidance of authorising officer

Devon County Council: Unauthorised occupation notification, and Personal circumstances questionnaire

Devon & Cornwall Constabulary: Checklist and record of action taken by officers attending alleged trespass on land

Leicestershire County Council: Unauthorised occupation Social Assessment Report

5.15 Information gathered in the course of visits and enquiries is subject to data protection legislation. Authorities should make clear the purposes for which information is being collected and give assurances about how it will be used and to whom it might be passed. Chapter 9 provides reference to the web-site of the Information Commissioner for guidance on data

protection issues.

5.16 Local authorities have no powers to insist that information be given. Some information may be confidential and require the unauthorised camper to give consent to follow up, for example, medical records. A sensitive approach is necessary, and authorities should always bear in mind issues of confidentiality and data protection. Where information is refused, the fact that questions were asked and not answered should be clearly recorded to avoid any subsequent claim for failure to take some relevant consideration into account. If unauthorised campers give reasons for not responding, these should also be noted. Unauthorised campers 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.

5.17 Reasonable attempts should be made to get information from unauthorised campers not present at the time of a visit. Other members of the group may sometimes be able to provide information. A letter or self-completion form may be left with clear instructions for its return (at no cost to the unauthorised camper). All such actions should be clearly recorded, and if there is still no response, this should be noted.

5.18 When visiting and managing unauthorised encampments, local authorities and police should adopt the same legal and careful health and safety procedures and practices as they apply to any other activity they are engaged in.

Reaching Decisions

5.19 Decisions about what action to take in connection with an unauthorised encampment must be made in the light of information gathered. Decisions must always be:

- 'Lawful' - that is in line with local policy and procedures, taking into account relevant considerations and not taking into account the irrelevant.
- 'Reasonable' in the legal sense of not being perverse or irrational in the light of the evidence available.
- 'Balanced' in that they take account of the rights and needs of both the settled community and Gypsies and Travellers.
- 'Proportionate' - what is proportionate will vary according to the precise circumstances of each encampment, including the nature of the location and the behaviour and needs of the unauthorised campers.

Making Decisions

5.20 Any welfare needs of unauthorised campers are a material consideration for local authorities when deciding whether to start eviction proceedings or to allow the encampment to remain longer. Welfare needs do not give an open-ended 'right' for unauthorised campers to stay as long as they want in an area. For example, the presence of a pregnant woman or school age children does not, per se, mean that an encampment must remain indefinitely. To defer an eviction which is justified on other grounds, the need must be more immediate and/or of a fixed term. Box 18 gives some examples of welfare needs to be considered by local

authorities, although the list is not intended to be exhaustive and all cases must be judged on their individual merits. Good practice suggests that eviction should be delayed while such acute welfare needs exist and are being met; during this period the encampment should be pro-actively managed (see Chapter 7).

Box 18 : Some Examples of Welfare Needs to be Considered in Eviction Decisions

Advanced pregnancy: a period shortly before and after birth in normal circumstances; longer on medical advice if there are complications.

Ill health: indicators might include a hospital appointment booked; in-patient treatment of a close family member; period during which a condition can be diagnosed, stabilised and a course of treatment started.

Educational needs: children in school if within 4 weeks of the end of term or if access to special education has been gained.

5.21 In some circumstances it may be appropriate to exclude a single person or family with welfare need from eviction action taken against the larger group. However, this must always be sensitively handled to ensure that an individual is not isolated and unsupported, leading to still greater need. In practice, groups may prefer to move on together. It is important that the appropriate authority follows up identified welfare needs whether or not the encampment is moved on.

Arrangements for Making Decisions

5.22 Responsibility for taking decisions must be clearly identified within the authority's (and/or police) policies and procedures, whether delegated to officers or retained by elected members.

5.23 Some authorities have established special procedures for reaching decisions, for example:

- Structures which ensure that decisions are taken by officers who have not been directly involved in site visits or contact with unauthorised campers. It is argued that this increases the consistency, logic and objectivity of decisions. Since all evidence is presented to the 'authorising officer' in writing such a procedure ensures that there is a clear record of the decision and the issues considered.
- Some authorities have arrangements for joint site visits and/or case conferences for reaching decisions on 'difficult' cases. Such procedures ensure that all parties are represented and have the opportunity to influence the decision. Case conferences could include representatives of the unauthorised campers and the local settled community, although there would need to be clear 'rules' for making decisions in the absence of consensus.

5.24 It is important that decisions to pro-actively manage encampments for a period are kept under review. Circumstances can change quickly, for example if newcomers join the

encampment and swell its size unacceptably or if behaviour deteriorates.

Recording Decisions

5.25 All decisions (including any decision to allow an encampment to remain for a period) must be fully recorded and documented. Any damage and nuisance should be charted in writing; a photographic or video record might also be taken in support. Records should also be kept of all complaints received about the encampment, with comments as to their validity. Information passed to unauthorised campers should be recorded, along with offers of assistance made - for example help with a housing application, offer of a pitch on an authorised site - and the response. Similarly it would be good practice to record the fact that an encampment was unproblematic and did **not** cause nuisance or damage. Any complaints received, including any from Gypsy/Traveller unauthorised campers, should be recorded.

5.26 Records can provide valuable information on the number and nature of unauthorised encampments in an area and which sites are particularly prone to encampment. This information is useful in assessing the need for further site provision, site protection priorities and in setting budgets and appropriate staffing levels. It provides material on which a risk-based response to encampments could be developed drawing on past experience relating to the site or the group/family involved. Standard minimum information, to be collected in all areas, as suggested in paragraph 3.30, would facilitate information sharing and better planning.

6. Resorting to Eviction

6.1 This chapter covers the eviction process itself. Once a decision to evict an unauthorised encampment has been properly taken, the aims should be:

- To act quickly and efficiently.
- To use powers most appropriate to the circumstances.
- To reduce scope for challenge through the courts by ensuring that policies and procedures are properly followed so as to reduce cost and delay.

6.2 The first three sections relate to eviction powers available to local authorities, police and other landowners. The final section in the chapter (6.20-6.24) deals with local planning authority powers to enforce against unauthorised development (ie Gypsies and Travellers 'developing' land as a caravan site without planning consent).

Powers Available to Local Authorities

6.3 Many encampments are dealt with through negotiation. Where this fails, local authorities have two main sets of powers to tackle unauthorised encampments:

- 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.
- 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).

6.4 Box 19 summarises some of the main features of the two sets of powers, highlighting differences and similarities.

Box 19 : Some Features of Civil and Criminal Justice and Public Order Act Powers for Local Authorities	
Civil Powers	CJPOA ss77 and 78
Only on land in LA ownership	On private as well as LA land where

	encampment is without the consent of the occupier of the land
Possession orders are effective against anyone on the land, not necessarily those resident when the notice was first served	Only effective against people directed to leave. All newcomers must be served with directions to leave
Civil orders can cover wide geographical areas where a real threat of further encampment can be demonstrated	It is an offence for unauthorised campers to return within three months to land they have been directed to leave; only applies to the same individuals
There is no defence to an action for trespass (other than showing non-trespass)	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
No criminalising effect	Can have the effect of criminalising Gypsy/Traveller unauthorised campers who fail to move when directed to leave, a factor taken seriously by the courts. In practice, authorities normally proceed against the unauthorised campers by way of complaint for an order requiring them to remove their vehicles from the land, and not for the criminal offence of contravening a direction to leave the land.
County court bailiffs can be used; their services must be paid for and may lead to delay in enforcement. . It is recommended that the police attend such evictions in order to prevent a breach of the peace	Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is recommended that the police attend such evictions in order to prevent a breach of the peace
Often seen as safe and relatively straightforward	Potentially quicker than civil powers, but greater risk of being effectively contested
Local authorities have responsibilities to make welfare enquiries when reaching eviction decisions, to take into account considerations of common humanity, and to honour the other statutory duties they may have towards the unauthorised campers	
Unauthorised campers can attend and be represented at the court hearing	
Decisions can be similarly challenged by means of judicial review on the grounds that they have been reached improperly	

6.5 Other legal measures may be available to local authorities:

- The Government believes that local authorities should always follow a route which requires a court order. As local authorities and public bodies, authorities must have regard to considerations of common humanity or other statutory duties, and must ensure that the human rights of unauthorised campers are safeguarded.
- 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, and its use may be

unsuitable where rapid eviction is called for.

- Local bylaws may have provisions for evicting unauthorised campers from car parks, parks or other public areas.

Powers Available to the Police

6.6 Powers are available to the police under the Criminal Justice and Public Order Act 1994 ss61-62E.

Criminal Justice and Public Order Act 1994 Section 61

6.7 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.

6.8 The current ACPO guidance notes that there can be no blanket policies, but refers to some of the circumstances in which it might be appropriate to use s61 against an encampment.

