



Home Office

Strengthening police powers to tackle unauthorised encampments

Government consultation

This consultation begins on 05/11/2019

This consultation ends on 05/03/2020

About this consultation

To: This consultation is open to the public.

We will be particularly interested to hear from local authorities, police forces, Gypsy, Roma, and Travelling communities and the general public.

Duration: From 05/11/2019 to 05/03/2020

Enquiries to: Strengthening police powers to tackle unauthorised encampments consultation

Police Powers Unit
Home Office
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Email:

UnauthorisedEncampmentsConsultation@homeoffice.gov.uk

How to respond: Please provide your response by 05/03/2020 at:

www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments

If you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email or post it to:

Strengthening police powers to tackle unauthorised encampments consultation

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Home Office
6th floor, Fry Building
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2 Marsham Street
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Email:

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Please also contact the Police Powers Unit (as above) if you require information in any other format, such as Braille, audio or another language. We cannot analyse responses not submitted in these provided formats.

Response paper: A response to this consultation exercise is due to be published at <https://www.gov.uk/search/policy-papers-and-consultations>

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1. Foreword by the Home Secretary

We are fortunate to live in one of the most tolerant countries in the world, which has a proud tradition of promoting respect for the rule of law, for property, and for one another. This Government is committed to creating a just and fair country, where equality of opportunity flourishes and the life chances of all are enhanced. I am clear that that this must be built on shared rights, responsibilities and opportunities.

In April 2018, the Government published a consultation on the effectiveness of enforcement against unauthorised developments and encampments. It sought views from a number of stakeholders including local authorities, police forces, Gypsy, Roma, and Traveller communities and the general public on the scale of the problem, whether existing powers could be used more effectively and if any additional powers were required.

In response to the consultation my predecessor, the Rt Hon Sajid Javid MP, announced the Government would look to amend sections 61 and 62A of the Criminal Justice and Public Order Act 1994 to lower the criteria that must be met for the police to be able to direct people away from unauthorised sites.

He also confirmed Home Office officials would review how this Government could criminalise the act of trespassing when setting up an unauthorised encampment in England and Wales, learning from the trespass legislation that exists in the Republic of Ireland. This consultation document sets out the information gathered during that consultation, makes proposals for change and seeks views on those proposals.

This document consults on whether criminalising unauthorised encampments would be preferable to the amendments we originally proposed to the Criminal Justice and Public Order Act 1994, and if so, how it should work. It sets out a proposed package of measures in some detail, as well as some more general questions.

The Government recognises that the proposals contained in this consultation are of interest to a significant minority of Gypsies, Roma and Travellers who continue to travel. The Government's overarching aim is to ensure fair and equal treatment for Gypsy, Roma and Traveller communities, in a way that facilitates their traditional and nomadic way of life while also respecting the interests of the wider community. In June this year the Government announced that the Ministry of Housing Communities and Local Government will lead development of a cross-government strategy to improve outcomes for Gypsy, Roma and Traveller communities.



Rt Hon Priti Patel MP

Home Secretary

2. Executive summary

We would like to consult on measures to;

- Criminalise the act of trespassing when setting up an unauthorised encampment in England and Wales.

We would also like to consult on the following alternative approach to this issue:

- Amending section 62A of the Criminal Justice and Public Order Act 1994 to permit the police to direct trespassers to suitable authorised sites located in neighbouring local authority areas.
- Amending sections 61 and 62A of the Criminal Justice and Public Order Act 1994 to increase the period of time in which trespassers directed from land would be unable to return from 3 months to 12 months.
- Amending section 61 of the Criminal Justice and Public Order Act 1994 to lower the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised from six to two or more vehicles.
- Amending section 61 of the Criminal Justice and Public Order Act 1994 to enable the police to remove trespassers from land that forms part of the highway.

This consultation is open until 05/03/2020; details of how to respond are set out towards the front of this document.