- The statutory conditions must obviously be met (see 6.7). Case law (*Fuller*) has determined that any notice period given to unauthorised campers must have expired before s61 can be used. 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.
- 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:

- o unacceptable behaviour by unauthorised campers at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction;
 - o significant disruption to the life of the surrounding community;
 - o 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.

6.9 Home Office Circular 45/1994 says '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 in making his 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.' Case law (*Small*) has established that, 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.

6.10 Above all, s61 should be used within the framework of a jointly agreed strategy for managing unauthorised camping (see Chapter 3). Local authorities, police and other stakeholders should agree the sorts of circumstances in which s61 might be considered appropriate. It is also important that s61 should be used consistently within a local area.

Box 20 : Example of a Local Agreement for the Use of Section 61

The joint protocol on unauthorised encampments within the Borough of Northampton between **Northampton Borough Council** and **Northamptonshire Police** includes a local agreement for the use of s61. It specifies exceptional circumstances in which the police may be requested by the Council or choose themselves to consider using their powers under s61.

6.11 Regular exchange of monitoring information on unauthorised encampments between police and local authority personnel is important. In particular, each party should keep the other informed about decisions taken and progress.

Criminal Justice and Public Order Act 1994 Section 62A to 62E

6.12 Sections 67 to 71 of the Anti-social Behaviour Act 2003 insert sections 62A to 62E into the Criminal Justice and Public Order Act 1994 (CJPOA). The legislation 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.

6.13 This power will be enacted on 27 February 2004 and ODPM and the Home Office are consulting separately on draft guidance for its implementation in practice. Once guidance on the use of s62 is finalised, it will be incorporated into this Guidance.

Powers Available to Other Landowners

6.14 Several government bodies are major landowners and their land may be subject to unauthorised encampment - examples include the Forestry Commission and the Highways Agency. Public bodies should ask local authorities to assist with welfare enquires and local authorities should be prepared to help with these.

6.15 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.

6.16 Some private landowners seek to avoid the expense and costs of going to court by using common law rights 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 and might include:

- 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.

6.17 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.

Some Procedural Points

6.18 This guidance is not concerned with detailed procedures involved in court actions for eviction. Some pointers to good practice for local authorities were noted in *Managing Unauthorised Camping: A Good Practice Guide* issued in 1998 and are still valid:

- Both main sets of powers for taking eviction action involve their own detailed procedures for serving notices, entering cases into court, providing statements (civil powers) or witnesses (CJPOA) for evidence and so on. There is advantage in drawing up a detailed procedures guide as a checklist that everything is done properly and no necessary action missed. Losing an eviction action through an avoidable mistake is a waste of resources, and threatens the credibility of the authority.
- In drawing up detailed procedures, the close involvement of a legal officer is essential. Day-to-day liaison for legal advice while dealing with a specific encampment is also desirable to avoid omissions and to ensure the most effective case for eviction is built.
- Most authorities will probably use in-house legal expertise for preparation and court work. In some circumstances it may be desirable to use an external solicitor, which can be cost-effective where a local solicitor has special expertise.
- Good relations should be built with court officials to ensure a speedy service and to ensure that particularly urgent cases can be given priority when needed. The leaflet *Getting the best out of the court system: Claims for possession* issued by DTLR, the Court Service and the Welsh Assembly stresses the importance of establishing links with local courts. It is, of course, essential to establish what paperwork the courts will require and to ensure that it is always provided. It is also desirable to develop fast-track in-house processes to fit around court workings.
- It is important to be able to show that directions have been properly served if cases are to succeed at court. This normally means either personal service on the occupiers of each vehicle and/or attaching a copy of the direction to each caravan as well as posting the direction on the site. A verbal explanation of the direction should be given wherever possible as a supplement to the written documents to cater for possible reading difficulties.
- It is usual to proceed against unnamed persons occupying the land. This is specifically allowed in the CJPOA and may be the only practical course where unauthorised campers are unwilling to give their names. Getting comprehensive information on vehicles is important for identification purposes.
- Most authorities will probably think it appropriate to use council personnel to serve notices and so on. Where external bailiffs or other agents are employed, the authority must be satisfied that their behaviour is at all times lawful and in accord with human rights and race relations requirements.
- Serving directions, and site visits in general, can raise issues of personal safety for officers involved. Sensible precautions should be taken to avoid confrontation and personal danger. In certain circumstances, a police presence may be appropriate while notices are served.
- Local authorities have discretion to set notice periods beyond the legal minimum. For example, the direction to leave served under the CJPOA can require unauthorised campers to leave in 24 hours, 48 hours or a longer period. Decisions about the length of notice given should be taken in the light of the circumstances of each encampment, with a view to being more generous where problems are not extreme.

Preparing for Eviction

6.19 Eviction proceedings should not be commenced unless the authority is able to go the whole way to forced eviction if necessary.

- Every effort should be made to avoid forced eviction.
- Many encampments include children, who will find forced eviction especially stressful and frightening. All authority and other personnel involved in an eviction should remember this and seek to ensure that their actions have the least possible harmful effect on children.
- Authorities should think, in general terms at least, about options for forced eviction. Plans should be formulated on such matters as which personnel would be involved and which towing contractors would be used. An in-principle agreement should be reached with the police about where towed vehicles would be put.
- Other services should be alerted prior to a forced eviction. This should include warning social services (who may need to provide temporary care for children in the rare cases where parents are arrested and held in custody), Traveller Education Services and homelessness officers, and could also involve finding accommodation for horses and dogs.
- Many authorities do not employ council staff in forced evictions. Where bailiffs or other agencies and contractors are employed, a code of expected behaviour should be drawn up. This code must recognise that private bodies have a local authority's human rights and race relations responsibilities while acting as their agent.
- A senior local authority officer should always attend forced evictions to ensure that all agents follow codes of behaviour. The officer should attempt to encourage the unauthorised campers to move voluntarily wherever possible.
- Police should be involved at a very early stage in planning a forced eviction. They will be able to advise on personal safety issues. In addition, forced evictions could have implications for traffic management and the like.
- Elected members and other local stakeholders should be notified in advance of forced eviction. It is also appropriate routinely to inform neighbouring local authorities and police areas since the displaced unauthorised campers may look for other encampment sites locally.
- The respective roles of the local authority, police and other agencies in forced eviction should be clearly established in the local strategy for managing unauthorised camping. Since this is an area where good practice is hard to establish, it is particularly important that all agencies should monitor and evaluate local instances of eviction and learn from that experience.

Enforcing against Unauthorised Development

6.20 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.

6.21 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, the Green Belt, 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.

6.22 The current enforcement regime provides a mix of powers with which to deal with breaches of planning control in a controlled but flexible manner. The main powers are summarised in Box 21.

Box 21 : Main Planning Enforcement Powers to be used against Unauthorised Development

The discretionary powers available to local planning authorities (LPAs) were set out in the Planning and Compensation Act 1991 which amended the Town and Country Planning Act 1990 (TCPA 1990). Section references below refer to the TCPA 1990 as amended.

Planning contravention notice (s171C): This may be used where it appears that there may have been a breach of planning control and the LPA requires information about the activities on the land or to find out more about the nature of the recipient's interest in the land.

Enforcement notice (s172): This requires steps to be taken to remedy the specified breach within a given period. There is a right of appeal to the Secretary of State against an enforcement notice. If the notice is upheld, failure to comply is an offence with a maximum penalty on conviction of £20,000 (unlimited in the Crown Court).

Stop notice (ss183-184): This has the effect of immediately stopping any activity which contravenes planning control; an enforcement notice must also be served. There is no right of appeal to a stop notice, but compensation may be payable if an appeal against the associated enforcement notice is allowed on legal grounds. If a stop notice is contravened the resulting offence can be prosecuted in the Magistrates' Court with a maximum penalty on conviction of £20,000 (unlimited in the Crown Court).

Breach of condition notice (s187A): Where there is a failure to comply with any condition or limitation imposed on a grant of planning permission this procedure provides a fast-track enforcement option to secure compliance with no statutory right of appeal to the Secretary of State.

Injunctions (s187b): The LPA is able to seek an injunction in the High Court or County Court to restrain any actual or expected breach of planning control. It is not necessary to serve an enforcement notice prior to applying for an injunction.

Direct action (s178): Where any steps required by an enforcement notice are not taken within the compliance period, the LPA may enter the land and take the required steps and recover reasonable costs incurred in doing so. The whole enforcement process must have been completed before direct action is possible.

Compulsory purchase (s226 (1)(b)): With the authorisation of the Secretary of State, an LPA may compulsorily acquire any land in their area 'for a purpose which it is

necessary to achieve in the interests of the proper planning of an area in which the land is situated'. There is scope for objection and a public local inquiry. This has been successfully used against unauthorised development in order to restore land to its lawful use for agriculture.

6.23 Case law has determined that all enforcement measures must be proportionate in the context of the Human Rights Act, and in particular the Gypsy/Traveller's rights under Article 8. Guidance on using planning enforcement powers is available in Circular 10/97, Planning Policy Guidance 18: *Enforcing Planning Control* and *Enforcing Planning Control: Good Practice Guide for Local Planning Authorities*.

6.24 The planning enforcement system in England is currently being reviewed. One of the issues being considered is whether local authority enforcement powers are effective or whether more are needed to tackle breaches of planning control. Revised guidance to local authorities is also being considered. An announcement about the review is expected in 2004.

7. Managing Unauthorised Encampments

7.1 Although unauthorised camping is unlawful, it is likely to continue while there are insufficient spaces to accommodate Gypsies and Travellers on authorised sites. While more places are being provided it is vital that local authorities, with their police and other partners, pro-actively manage encampments to minimise the disruption caused. The principles involved are:

- To enforce the same standards of behaviour by unauthorised campers as are expected of the settled community.
- To respond rapidly to any deterioration of behaviour and growing disruption from an encampment.
- To facilitate access to services for Gypsy/Travellers on encampments.
- To keep all parties informed of decisions and actions.

7.2 The chapter also covers the special issue of dealing with mass gatherings by Gypsies and Travellers (7.30-7.37).

Behaviour at Encampments

7.3 Many local authorities (see Box 22) have drawn up Codes for Gypsy/Traveller unauthorised campers, detailing both locational and behaviour expectations. 'Acceptable behaviour' codes might include some or all of the following items:

- Small scale encampments, which can be accommodated with less disruption.
- No aggressive and threatening behaviour towards local authority and/or police officers or members of the public.
- Dogs and other animals to be kept under control.
- No persistent noise which disturbs others, especially at night, for example from work on the camp, vehicles, generators, dogs or music.
- Keeping the encampment site clean and tidy, avoiding littering and/or fly tipping on or near the site.
- No damage either to the site encamped or the surrounding area or nearby property.
- No criminal activity on the part of unauthorised campers.

Box 22 : Examples of Codes of Expected Behaviour
The code for Travellers in Essex
Guidance notes for Travellers in Leicestershire, Leicester City and Rutland

7.4 In drawing up a Code of Expected Behaviour, local authorities should consult Gypsies and Travellers, local businesses and other landowners and other members of the settled community. The objective should be to reach consensus on behaviour standards which it is

appropriate to require, and which are sensitive to cultural differences between the Travelling and settled communities.

7.5 As noted above, a basic principle in establishing a Code of Expected Behaviour is applying the same standards as would be applied to members of the settled community. In this context it is important to consider 'individual' and 'group' behaviour and responsibilities. In the settled community, a whole street or estate would not be evicted because of the criminal or anti-social behaviour of one person or household. Wherever possible, police and local authorities should seek to enforce appropriately against a troublemaker rather than automatically evicting an encampment as a whole.

7.6 It is also important to identify and take action against unacceptable behaviour towards encampments by members of the settled community. Harassment of, and violence against, Gypsy/Traveller unauthorised campers are quite unacceptable. Local authorities and police, as public bodies, have responsibilities under the Race Relations (Amendment) Act 2000 to promote good race relations.

7.7 Tackling unacceptable behaviour of whatever sort requires - as outlined in Chapter 5 - rapid response, regular monitoring and determination to take appropriate enforcement action as necessary.

Dealing with Crime and Anti-Social Behaviour

7.8 Some encampments are associated with criminal and anti-social behaviour. The Government is clear that criminal and anti-social behaviour is not acceptable from unauthorised campers, just as it is not acceptable from members of the settled community. The White Paper *Respect and Responsibility* sets out the stand to be taken against anti-social behaviour. Measures provided (see 7.11-7.12 and Box 23) empower communities, public services and authorities to tackle anti-social behaviour. In return the Government expects everyone to play their part in setting and enforcing proper standards of behaviour. This Guidance should be read in the context of that agenda.

7.9 Dealing with any criminal behaviour on the part of unauthorised campers is properly the responsibility of the police. Other enforcement agencies may be involved depending on the nature of the crime, including Trading Standards Officers, Inland Revenue and Customs and Excise enforcement officers where there are indications of fraudulent trading, tax or excise evasion. A co-ordinated approach to enforcement is the key.

7.10 No group should be above the law. Where action is justified, there should be no blanket presumption against enforcing against members of the Travelling community on grounds of expediency. Where law enforcement agencies demonstrate a commitment to taking action where appropriate and are clearly determined to tackle crime, it is probable that some Gypsy/Traveller unauthorised campers will avoid that locality and some may amend their behaviour. A pro-active approach taken in one area may increase unauthorised camping in an adjoining area where a less active approach is taken. Consistency of approach is desirable.

7.11 Anti-social behaviour (see Box 23) can also arise at some unauthorised encampments. Both police and local authorities have a role here. Under the Police Reform Act 2002, the

Government introduced improved measures for tackling anti-social behaviour including allowing Anti-Social Behaviour Orders (ASBOs) to be made following conviction for a criminal offence as well as on application to the civil magistrate's court, and allowing ASBOs to prohibit specified acts of anti-social behaviour across any geographical area up to and including the whole of England and Wales. This should help counter displacement of anti-social behaviour. Orders can also be made in the county court where the defendant is the principal party in related proceedings such as possession proceedings or eviction notices where the persons to be evicted from the area are named individuals. These changes were accompanied by Home Office guidance published in November. The white paper *Respect and Responsibility* strengthens the changes described above and outlines new measures which are to be introduced. The Anti-Social Behaviour Act 2003 will introduce further relevant changes to ASBOs, allowing Housing Action Trusts and county councils to apply for ASBOs, enabling persons to be joined to county court proceedings to seek an order against them and empowering local authorities to prosecute ASBO breaches.

7.12 It is important that local authorities and police seriously consider the possibility of using ASBOs against unauthorised campers and/or negotiating Acceptable Behaviour Contracts (see Box 23). The use of either measure would represent an opportunity to discuss behaviour with unauthorised campers, defining with and for them what is and is not acceptable.

Box 23 : Tackling Anti-Social Behaviour

The Crime and Disorder Act 1998 introduced Anti-Social Behaviour Orders (ASBOs) to tackle persistent anti-social behaviour (ASB). The scope of the orders was extended by the Police Reform Act 2002, which was accompanied by Home Office guidance on ASBOs and ABCs. Further improvements to the functioning of ASBOs were made in the Anti-Social Behaviour Act 2003.

ASB: is defined in the Crime and Disorder Act 1998 s1 as behaving in '*a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household*'

ASBOs: are available to local authorities, police (including the British Transport Police) and Registered Social Landlords (RSLs') by application at a magistrates' court or on conviction in criminal proceedings. Orders are available in the county court where the person is the Defendant in related proceedings. Interim orders can also be obtained. From early 2004 Housing Action Trusts and county councils will also be able to apply for ASBOs, and persons will be able to be joined to county court proceedings where their anti-social behaviour is relevant to the principal proceedings for the purpose of seeking an order against them. To obtain an ASBO it is necessary to show that the person(s) concerned have acted in an anti-social manner and an order is necessary to protect others from further anti-social acts by the individual(s). The rules of evidence are civil but a standard of proof equivalent to the criminal standard (beyond reasonable doubt) should be applied. The order must be negative, prohibiting the individual(s) from specified actions (which can include a general prohibition of acting in an anti-social manner) in specified areas which can be any defined part of or the whole of England and Wales. Breach of an ASBO is a criminal offence and has to be proved to the criminal standard of evidence beyond reasonable doubt. Conviction for breach carries the normal maximum sentence in the Magistrates' Court (6 months

in prison, a fine or both) and five years and/or a fine in the Crown Court.

Acceptable Behaviour Contracts: have been developed, initially by Islington Council, as an informal way of dealing with low-level ASB and nipping it in the bud. They can be used with adults and young people and are tenure-neutral although they have been used mainly against teenagers in social rented housing. The perpetrator is interviewed by a council officer in the presence of parents and police, and is asked to sign a 'contract' agreeing not to engage in specified anti-social acts. The ABC principles might be adapted for use in relation to Gypsies/Travellers and unauthorised encampments. An ABC is not legally binding but it can be cited in proceedings such as for an ASBO at a later date.

Other measures: are available which can be used against specific forms of ASB, including:

- Environmental Protection Act 1990 where a problem is judged prejudicial to health or a statutory nuisance - normally enforced by the local authority environmental health department
- Noise Act 1996 - normally enforced by the local authority environmental health department
- Protection from Harassment Act 1997 - if ASB or unauthorised camper behaviour constitutes harassment, police could prosecute under this Act, or the person to whom harassment has occurred may claim damages and an injunction
- Public Order Act 1986
- Criminal Damage Act 1971

7.13 Measures to tackle crime and ASB must be set within a strategic framework. Dealing with any criminal and anti-social behaviour associated with unauthorised encampments should be considered by local Crime and Disorder Reduction Partnerships as part of their mandatory strategies (see Box 24).