3. Introduction

The vast majority of travelling communities reside in caravans on authorised traveller sites. Indeed, out of the 23,726 caravans in England and Wales in July 2018, only 1049 (4.4%) were on unauthorised sites that were not owned by the occupants. However, there have been long-standing concerns about the disproportionate impact of these unauthorised encampments, where significant distress has been caused to local communities and where local authorities have consequently had to deal with a range of issues.

Recognising these concerns, the Government published a consultation in April 2018 on the effectiveness of enforcement against unauthorised developments and encampments. Through that consultation, we sought views from a number of stakeholders including local authorities, police forces, travelling communities and the general public on whether there is anything we can do to ensure that existing powers can be used more effectively and if additional powers are required. It was led by the Ministry for Housing, Communities and Local Government in partnership with the Home Office and Ministry of Justice.

The responses to the consultation were clear¹, suggesting that significant problems are created by many unauthorised encampments. Responses highlighted the sense of unease and intimidation residents feel when an unauthorised encampment occurs, the frustration at not being able to access amenities, public land and business premises, and the waste and cost that is left once the encampment has moved on.

Parliament has already given local authorities and the police significant powers and duties designed to help them manage the impact of unauthorised encampments on local communities, including local authority and police powers in the Criminal Justice and Public Order Act 1994.

However, the Government heard compelling evidence, in response to the consultation, that stronger powers are needed to be able to address the issues and concerns identified.

That is why in February 2019, the previous Home Secretary announced that the Government would publish a further consultation on extending police powers by making a series of amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994. These amendments would permit the police to direct trespassers to suitable alternative sites located in neighbouring local authority areas (as well as the authority which the encampment was currently situated within); to increase the period of time in which trespassers directed from land would be unable to return from three, to twelve months; to lower the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised from six to two vehicles; and to enable the police to remove trespassers from land that forms part of the highway.

The Government also heard arguments that England and Wales should follow the so-called 'Irish model' for dealing with unauthorised encampments. This approach

¹ <https://www.gov.uk/government/consultations/powers-for-dealing-with-unauthorised-development-and-encampments>

criminalises trespass in certain circumstances. The responses to our consultation demonstrated that the majority of respondents believe the Government should consider criminalising unauthorised encampments in England and Wales, by creating an offence of trespassing when setting up an unauthorised encampment.

That is why the previous Home Secretary announced that Home Office officials would undertake a review into how this Government can criminalise the act of trespassing when setting up an unauthorised encampment in England and Wales, learning from the trespass legislation that exists in the Republic of Ireland.

Having considered the findings from that review, we would like to test the appetite to go further and broaden the existing categories of criminal trespass to cover trespassers on land who are there with the purpose of residing in their vehicle for any period, and to give the police the relevant powers to arrest offenders in situ and to seize any vehicles or other property on existing unauthorised encampments (or those in the process of being set up) immediately.

We are therefore consulting on whether and how the setting up of or residing on an unauthorised encampment should be made an offence, as well as seeking views on the previously proposed changes to the Criminal Justice and Public Order Act 1994 to lower the criteria that must be met for the police to be able to direct people away from unauthorised sites, which could be introduced as an alternative to criminalisation.

4. The proposals

This chapter sets out options to extend police powers to tackle unauthorised encampments, including the creation of an offence of trespassing while setting up an unauthorised encampment, as well as other measures to extend police powers to direct trespassers, who have the intention to reside there, to leave land.

4.1 Criminalising Unauthorised Encampments

Through the Government's consultation on the effectiveness of enforcement against unauthorised developments and encampments, the majority of respondents said they believe we should consider criminalising unauthorised encampments, as has been done in the Republic of Ireland. A similar offence also exists in Scotland.

The Republic of Ireland: Criminal trespass and site provision

The Irish Government has criminalised trespass in certain circumstances, in conjunction with a statutory requirement for local authorities to provide traveller sites. In response to concerns about trespassers occupying public spaces and private land, the Irish Republic introduced the Housing (Miscellaneous Provisions) Act 2002² (the Act).