Box 24 : Crime and Disorder Prevention Partnerships

The Crime and Disorder Act 1998 requires the police and local authorities - together with police authorities, health authorities and probation committees - to work together, in partnership with other agencies, to develop and implement a strategy for reducing crime and disorder in each district and unitary local authority area. County councils are to be involved in all strategies within their area. The Act also requires local authorities to have regard to crime and disorder when considering all other matters.

Police and local authorities (and other partners) must follow a three year cycle:

- Conduct and publish an audit of local crime and disorder problems, taking into account the views of those who live and work in the area
- Determine priorities for action
- Devise and publish a strategy which tackles these priority problems, including objectives and targets
- Monitor progress, fine tuning the strategy as required

Dealing with Waste and Fly-tipping

7.14 Accumulations of rubbish and waste - including human waste, domestic and trade refuse - represent one of the most common problems associated with unauthorised encampments. Accumulations can be visually unpleasant, smelly, hazardous and costly to clear up. Preventing a build up of waste and/or removing it is a central element in a policy of pro-active management of encampments.

Preventing Waste

7.15 Local authorities have an important role in preventing accumulation of waste by ensuring that unauthorised campers keep encampments clean and tidy:

- Many authorities provide supplies of plastic sacks and arrange regular collection of bagged refuse. This can work well with unauthorised campers who want to conform to a Code of Expected Behaviour, and will reduce the costs of cleaning up after the encampment has left. Regular removal of domestic refuse should deter tipping by members of the settled community.
- Some groups of Gypsies and Travellers are willing to use skips for domestic waste. Again, provision and removal may be cost-effective if the alternative is a build-up of refuse acting as a magnet for other fly tipping by members of the settled community. Local authorities should check that skips would be used before providing them. It is good practice to seek to recover costs from the unauthorised campers.
- One of the common complaints about unauthorised encampments is of people urinating and defecating in public. Public defecation is a difficult and sensitive issue. The practice is a nuisance and a health hazard. However, Gypsies and Travellers have strict cultural codes about hygiene and consider it unclean to use toilet facilities in a caravan or to share facilities. When managing encampments local authorities should liaise with unauthorised campers. They should make plain that public defecation is not acceptable behaviour, and discuss what form of toilet provision the local authority can assist with to prevent it and any arrangements for payment for the service.

7.16 Regular monitoring visits to encampments should reinforce messages about keeping the site clean and tidy. Unauthorised campers need to realise that, under a pro-active approach to managing unauthorised encampments, failure to keep the site clean and tidy in breach of a Code of Expected Behaviour is likely to lead to rapid eviction. Some local authorities, which have adopted such an approach and shown a determination to encourage acceptable behaviour, have found that behaviour of unauthorised campers has improved; in some instances groups which previously left encampment sites in very poor condition are now much tidier. This is extremely cost-effective in reducing the need to spend large sums on cleaning up.

Enforcement Action

7.17 Dealing with illicit waste disposal and fly tipping is difficult - whether the culprits are Gypsy/Traveller unauthorised campers or members of the settled community. Local authorities, police and the Environment Agency all have roles to play and co-ordinated action is necessary. Gypsy/Traveller unauthorised campers should be clearly informed that everyone who produces, treats, carries or disposes of controlled waste has a 'duty of care' under s34 of the Environment Protection Act 1990. Licensed carriers should take trade waste to appropriately licensed facilities in accordance with this duty of care. Information leaflets provided to unauthorised campers should identify nearby licensed waste facilities.

7.18 Enforcement measures are available (see Box 25). Collecting sufficient evidence for successful prosecution requires - as with the measures for countering crime and ASB outlined above - determination and partnership working from the agencies involved. The case study in Box 26 shows that action can succeed.

Box 25 : Measures for Enforcing against Pollution, Littering and Fly-tipping

Water Resources Act 1991 (as amended by the Environment Act 1995) gives the Environment Agency powers to prosecute those found illegally depositing waste into controlled waters and causing a pollution offence.

Environmental Protection Act 1990 makes fly-tipping a criminal offence with a maximum penalty of a £20,000 fine and/or imprisonment up to 6 months (unlimited fine or imprisonment of up to 5 years if convicted at a Crown Court). The Government has asked the Environment Agency to vigorously prosecute any person found to be illegally disposing of waste, where they have evidence. The waste collection authority and the Environment Agency may remove fly-tipped waste and recover costs from those responsible for causing the offence. The Environment Agency has set up an emergency telephone hotline (0800 807060) for members of the public to notify them of fly tipping (and water pollution incidents). The National Fly-Tipping Prevention Group includes a number of national organisations.

Environment Protection Act 1990 (Part III) gives local authorities powers to act against statutory nuisances (prejudicial to health or a nuisance). Local authorities can serve an abatement notice, which can be appealed. Failure to comply with an abatement notice is an offence.

Anti-social Behaviour Act 2003 extends the range of powers available to local authorities for dealing with fly tipping, for instance, by giving them powers to stop, search and seize vehicles suspected of being used for fly tipping and to investigate incidents.

Box 26 : A Case Study of Action against Fly-tipping

Officers from the Environment Agency met officers of Leicestershire Constabulary in December 2002 to discuss a strategy for dealing with illegal tipping by Travellers near the M50/M1 interchange. On 13 January 2003, the police contacted the Environment Agency to confirm that their officers had witnessed the deposit of around 3 tonnes of soil amongst other waste on the site. The offender was unable to satisfactorily respond to accusations of illegal tipping lodged by the police and they were able to arrest him under Police and Criminal Evidence Act 1984 powers. An Agency officer assisted the police in the interview process and provided the police with specimen charges.

The offender was subsequently bailed to appear at a later date to answer the charges lodged against him. He appeared at Loughborough Magistrates' Court and pleaded guilty to one charge of depositing waste without the benefit of a waste management licence, contrary to s33 (1)(a) of the Environmental Protection Act 1990. He was fined £250 and ordered to pay £65 costs.

7.19 Regular site monitoring is essential if evidence is to be gathered for successful enforcement. Environmental health authorities, police and the Environment Agency need to work closely together. Surveillance to identify individuals responsible for fly tipping is likely to be resource-intensive. Covert surveillance is now governed by the Regulation of Investigatory Powers Act 2000; the Home Office has issued guidance on the use of CCTV in relation to both the Human Rights and Data Protection Acts.

Rapid Clear-up

7.20 Whilst the measures outlined above may help reduce the accumulation of rubbish, cleaning up will still be needed after some encampments.

- Sites should be cleared as soon as possible after they are vacated.
- Where appropriate, responsibilities must be agreed between county and district councils for site clearance so that there is no delay due to uncertainty or dispute. Joint arrangements - including some apportionment of costs - must be set out in a joint agreement or protocol specifying speed of response.
- Some refuse left may need special care in collection and disposal, including hazardous industrial waste, excreta and drug-related waste. Contractors should be warned accordingly.

Recording Information

7.21 The state of the site on departure and the clean-up cost are relevant factors to record in the encampment log. A group's previous behaviour may well inform the approach adopted if they visit the area again. If the sharing of standard information becomes more common, poor behaviour in one area may in future also inform the approach adopted in another area.

Facilitating Access to Services

7.22 It is an important objective of a pro-active approach to managing encampments that Gypsy/Traveller unauthorised campers are enabled to access health, welfare and education services during the period of their stay. It is in everyone's interests that Gypsy/Traveller children are encouraged and enabled to complete their education. Arranging access to services will be easier when unauthorised campers conform to a Code of Expected Behaviour and may be permitted to stay longer. Local authorities should facilitate access to services and act as main contact point for specialist service providers. Information from the welfare enquiries will indicate what services are required.

A Robust Approach to Eviction

7.23 A pro-active approach to managing unauthorised camping involves keeping encampments under review. Police and local authorities should be prepared to review eviction decisions as circumstances change since the balance of interests will change as well. While a decision to evict might not have been 'proportionate' initially, experience of disruption to the settled community, crime or anti-social behaviour may justify eviction at a later date. The fact that an encampment has been permitted to remain for a period does not preclude eviction proceedings - whether by the local authority or police using s61 - being started at a later date provided proper procedures are followed.

Keeping People Informed

7.24 As noted in Chapter 3, communications and publicity arrangements are an important element in any strategy for managing unauthorised camping. It is important that other agencies/departments, Gypsies and Travellers, elected members and members of the settled community are kept informed about what is happening and what can be expected to happen with encampments.

7.25 An agreed communications strategy between partner organisations in an area should determine which agency will lead on providing information. Normally this should be the local authority in its role as lead agency in dealing with unauthorised camping. Communications with the press and members of the public should be co-ordinated and consistent to avoid confusion. One aim of a communications strategy should be to increase understanding and tolerance between the settled and travelling communities in line with duties to promote good race relations placed on local authorities and police by the Race Relations (Amendment) Act 2000.

7.26 Gypsy/Traveller unauthorised campers should always be clearly informed about what is expected of them and what is going to happen. Information should normally be by word of mouth as well as written to avoid communication problems because of any reading difficulties. Contact and communication should be at least weekly.

7.27 Any encampment is likely to be of concern to local residents and businesses. Elected members should be regularly briefed on encampments in their wards; they can pass information on to their constituents. In addition, the local authority should provide information to

local residents, and especially to complainants, using resources of the internet and e-mail where appropriate.

7.28 Special arrangements may be appropriate for large and/or high profile encampments. In addition to the measures described above, these might include:

- Regular press briefings.
- Well-publicised advice lines for Gypsies and Travellers and other members of the public to ring for information.
- A special leaflet or newsletter to be distributed locally explaining background, events and plans for dealing with the encampment.
- Links to regularly updated information through the council's web-site. Police and other agencies likely to be approached for information should include hyperlink connections to information on local authority web pages.

7.29 Such measures will obviously be costly in staff time. However, in the case of a major encampment local authorities and police will have to deal with complaints and queries anyway, and planning will make this easier. Being pro-active in this way should reduce scope for rumour and misinformation, and confusion. It could provide opportunities to manage the message to avoid unnecessarily negative coverage and reduce inter-community tension. It could also be helpful in gathering evidence for fly-tipping or other ASB which could be used in enforcement action.

Dealing with Mass Gatherings

7.30 Gatherings, which bring families together for a short period of time for weddings, funerals or traditional fairs and other events, are an important element of Gypsy/Traveller culture. These traditional gatherings must always be handled sensitively and with respect.

7.31 In the past few years a number of other mass gatherings of Gypsies and Travellers have occurred, when several hundred vehicles and people have met up and camped for a period, as at Great Yarmouth (December 1999) and Bournemouth (December 2001).

7.32 Mass gatherings are not spontaneous events but are to some extent planned by those taking part. The Government believes that it is not acceptable for large numbers of Gypsies and Travellers (or anyone else) to turn up in an area and cause severe disruption. The Government also recognises that there are large gatherings which are part of the Gypsy and Traveller tradition such as Appleby Fair in Cumbria.

7.33 The responsibility for managing lawful gathering should lie with the Gypsies and Travellers themselves. Gypsies and Travellers, ideally, should provide advance notice of a mass gathering, and should themselves make arrangements for water, refuse and hygiene services. At the very least, Gypsy/Traveller 'leaders' at a gathering should be prepared to negotiate with local authority and police officers and to act in a co-operative manner so as to minimise disruption.

7.34 Local authorities and police can make advance plans for dealing with such mass gatherings (including those where 'leaders' do not co-operate fully):

- It would be appropriate to include handling a major gathering and encampment of Gypsies and Travellers within the local emergency plan and local Crime and Disorder Plans.
- In emergency plans, local authorities should think ahead about how they might prepare emergency accommodation, negotiate with farmers for the use of their fields, identify supplies of portable toilets, water supply, waste disposal etc. The authority's Chief Emergency Planning Officer might become involved in preparing and co-ordinating plans.
- Close joint working between local authority personnel and police is key to managing mass gatherings. Dealing with hundreds of people and vehicles is likely to be beyond the resources of a single authority or police area. Local authorities and police have come together for joint planning at regional level in some parts of the country following recent experiences in order to be able to rapidly mobilise resources on a sufficient scale.
- Joint planning should extend to sharing information and intelligence aimed at anticipating the size and location of gatherings.

7.35 Section 14A of the Public Order Act 1986 provides for the prevention of 'trespassory assemblies', and s14 provides for the imposition of conditions on all assemblies. Section 14C of the Public Order Act 1986 creates a power for police to turn people away from trespassory assemblies when a banning order is in force. Box 27 gives more details. Acting to ban a mass gathering under these powers clearly requires close co-operation and agreement between the local police and local authority. This can only be contemplated when advance intelligence of the gathering is available sufficiently long in advance to allow the various procedures to be followed and approvals to be sought. Enforcing such a ban - if agreed by the Secretary of State - will obviously have major staffing implications.

Box 27 : Preventing Trespassory Assemblies

Public Order Act 1986 s14A

A public assembly is a gathering of 20 or more people on land in the open air. A Chief Police Officer may take steps to prohibit such an assembly, provided that:

- The assembly must be on land to which the public has no right of access or limited right of access **AND**
- The assembly is likely to be held without the permission of the owner/occupier of the land or to conduct itself in a way as to exceed the limits of any permission or limits the public's right of access **AND**
- May result in serious disruption to life of the community.

If these conditions are fulfilled the Chief Officer may apply to the District Council for an order preventing trespassory assemblies for a specific period. This order may only be granted with the permission of the Secretary of State for the Home Department. The order may ban assemblies for up to 4 days within a radius of 5 miles. The order may

be renewed.

It is an offence to organise such an assembly knowing that it has been prohibited, or to take part knowing it has been prohibited.

Public Order Act 1986 s14C

Creates a power for police to turn people away who are travelling towards trespassory assemblies. It is operative within the area covered by the banning order. A person who fails to comply is liable to arrest.

Public Order Act 1986 s14

A senior police officer is able to impose conditions on public assemblies. The officer may impose conditions if s/he reasonably believes that the assembly may result in:

- Serious public disorder **OR**
- Serious damage to property **OR**
- Serious disruption to the life of the community.

These conditions, which must be in writing, may be in regard to location, duration and maximum numbers attending. It is an offence to knowingly organise a public assembly in breach of the conditions, or to take part knowingly. These offences carry a statutory power of arrest.

7.36 When an illegal mass gathering is anticipated and likely to go ahead, emergency plans may need to be implemented. All relevant bodies, especially local authorities and police, should be on alert. Security (24 hour) may be appropriate to protect especially vulnerable and sensitive pieces of land.

7.37 Should a mass gathering take place, enforcement action as detailed in Chapter 6 should be considered.

Box 28 : An Aide Memoire on Mass Incursions

Drawing on recent experiences of mass gatherings, the National Crime and Operations Faculty, Uniform Operational Support at Bramshill put together:

Mass Incursions : An Aide Memoire

8. Evaluation of the Guidance

8.1 The Office of the Deputy Prime Minister and the Home Office are committed to evaluating the impact of this Operational Guidance to check:

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

8.2 In the light of evaluation - and changing circumstances - further Guidance may be issued in future as appropriate. ODPM and the Home Office will be pleased to receive comments on the Operational Guidance and suggestions for ways in which it might be improved.

9. Useful References and Contacts

Various pieces of guidance have been referred to in this Operational Guidance. These are listed below, together with other useful references ordered in the relevant Chapters of the Guidance. Useful contacts are listed at the end. ALL INTERNET ADDRESSES ARE VALID AT DECEMBER 2003.

Chapter 1

Department of Environment, Transport and the Regions/Home Office (1998) *Managing Unauthorised Camping: A Good Practice Guide*, DETR; Revised Chapter 5 issued July 2000

Cowan, D, Donson, F, Higate, P, Lomax, D & Third, H (2001) *The Management of Unauthorised Camping: Monitoring the Good Practice Guide*, Research Paper 77, Edinburgh College of Art/Heriot-Watt University

Commission for Racial Equality (2003) *Gypsies and Travellers - A Strategy 2003-2006 Consultation Draft*, CRE (http://www.cre.gov.uk/downloads/docs/GandT_strat.doc)

Gypsy Sites Refurbishment Grant (GSRG) 2004/05: Bidding Guidance (http://www.communities.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_025116.hcsp)

Home Office (2002) *National Policing Plan 2003-2006* (<http://www.policereform.gov.uk/natpoliceplan/>)

Home Office (2003) *Respect and Responsibility* (<http://www.official-documents.co.uk/document/cm57/5778/5778.pdf>)

Chapter 2

Counts of Gypsy caravans are published on the ODPM website at (http://www.communities.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_602529.xls)

Niner, P (2002) *The Provision and Condition of Local Authority Gypsy/Traveller Sites in England*, ODPM (http://www.communities.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_602542.hcsp)

Niner, P (2003) *Local Authority Gypsy/Traveller Sites in England*, ODPM (http://www.communities.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_023012.pdf)

Chapter 3

Derbyshire Gypsy Liaison Group (1998) *Moving Base*, DGLG

Hopkinson, G, Ingram, M & Wishart, B (undated) *Where's the Real Choice? What are the*

accommodation needs of Travellers in Wychavon? Evesham & Pershore Housing Association

Southwark Housing (2000) *Needs of the Traveller Community in Southwark*, LB Southwark