The Act made it an offence for any person to enter and occupy land without the owner's permission - or bring any "object" on to the land - if this is likely to "substantially damage" the land or interfere with it.

The offence contained in Section 24 of the Act has the effect of criminalising trespassers who occupy land without consent. The legislation does not amount to a ban on all unauthorised encampments. It criminalises encampments that 'substantially' damage the land or prevent use of the land by the owner or other lawful users.

The Act gives the Irish police discretion to direct trespassers to leave land if it is suspected that this offence is being committed. Failure to comply with a direction is also punishable by a fine and/or a one-month prison sentence. It is for the police to consider which approach to adopt depending on the individual circumstances of the case and the encampment.

Scotland: Criminal trespass

Under the Trespass (Scotland) Act 1865, it is an offence to occupy private land without the permission of the landowner³

² <http://www.irishstatutebook.ie/eli/2002/act/9/section/24/enacted/en/html#sec24b>

³ <http://www.legislation.gov.uk/ukpga/Vict/28-29/56>

It was generally viewed by respondents to the consultation in 2018 that criminalisation of unauthorised encampments would act as a deterrent to future encampments and allow the police to enforce removal of trespassers in a timelier fashion. Advantages were seen in financial terms in both the cost of evicting trespassers and clean-up costs.

We would like to gather views on broadening the existing categories of criminal trespass.

The Government could make it an offence to enter or occupy land subject to certain conditions being met. We would welcome your views on what the conditions and threshold for this offence should be. For example, in the Republic of Ireland it is a criminal offence to enter or occupy land without the landowner's consent or bring any "object" on to the land - if this is likely to cause "substantial damage". Imposing conditions such as a need to require proof that damage or harm has been caused will help limit prosecutions to cases where there is an element of public disorder for which there is an interest to protect against and explicitly reflect the balance between land owners' rights to peaceful enjoyment of their property and travellers' rights to privacy and family life.

Question

Q1: To what extent do you agree or disagree that knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer –

Questions 1 – 5 in this consultation are concerned with the possibility of making trespass a criminal offence.

For clarity, the NPCC position is that trespass is a civil offence and it should remain so.

We consider that Questions 1 – 4 are poorly framed and written in a way that could at best cause confusion as to how they are answered, or indeed they could be considered to point respondents towards giving an answer that they may not have intended.

If this question, for example, was answered with "disagree" or "strongly disagree", that could be interpreted as the respondent agreeing that trespass should be criminalised in all circumstances and not only when it was for the purpose of residing on land.

Given that the NPCC are not in favour of criminalisation *per se*, we will not answer this question beyond the above and we will give the full reasons for our position in our answer to Question 5.

Question

Q2: To what extent do you agree or disagree that the act of knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it with vehicles?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer –

Questions 1 – 5 in this consultation are concerned with the possibility of making trespass a criminal offence.

For clarity, the NPCC position is that trespass is a civil offence and it should remain so.

We consider that Questions 1 – 4 are poorly framed and written in a way that could at best cause confusion as to how they are answered, or indeed they could be considered to point respondents towards giving an answer that they may not have intended.

If this question, for example, was answered with “disagree” or “strongly disagree”, that could be interpreted as the respondent agreeing that trespass should be criminalised in all circumstances and not only when it was for the purpose of of residing on it with vehicles.

Given that the NPCC are not in favour of criminalisation *per se*, we will not answer this question beyond the above and we will give the full reasons for our position in our answer to Question 5.

The Government could stipulate that the landowner or representatives of the landowner must take reasonable steps to ask trespassers to leave. This would help the police to demonstrate where a trespasser is **knowingly** trespassing. However, in some instances, landowners may feel afraid to approach trespassers.

Question

Q3: To what extent do you agree or disagree that the landowner or representatives of the landowner should take reasonable steps to ask persons occupying their land to remove themselves and their possessions before occupation of the land can be considered a criminal offence?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer –

Questions 1 – 5 in this consultation are concerned with the possibility of making trespass a criminal offence.

For clarity, the NPCC position is that trespass is a civil offence and it should remain so.