Morris, R & Clements, L (2002) *At what cost? The economics of Gypsy and Traveller encampments*, The Policy Press

Local e-Government Strategy

(http://www.localgov.gov.uk/Nimoi/sites/ODMP/resources/20021127_Final_NS_with_cover.pdf)

Commission for Racial Equality (2000) *Guidance for Journalists: Travellers, Gypsies and the Media*, CRE (<http://www.cre.gov.uk/media/guidetj.html>)

DETR (2001) *Local strategic partnerships - Government guidance*

(<http://www.neighbourhood.gov.uk/formatteddoc.asp?id=95>)

LGA (2002) *Guidance on Community Cohesion*

(http://www.homeoffice.gov.uk/docs/cc_guidance.pdf)

DETR (2001) *Supporting People: policy into practice*, see <http://www.spkweb.org.uk>

Children and Young People's Strategic Partnerships (within Local Strategic Partnerships)

Sure Start, see <http://www.surestart.gov.uk>

Connexions, see <http://www.connexions.gov.uk>

Home Office (1999) *Guidance on Statutory Crime and Disorder Partnerships*, see

<http://www.homeoffice.gov.uk/docs/partcont.html>

Race Equality Schemes, see http://www.cre.gov.uk/duty/duty_schemes.html

Department of Transport, Local Government and the Regions (2002) *Homelessness Strategies: A Good Practice Handbook*, DTLR

(http://www.communities.gov.uk/stellent/groups/odpm_homelessness/documents/pdf/odpm_home_pdf_601517.pdf)

Chapter 4

DoE Circular 1/94: *Gypsy Sites and Planning*, January 1994 (see Annex B)

Planning Policy Guidance 3 *Housing*, ODPM

(http://www.communities.gov.uk/stellent/groups/odpm_planning/documents/pdf/odpm_plan_pdf_606933.pdf)

Planning Policy Guidance 12 *Development Plans*, ODPM

(http://www.communities.gov.uk/stellent/groups/odpm_planning/documents/pdf/odpm_plan_pdf_606929.pdf)

Chapter 5

Web-site of the Information Commissioner's - <http://www.informationcommissioner.gov.uk>

Chapter 6

Fuller v Chief Constable of Dorset, [2001] EWHC Admin 1057

Home Office Circular 45/1994

R v The Commissioner of the Metropolis ex parte Small (not reported)

Department of Environment, Transport and the Regions/Home Office (1998) *Managing Unauthorised Camping: A Good Practice Guide*, DETR; Revised Chapter 5 issued July 2000

DTLR, the Court Service and the Welsh Assembly: *Getting the best out of the court system: Claims for possession* (http://www.courtservice.gov.uk/cms/media/best_court_system.pdf)

Planning Policy Guidance 18 *Enforcing Planning Control* 1991
(http://www.communities.gov.uk/stellent/groups/odpm_planning/documents/page/odpm_plan_606903.pdf)

DoE Circular 10/97 *Enforcing Planning Control: Legislative provisions and Procedural Requirements*
(http://www.communities.gov.uk/stellent/groups/odpm_planning/documents/pdf/odpm_plan_pdf_606834.pdf)

DoE *Enforcing Planning Control: Good Practice for Local Planning Authorities*, 1997

Chapter 7

Home Office (2003) *Respect and Responsibility* (<http://www.official-documents.co.uk/document/cm57/5778/5778.pdf>)

Home Office (2002) *A Guide to Anti-Social Behaviour Orders and Acceptable Behaviour Contracts* (<http://www.crimereduction.gov.uk/asbos9.pdf>)

Environment Protection Act 1990 s34, *Waste Management: The Duty of Care: A Code of Practice*
(http://www.defra.gov.uk/environment/waste/management/doc/pdf/waste_man_duty_code.pdf)

Fly Tipping Stakeholders Forum, *Fly Tipping Guidance* (<http://www.environment-agency.gov.uk/commondata/105385/flytip.PDF>)

Home Office (2001) *CCTV: Implications for Public Space Surveillance in the Light of the Data Protection Act 1998* see <http://www.crimereduction.gov.uk/cctv7.htm>

Home Office (2001) *CCTV and the Human Rights Act*, see <http://>

www.crimereduction.gov.uk/cctv13.htm

Mass Incursions: An Aide Memoire Contact: National Crime and Operations Faculty,
Uniformed Operational Support, Bramshill (01256 602777)

Useful Contacts

Gypsy/Traveller bodies and support groups

Advisory Council for the Education of Romany and Other Travellers (ACERT)

Moot House, The Stow, Harlow, Essex CM20 3AG

01279 418666

Gypsy Council

(President: Hughie Smith) Spring Lanes Caravan Park, Bickerton, Nr Wetherby, North Yorks
LS22 5ND

01937 842782

Gypsy Council for Education, Culture, Welfare and Civil Rights

(Chairman: Charles Smith)

8 Hall Road, Aveley, Romford, Essex RM15 4HD

01708 868986

Irish Traveller Movement in Britain

The Old Library Building, Willesden Green Library Centre, 95 High Road, Willesden, London
NW10 2ST

020 8459 7638

London Gypsy and Traveller Unit

6 Westgate Street, London E8 3RN

020 8533 2002

Derbyshire Gypsy Liaison Group

Ernest Bailey Community Centre, New Street, Matlock, Derbyshire DE4 3FE

01629 583300

Friends, Families and Travellers

Community Base, 113 Queens Road, Brighton, East Sussex BN1 3XG

01273 234777

Community Law Partnership

Ruskin Chambers, 191 Corporation Street, Birmingham, West Midlands B4 6RP

0121 685 8595

Travellers' Times

The Rural Media Company, Sullivan House, 72080 Widemarsh Street, Hereford HR4 9HG

01432 344039

Central Government

ODPM

Gypsy and Traveller Branch , Eland House, Bressenden Place, London SW1E 5DU

020 7944 4400

Home Office

Crime Reduction and Community Safety Group, 50 Queen Annes Gate, London SW1H 9AT

0800 000 1585

Department for Education and Skills

Ethnic Minority Achievement Unit, Sanctuary Building, Great Smith Street, London SW1P 3BT

0870 000 2288

Department of Health

Primary Care Access, Quarry House, Quarry Hill, Leeds LS2 7UE

020 7210 4850

Other bodies

Commission for Racial Equality

St Dunstan's House, 201-211 Borough High Street, London SE1 1GZ

020 7939 0000

Local Government Association

Local Government House, Smith Square, London SW1P 3HZ

020 7644 3000

National Association of Gypsy and Traveller Officers

c/o George Summers, Estates Practice Department, Hampshire County Council, The Castle, Winchester, Hampshire SO23 9DS

01962 847315

National Association of Health Workers with Travellers

(Chair : Sarah Rhodes) Travellers Health Project, Central Health Clinic, Tower Hill, Bristol BS2 0JD

0117 922 7570

National Association of Teachers of Travellers

c/o Lucy Beckett, Advisory Service for the Education of Travellers, Room L25, Cricket Road Centre, Cricket Road, Oxford OX4 3DW

01865 428089

Annex A: DoE Circular 18/94

A: DoE Circular 18/94: Gypsy Sites Policy and Unauthorised Camping + Revision of Advice on 'Toleration' issued 26 July 2000

Annex B: DoE Circular 1/94

B: DoE Circular 1/94: Gypsy Sites and Planning

Annex C: Summary Points from Research Monitoring the Good Practice Guide on Managing Unauthorised Camping

In 2001 the results of research monitoring the impact of the DETR/Home Office Good Practice Guide were published¹. The research was carried out by Edinburgh College of Art/Heriot-Watt University in conjunction with the Universities of Bristol and Cardiff. It involved a telephone survey of 263 local authorities which explored the pattern of unauthorised camping. Some of the main findings relating to unauthorised camping are:

Unauthorised camping is a widespread phenomenon - 92% of responding local authorities had experience of it in the twelve months before the survey.

The average number of reported incidents of unauthorised camping in the past year was 22, although this varied widely and almost half of authorities reported ten incidents or fewer. A separate incident could be the same Gypsy/Traveller group moving onto different sites in the area. The speed with which an encampment is moved on is one factor in the number of separate incidents experienced.

The average number of different locations in an authority area subject to unauthorised camping in the last year was 13, again with wide variation.

Unauthorised camps involving 20 caravans and more were far less common than camps involving a dozen caravans or fewer. Only 8% of responding local authorities had experienced an encampment of 50 or more caravans in the past year.

Local authority respondents said that most encampments were small scale and relatively unproblematic while a minority were extremely high profile and associated with crime, damage, dumping and other anti-social behaviour.

Irish Travellers were most often reported as having camped on unauthorised sites in the past year (70% of authorities), followed by Gypsy Travellers (58%) and New Travellers (23%).

The most common sites for unauthorised encampments were vacant or derelict land, industrial estates, car parks and roadsides or verges. Other types of sites, for example, parks and recreation areas, green lanes and bye-ways, farm land and wooded areas were used less

often.

The three main factors influencing unauthorised camping were seasonal travelling, work opportunities and visiting other Gypsies and Travellers in the area.

Local authorities' experiences of changes over the past five years were mixed, with no clear trends emerging in terms of frequency of unauthorised camping, number of locations used, use of authorised sites or number of caravans in the groups.

¹ Cowan, D, Donson, F, Higate, P, Lomax, D & Third, H (2001) *The Management of Unauthorised Camping: Monitoring the Good Practice Guide*, Research Paper 77, Edinburgh College of Art/Heriot-Watt University

Annex D: A Summary of the Legislative Framework

This annex summarises the main legislative framework relevant to a strategy for managing unauthorised camping. Most of the provisions are described in greater detail in the text of the Guidance. Exceptionally, human rights and race relations responsibilities which are referred at various points in the text are set out in more detail below.

Site Provision

- The Caravan Sites and Control of Development Act 1960 s24 gives local authorities discretionary powers to provide caravan sites.
- While there is no duty on local authorities to provide Gypsy sites, DoE Circular 18/94 makes clear that authorities should maintain their existing Gypsy caravan sites, and should continue to consider whether it is appropriate to provide further permanent caravan sites for Gypsies in their areas.
- Government is currently reviewing policy on Gypsy site provision. Gypsy Sites Refurbishment Grant makes limited funding available for provision of transit and emergency stopping places.
- Private site provision is governed by planning legislation. DoE Circular 1/94 sets out the Government's policy on Gypsy site provision and urges local planning authorities to consider, and to look favourably, at applications for Gypsy sites in development planning and development control.

Dealing with Unauthorised Encampments

- There is no specific legislative duty placed on local authorities to deal with unauthorised encampments by Gypsies and Travellers.
- Local authorities can take action as landowners through civil actions against trespass using Civil Procedure Rules Part 55, heard in a County Court.
- Local authorities have powers given by the Criminal Justice and Public Order 1994 ss77 and 78 (see Chapter 6). These require cases to be brought in the Magistrates' Court.
- Common law rights to recover land from trespassers are also available to local authorities over land they occupy. Authorities are, however, advised not to use such powers unless there is exceptional justification for doing so and, for example, the police are unable to use their powers under s61 of the CJPOA (see 6.5 above).
- DoE Circular 18/94 provides guidance to local authorities on the exercise of s77 powers, and reminds them of their other duties towards Travellers in terms of education, children and homelessness legislation.
- Case law (starting with the judgement of Sedley J in *R v Wealden District Council ex parte Wales*) has developed and clarified the courts' expectations of the welfare enquiries and decision-making processes local authorities should adopt in making evictions under 1994 Act and other powers.
- Where Travellers camp on land which they own or on other private land with the consent of the landowner, district councils may take planning enforcement action, or prosecute for running a caravan site without a site licence.

- The Police have parallel powers granted by s61 of the CJPOA (see Chapter 6). Action under s61 is normally much quicker than under s77, and the welfare considerations less onerous although there are certain conditions in the legislation which have to be fulfilled before eviction can take place.
- The Anti-social Behaviour Act 2003 added new ss61A and 62A into the CJPOA which give police enhanced eviction powers in circumstances where there are suitable pitches on relevant Gypsy sites to accommodate the caravans affected. These sections come into force on 27 February 2004 and guidance as to their operation will be issued.

Other Enforcement Measures

- District authorities have powers to deal with statutory nuisance (which could include, for example, rubbish accumulation at unauthorised encampments) and noise (see Chapter 7 of this Guide).
- The Crime and Disorder Act 1998 places a duty on chief police officers and local authorities to work together to develop and implement a strategy for reducing crime and disorder. Section 17 imposes a duty on all local authorities (and others) to *'without prejudice to any other obligation imposed upon it . . . exercise its functions with due regard to . . . the need to do all it reasonably can to prevent crime and disorder in its area'*.

Service Provision for Gypsies and Travellers

- Gypsies and Travellers are entitled to access health, housing, education and welfare services as citizens in the same way as members of the settled community.
- There is specific recognition of the needs of Traveller children in accessing education, with a Traveller Grant payable under s488 of the Education Act 1996.

Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights into British law. Several Convention rights are relevant in dealing with unauthorised camping. The main relevant rights are:

Article 8: Right to respect for private and family life

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 interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Case law has established that, while neither eviction action against trespassers nor planning

enforcement is incompatible with HRA, either could potentially breach Article 8 rights if not properly used. Authorities, and other public bodies covered by the HRA, must be able to demonstrate that all eviction and enforcement decisions are 'proportionate' in weighing individual harm (in the loss of 'home' for the Gypsy or Traveller) against the wider public interest. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny.

First Protocol, Article 1: Protection of property

Every natural and legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

This Article might be seen as protecting the settled community's right to quiet enjoyment of their possessions, which might be threatened by nuisance, noise or anti-social behaviour from a problematic unauthorised encampment. This should be one of the considerations to be borne in mind by local authorities and police when considering eviction action. To date there is no relevant case law.

First Protocol, Article 2: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Education of Gypsy/Traveller children is frequently raised in cases dealing with eviction proceedings, and particularly with planning enforcement actions against unauthorised development. In such cases the question resolves itself to one of the balance between the individual harm to Gypsy/Traveller childrens' educational needs and the public interest harm in allowing unauthorised development to persist. To date there is no specific case law on arguments relying on this Article in this context.

Article 14: Prohibition of discrimination

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.

While Article 14 rights are potentially engaged in any action concerning Gypsies and Travellers (as ethnic groups and national minorities), the Article can only be successfully argued if another Article is found to be breached. Where a claim under any Article is rejected, it follows that any claim under Article 14 also falls.

Race Relations and Equalities

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 gives public authorities - including ODPM, the Home Office, local authorities and the police - a general duty to eliminate unlawful discrimination, and to promote equality of opportunity and good race relations in carrying out their functions. It also gives listed public bodies specific duties including one to create and publish a Race Equality Scheme which details how they will meet the general duty. In developing new policies or strategies public authorities must assess their impact on different racial groups, and they must consult. If the impact is negative and disproportionate to the aim of the policy, it must be changed. Once implemented, policies must be monitored for their effect on different racial groups. Authorities must publish the results of monitoring and consultation.

Both Gypsies and Irish Travellers are recognised as ethnic minorities. Policies for managing unauthorised camping are likely to affect Gypsies and Travellers significantly. The RRA means that local authorities and police must assess the impact of proposed policies on Gypsies and Irish Travellers and must consult on them. If the policies are likely to have a disproportionately negative impact on Gypsies and Irish Travellers, authorities must ensure that this impact is not disproportionate to the aims and importance of the policies. If it is, it is important to take measures to reduce this adverse impact or consider other ways to achieve the aims, which would mitigate its negative effect.

Since eviction of unauthorised campers and enforcement against unauthorised development are likely to have a large effect on the public, and in particular on the Gypsy/Traveller population, they are functions highly relevant to the RRA general duty and should be prioritised in Race Equality Schemes. When evicting and enforcing, authorities need to ensure that they act in a way which meets the three elements of the general duty and so as to have the minimum negative impact on the Gypsies and Travellers involved.

Local authorities and police must always be able to show that they have properly considered the race and equalities implications of their policies and actions in relation to unauthorised encampments and unauthorised development by Gypsies and Irish Travellers. They must be able to demonstrate that their policies and actions are proportionate bearing in mind all the circumstances of the case.