We consider that Questions 1 – 4 are poorly framed and written in a way that could at best cause confusion as to how they are answered, or indeed they could be considered to point respondents towards giving an answer that they may not have intended.

If this question, for example, was answered with “disagree” or “strongly disagree”, that could be interpreted as the respondent agreeing that trespass should be criminalised in all circumstances, irrespective of actions that may or may not be taken by the landowner or representatives of the landowner.

Given that the NPCC are not in favour of criminalisation *per se*, we will not answer this question beyond the above and we will give the full reasons for our position in our answer to Question 5.

Question

Q4: To what extent do you agree or disagree that a criminal offence can only be committed when the following conditions have been met?

a) the encampment prevents people entitled to use the land from making use of it;

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

b) the encampment is causing or is likely to cause damage to the land or amenities;

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

c) those on the encampment have demanded money from the landowner to vacate the land; and/or

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

d) those on the encampment are involved or are likely to be involved in anti-social behaviour.

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer –

Questions 1 – 5 in this consultation are concerned with the possibility of making trespass a criminal offence.

For clarity, the NPCC position is that trespass is a civil offence and it should remain so.

We consider that Questions 1 – 4 are poorly framed and written in a way that could at best cause confusion as to how they are answered, or indeed they could be considered to point respondents towards giving an answer that they may not have intended.

If sections a) to d) in this question were answered with “disagree” or “strongly disagree”, that could be interpreted as the respondent agreeing that trespass should be criminalised in all circumstances, irrespective of the conditions referred to in each section.

Given that the NPCC are not in favour of criminalisation per se, we will not answer this question beyond the above and we will give the full reasons for our position in our answer to Question 5.

Question

Q5: What other conditions not covered in the above should we consider?

Trespass is a civil offence and the NPCC view is that it should remain so.

The possibility of creating a new criminal offence of 'intentional trespass' or similar has been raised at various times over the years but **our position has always been – and remains – that no new criminal trespass offence is required.**

The co-ordinated use of the powers already available under the Criminal Justice and Public Order Act 1994 allows for a proportionate response to encampments based on the behaviour of the trespassers. Unauthorised encampments occupied by known individual families where there are small numbers in acceptable locations, not causing anti-social behaviour or crime, can be allowed to remain in that location longer than would otherwise be the case if the law were different. This approach leads to the Gypsies and Travellers having a real incentive to act in a responsible manner.

Current legislation affords the police and local authorities a range of powers, the use of which is discretionary subject to a range of factors. If trespass were a criminal offence the police would be obliged to investigate the commission of a potential crime and move on people resident at encampments. It is also likely that landowners would seek eviction at the earliest opportunity. In every case the trespassers would have no incentive to leave peacefully and may resort to forming large groups to prevent evictions by a show or - worse still - a use of force.

There are many occasions when police and local authority powers are used to move groups of Gypsies and Travellers from land when the circumstances have justified it. Ultimately all this does is simply relocate rather than permanently solve accommodation problems, indeed it often moves the encampment to an even more unsuitable location than the one occupied previously.

NPCC Operational Advice on the use of police powers currently is clear and explains the framework within which police officers should act, recognising the requirement to balance the needs of a range of interested parties. The decision to use police powers remains at the discretion of the senior officer present. His / her decision, however, should be made in accordance with that operational advice, and the grounds for any action, or inaction, fully recorded.

It is essential that the police response takes account of the issues of behaviour, whether criminal, anti-social or nuisance, in combination with the impact on the landowner and settled community rather than simply because encampments are present at a specific location. Police powers to evict people from unauthorised encampments do exist, as provided for by Sections 61 and 62 A-E of the Criminal Justice & Public Order Act 1994. These powers will be used where behaviour or conduct is considered to be inappropriate, or where the impact of an encampment on others is deemed unacceptable. This position is consistent with all other areas of enforcement within the community.

Forces should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments, including the use of police powers under Section 61 or 62 A-E of the Criminal Justice & Public Order Act 1994 where local amenities are deprived to communities or there is significant impact on the environment; there is local disruption to the economy; there is other significant disruption to the local community or environment; there is a danger to life or there is a need to take preventative action.

Underlining all existing legislation is the **Equality Act 2010** and associated **Public Sector Equality Duty**. All specified public authorities, including local authorities and the police, who are subject to the general equality duty must have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Making trespass a criminal offence would immediately raise challenges in respect of the compatibility of such legislation with equality and human rights legislation as above.

On a national level we would say that the key issue to address in respect of Gypsy, Roma and Traveller communities is the lack of accommodation for them.

The shortage of suitable sites for families to live on and access as they move around the country leads to groups setting up unauthorised encampments and developments, thus creating the biggest single source of conflict between the Travelling and settled communities.

The Traveller caravan count (previously known as the Gypsy and Traveller caravan count) is a statistical count of the number of caravans on both authorised and unauthorised sites across England. The count takes place every January and July and has done since 1979.

The count is conducted by local authorities and whilst it is only a “snapshot” of two days in the year and assumes all relevant caravans are counted by the authorities (a fact often disputed), it is at least one statistical measure that has been in place for many years and is currently administered by the MHCLG.

The latest figures available are from July 2019 and were published in November 2019. The number of caravans counted in unauthorised locations in July last year was 3,082. This is 13% of the total caravans counted, thus 87% of caravans are in perfectly authorised locations.

Comparing recent figures, the July 2007 caravan count assessed that there were 23% of caravans in unauthorised locations – thus that figure has fallen by 10% in the last 12 years.

Another interesting fact is that the 3,082 total from July 2019 is not that different to the total number of Gypsy & Traveller families assessed to live in the country in 1966 – 3,500 – at which time some 85% - 90% would have been considered to be on ‘unauthorised’ sites, not the 13% of the latest figures.

The obvious answer to unauthorised encampments (and unauthorised developments) is the provision of pitches, both public and private, including not only permanent pitches but also transit pitches and emergency stopping places.

Additionally there is the concept of 'negotiated stopping' which has been reported on by several agencies, primarily Leeds Gypsy & Traveller Exchange (usually referred to as Leeds GATE.)

The potential impact on the police in cost terms if trespass were to be criminalised could be enormous and is simply not necessary.

Costs would also fall not just on the Police, but local authorities and other associated agencies too. If the Police were to arrest people setting up an encampment and seize their vehicles / caravans etc. – essentially their homes – then other agencies would immediately be called upon to assist these families upon their release, including looking after any children involved and relocating them to safe accommodation etc. Costs in relation to this course of action would be enormous.

Comparisons with “Irish-style” legislation are also not helpful in this area.

The only possible area of comparison is in the relative size of the Gypsy and Traveller population. The total population of Ireland is around 4.92 million people (2016 census figure – Ireland also conducts a census every 5 years instead of every 10 years in the UK). Irish Travellers are included in the census and have been for some years. Official census figures suggest around 31,000 Irish Travellers are in the country, meaning they comprise around 0.7% of the population.

The highest estimate of the Gypsy and Traveller population in the UK is 300,000 people, against an estimated UK population of around 64.5 Million and rising. This indicates the Gypsy and Traveller population of the UK as being roughly 0.5% of the population at most.

In Ireland, the 2002 Housing (Miscellaneous Provisions) Act did change the status of trespass from a civil to a criminal offence, **however there is other legislation in respect of provision for the Travelling communities that is far stronger than in the UK and has been in place for a much longer period.**

The Housing Act 1988 and The Housing (Traveller Accommodation) Act 1998 put into place legislation to meet the accommodation needs of Travellers. Each local authority is under a duty to prepare a Traveller Accommodation programme and in essence, they all do so and in effect suffer very few unauthorised encampments or developments as a result.

NPCC staff have visited Ireland and are familiar with arrangements there employed by both the Garda Síochána and local authorities. **Anyone presenting as in need of accommodation will have accommodation provided. This has been enshrined in legislation and is taken seriously by all local authorities.**

The extent of site provision in Ireland far outstrips that of the UK and thus unauthorised encampments are the exception rather than the rule in Ireland.