Annex E: Interests to be involved in the Development of a Strategy for Unauthorised Camping

Organisation/party	Main topics of interest	Possible means of involvement
Local authorities NB In two-tier areas both county and district councils will be involved	Planning and information; race relations; site provision and land use planning; site protection; housing and homelessness; Traveller education; social services; refuse collection; unauthorised camping; communication and public relations	Lead development of Strategy development; key personnel involved in working groups or committees; others in ad hoc groupings and/or written consultation
Local politicians, councillors and MPs	All aspects including unauthorised encampment	Leadership and engendering support for the Strategy
Local Health Authority	Gypsy/Traveller health in all forms of accommodation and on unauthorised encampments; welfare assessments	Nominated officer to be consulted as Strategy develops; continuing involvement in implementation
Neighbouring local authorities	All aspects to inform own Strategies	Joint planning and shared working could be efficient and lead to a sub-regional approach
Police	Planning and information; race equality; dealing with crime, anti-social behaviour and threats to public order from unauthorised encampments; communication and public relations	Key player in developing the Strategy; continuing role in its implementation
Gypsies and Travellers	All aspects including needs assessment; service delivery; advice on site provision and unauthorised camping	Through national, regional or local representative bodies; consultation with local Gypsies and Travellers on their needs and aspirations. Written material, conferences and individual personal contact
Gypsy/Traveller support groups and advisors	Potentially all aspects including unauthorised encampment	Local contact, conferences, consultation through written media
Parish and town councils	Site provision and land use planning; site protection;	Consultation on perceived issues, priorities and ideas;

	unauthorised camping; and communications and public relations	consultation on draft and final Strategy. Written material and conferences
Settled community	Especially site planning and land use planning; site protection; and unauthorised camping	Consultation on perceived issues, priorities and ideas; consultation on draft and final Strategy. Written material and feedback arrangements. Citizen jury?
Private landowners	Unauthorised camping	Consult on perceived problems and constraints and to agree respective roles in acting on unauthorised encampments
Crime & Disorder Reduction Partnership, Local Strategic Partnerships	Dependent on nature of partnership	Exchange information and consultation to ensure consistency and shared priorities
Highways Agency	Unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
Environment Agency	Fly tipping and pollution associated with unauthorised encampments	Consult to agree respective roles in acting on unauthorised encampments
Forestry Commission	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
English Nature	Unauthorised camping as it affects Sites of Special Scientific Interest	Consult to identify key areas and agree respective roles in acting on unauthorised encampments
National Trust	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
Ministry of Defence	Major land owner in some areas which may be affected by unauthorised camping	Consult to agree respective roles in acting on unauthorised encampments
Local press and other media	All aspects of the Strategy; especially site provision and unauthorised camping	Regular media briefings and invitations to all public events to ensure full appreciation of the issues and to encourage balanced coverage



Census



- The 2011 Census is coming
 - The census has collected information about the population every ten years since 1801 (except in 1941)
 - The next census in England and Wales is on 27 March 2011
 - Run by the Office for National Statistics (ONS)
 - Could be the last census!



- Your community and family will benefit
 - Identifies services and facilities required
 - Enables population comparisons
 - Identifies changing characteristics of populations
 - Helps determine central government funding levels for local authorities
 - Source of historical information (after 100 years)
e.g. tracing family trees



- Maximise return of census questionnaires
 - Last census criticised for poor return rate
94% overall but 80% in some areas (T&M 97%)
 - Greater LA assistance this time
 - Questionnaires to be posted to each household
 - Option to complete questionnaires online
 - Questionnaire tracking
 - Flexible field team for intensive follow-up activity



- 35,000 job opportunities
 - Recruitment from 20 September
 - Flexible short-term roles
 - Census Coordinators, Special Enumerators and Census Collectors
 - Knowledge of local area/community beneficial
 - National recruitment campaign
 - Full details www.censusjobs.co.uk from 20 Sept or register now (or Tel 0845 6044 013)



- How can you help?
 - Publicise the 2011 Census locally
 - Publicise the census job opportunities locally
 - Publicise the websites
 - www.census.gov.uk
 - www.censusjobs.co.uk
 - Encourage people to complete the 2011 Census questionnaire in March



- Need help or have questions?
 - Refer to www.census.gov.uk
 - Large/special local meeting/event?
Census Area Manager for T&M + Maidstone + Sevenoaks + Dartford is Robert Clayton,
email J110@census.gov.uk
 - T&MBC Census Liaison Manager is Alan Burch,
email alan.burch@tmbc.gov.uk
 - Will email presentation, councillor handbook and recruitment poster to parish clerks

KCC Update for TMBC Parish Partnership Panel 09-09-10

Prepared By: Loic Flory, KCC Community Liaison Manager, Tonbridge and Malling and Maidstone, Room 1.97, Sessions House, Maidstone, Kent, ME14 1XQ
Phone (01622) 694217 Mobile 07710 339 889

Highway Issues

Reporting:

If you have something related to Highways that you wish to report, like potholes, overhanging vegetation, non-working streetlights or whatever, you can report it direct. These need to be reported to our contact centre so each request can be logged and given a CSM reference number. You can call Kent Highway Services on 08458 247 800 or email kent.highwayservices@kent.gov.uk

Operation stack:

Kent's motorists stand to gain from fresh action being taken to avoid congestion during Operation Stack. Joint working by the agencies concerned means the moveable barrier used to control lorries on the M20 motorway during Stack will in future be introduced more quickly – and its use could be expanded. In addition, the agencies in force have also been trying to find ways to stand down Stack as soon as possible when it is used. Kent County Council is continuing to work with Kent Police and the Highways Agency – which is responsible for the motorway – to find ways of improving the way Stack is implemented. They want to improve communications with the port so that suitable traffic flows are maintained on and off the motorway.

Meanwhile, KCC is developing its plans for a possible lorry park between junctions 10 and 11 of the M20 near Aldington. It would provide 500 secure overnight parking spaces for heavy lorries and an overflow area for up to 2,500 more during Stack.

Schools news:

Provisional Key Stage 1 figures released on 26 August show that Kent's seven-year-olds have made good progress in reading and writing at level 2b (the expected level for that age) continuing the trend of improvement over the past three years. Key Stage 1 covers the first two years of primary school education from the ages of five to seven. Children's progress is assessed by teachers and measured in a series of levels.

In mathematics, although results stayed the same, Kent's children performed at 1.1% above the national average. In reading at level 2b Kent has also moved above the national average. Boys have improved in reading at level 2b from 65.8% in 2009 to 67% in 2010 and in writing at level 2b from 50.7% in 2009 to 51.1% in 2010. A number of children continue to achieve above the national average at level 3 in reading, writing and mathematics. In writing at level 3 Kent's children achieved 1.7% above the national average, with boys performing at 1.4% above the national average.

GCSE provisional figures showed that 77.7 percent of the county's students achieved five A* to C grades this year – an improvement of 4.7 percent on 2009 and 8.6 percent above the national average.

Once again more than half of students (55.9 percent) achieved the key benchmark of five A* to C, including English and maths. There has been year-on-year improvement in Kent since 1995 and the national average has been exceeded for the past 13 years. Thirty-one schools have been challenged to have at least 30 percent of students achieve five A* to C grades, including English and maths, by 2011 under the National Challenge programme. Twenty seven schools reached this target a year ahead of schedule – more than double the number from last year.

A Levels results were showing further improvement. Calculated on two or more A* to E passes, the provisional figure is up from last year by an estimated 2.1 percent to 93.5 percent.

A comparison to the national average, which takes into account all passes, will be published when the figures are confirmed by the Department for Education. A number of schools have seen some great gains. The percentage of young people achieving two A* to E grades at Longfield Academy is up 25 to 100 percent; Brockhill Park Performing Arts College, Hythe, saw a rise from 71 to 91 percent; Community College Whitstable is up from 69 to 80 percent; Abbey School, Faversham, saw a rise from 75 to 89 percent; and Northfleet Technology College is up from 85 to 92 percent. Twenty nine schools had 100 percent of students gaining two A levels.

Kent Free Trees Scheme

Kent County Council are giving away 25 native trees to organisations and they are free! All you need to do is collect them! Below is a link to their website which will tell you more information about this scheme:

http://www.kent.gov.uk/environment_and_planning/wildlife_and_landscapes/kent_free_trees_scheme.aspx

Trees have a positive effect on the landscape and biodiversity of Kent's towns and countryside. The planting of trees in our local environment improves health and wellbeing long term. By planting 25 trees, up to 7 tonnes of CO2 can be absorbed in their lifetime. The trees are two-to-three year old 'whips', typically up to 1 metre tall. They may be supplied bare-rooted. Twenty-five trees will easily pack into a bin bag and fit into the boot of a car. The 2010 Free Trees Scheme is open from 12 July, with a closing date for applications on 30 October 2010. The trees will be ready for collection at the beginning of December.

Parish Clerks & Town Councils

Kent Highway Services
Community Delivery Area
Invicta House
County Hall
Maidstone
Kent ME14 1XX

Contact us at: www.kent.gov.uk/highways
Telephone: 08458 247 800
Ask for: Pavinder Jutte
Date: 27/08/10

Dear Parish Clerks & Town Councillors

Parish and Town Council Seminar 27 October 2010

I would like to take this opportunity to invite you to our next Parish & Town Council Seminar at 27 October 2010 at Sessions House Maidstone in the Lecture Theatre. The time of the meeting is 9.00 am for coffee with a 9.30 start ending with lunch at 1.00pm

Following discussions with KALC we will be focusing on maintenance issues prominent over the last year (winter service, weather damage / potholes, drainage etc.) However by popular demand we have been asked for Steve Horton to give an update on Road Safety.

We have a large number of Parish and Town Council's so unfortunately we will have to limit invitations to one per parish. With this in mind could you let me know the name of the member of your council that will be attending by Monday 13 September please.

In the meantime if you have any questions please do not hesitate to contact me.

Yours sincerely

Pavinder Jutte

Community Liaison Officer