A firm stance is taken by the local authorities in respect of unauthorised encampments – and by the Garda Síochána if called to assist – and they believe this can be justified as there is no need for people to find themselves in that position thanks to the extensive accommodation provision and assistance that is readily available. **This is not the position in the UK.**

The few unauthorised encampments that do occur tend to be dealt with quickly by local authorities using civil legislation and without Garda Síochána involvement.

In summary, we believe that criminalising unauthorised encampments is not acceptable.

There are already considerable powers available to deal with encampments which can be used depending upon the behaviour of the people involved. The sparsity of site provision cannot be ignored and in many areas of the country, the full scope of Criminal Justice & Public Order Act powers cannot be used due to an absence of transit or permanent site provision that persons on unauthorised encampments could be directed towards.

Complete criminalisation of trespass would likely lead to legal action in terms of incompatibility regarding the Human Rights Act 1998 and the Public Sector Equality Duty under the Equality Act 2010, most likely on the grounds of how could such an increase in powers be proportionate and reasonable when there are insufficient pitches and stopping places?

4.2 Criminal Justice and Public Order Act 1994

Under Section 61 of the Criminal Justice and Public Order Act 1994, the police have powers that allow them to direct trespassers to leave land. The requirements of these powers are currently:

- I. that the trespassers have an intention to reside on the land for any period;
- II. that the occupier or someone on the occupier's behalf has taken reasonable steps to ask the trespassers to leave;
- III. that: either (a)
 - any of the trespassers have caused damage to land or property; or
 - that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier;or (b) that the trespassers have between them six or more vehicles on the land.

Section 62A of the Criminal Justice and Public Order Act 1994 allows the police to direct trespassers to remove themselves and their vehicles and property from land on which they have the intention to reside where a suitable pitch is available within the same local authority area. The police must consult every local authority within whose area the land is situated to confirm if a suitable pitch is available on a relevant site.

Responses to the consultation from the police and some local authorities highlighted how a lack of availability of transit sites means that they are unable to exercise some of their existing powers such as section 62A of the Criminal Justice and Public Order Act 1994 which provides a power to remove trespassers to alternative available sites.

We would welcome views on whether to amend section 62A of the Criminal Justice and Public Order Act 1994 to permit the police to direct trespassers to suitable authorised sites located in neighbouring local authority areas.

Extending this power would make it more likely that the police could act where there is a shortage of site capacity in one particular area. However, we believe that such changes may need to be subject to conditions around:

- Agreements being in place between local authorities. Local authorities have advised us that the use of such a power without agreements in place would deter them from creating more authorised sites. This would be counterproductive.
- A maximum distance that trespassers should be directed across. In some rural areas, a site in a neighbouring local authority area could be several hours drive away. It could be considered unreasonable to relocate someone that far.

Question

Q6: To what extent do you agree or disagree that police should be given the power to direct trespassers to suitable authorised sites in a neighbouring local authority area?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

This is another poorly framed question and the “Strongly Agree” to “Strongly Disagree” range of responses is not helpful as these circumstances are never as simple to deal with as the question suggests, indeed we have not used this range of responses in our answers to any of the questions.

This is an area that could potentially benefit from some amendment but this would need to be very carefully considered.

Section 61, 62 and 62A of the Criminal Justice and Public Order Act 1994 do have differences in them, perhaps not surprisingly so having been created several years apart, and amending the legislation to rationalise aspects of the sections would potentially be possible, but with caveats.

Section 62A currently states that police must consult every local authority within whose area the land being camped on is situated to see if a suitable pitch on a relevant caravan site is available.

All manner of issues can potentially arise if an encampment is situated near to local authority boundaries etc. and there is scope for change here, **the most important being to include collaboration by local authorities.**

A huge potential problem here would be that if Police could direct groups over a border into another local authority area, that could act as a disincentive for local authorities from having a transit site of their own or making other appropriate arrangements for unauthorised encampments.

There is a severe shortage of transit sites across the country and recent work by Friends, Families and Travellers suggest that only 34 out of 343 local authorities in England have any transit site provision. This would not be helped by this potential measure and is surely something that must be improved.

A more productive way forward would be for central government to incentivise local authorities to provide sufficient permanent and transit sites in their respective areas.

Q7: Should this be subject to conditions around agreements being in place between local authorities?

See the above answer to Question 6. Collaboration between local authorities should be much better. There are many examples of good collaboration between local authorities which would ideally be replicated more widely.

Q8: Should there be a maximum distance that a trespasser can be directed across?

Yes / No

If yes, what distance should that be?

Defining a set parameter within which groups could be directed would be a benefit, but would need careful thought. It would be better still if there were more sites to direct people to.

Note also that the meaning of a “suitable pitch” is not defined in the current legislation and if the available site were beyond a certain distance away, it might not be considered “suitable”. The definition of “suitable” will not be easy, just as defining what is “reasonable” in so many pieces of legislation is open to legal debate.

Setting a maximum distance to travel will be to some extent dependent upon the people in the group in question and their relevant circumstances.

A much fuller assessment of needs etc. would be needed than is probably often carried out now. This would be further work for local authorities as all manner of issues with each group in question will need to be considered, including healthcare, schooling etc.

Q9: Should there be any other conditions that should be considered when directing a trespasser across neighbouring authorities.

Yes / No

If yes, what should these be?

It should also be noted that whilst new legislation may be considered to have a ‘deterrent effect’ in most cases, in respect of unauthorised encampments the effect is likely to be much reduced due to the reasons that unauthorised encampments exist in the first place, **i.e. there is an inherent shortage of accommodation, which is the crucial issue to address.**

Failure to comply with a police direction under Section 61 or 62A of the Criminal Justice and Public Order Act 1994 is a criminal offence punishable by a fine and/or a custodial sentence of up to three months’ imprisonment, as is re-entry onto the land by persons subject to the direction within three months.

Respondents to the consultation suggested that the current three-month period during which a trespasser is prohibited from returning to a location once directed from the site by the police should be increased.

We would welcome views on whether to amend sections 61 and 62A to increase the period of time in which trespassers directed from land would be unable to return from three months to twelve months. This would provide greater protection to land targeted by the same group of trespassers on a regular basis.

Question

Q10: To what extent do you agree or disagree that the period of time in which trespassers directed from land would be unable to return should be increased from three months to twelve months?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

This is another poorly worded question and much more detail is needed to answer it properly.

Would this potential change just relate just to the Section 61 offence of leaving the piece of land being camped upon?

The Section 62 offence is different in that an offence is committed by failure to leave the land or by re-entering any land within the entire area of the relevant local authority as a trespasser within 3 months. This is a much wider and stronger sanction, but reflective of the fact that accommodation on a site has been declined.

12 months seems a very large increase on the 3 month current period. Ultimately, people need somewhere to go and if accommodation is not provided across the country as it should be, this change will not help.

Section 61 of the Criminal Justice and Public Order Act 1994 grants police the power to direct trespassers to leave if there are six or more vehicles present on the land they are trespassing on. However, if there are fewer than six vehicles present, police do not obtain the power to direct trespassers to leave.

We would welcome views on whether to amend section 61 of the Criminal Justice and Public Order Act 1994 to lower the number of vehicles needing to be involved in an unauthorised encampment from six to two, before police powers can be exercised. This will increase the opportunity for police intervention where smaller encampments are present.

Question

Q11: To what extent do you agree or disagree that the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised should be lowered from six to two vehicles?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

The definition of vehicle in the current legislation is very wide, thus a caravan and its towing vehicle would constitute two vehicles. Just three caravans and three towing vehicles would constitute the currently required six vehicles.

As stated previously, Section 61 and 62A do have differences in them so some amending of the legislation to rationalise the numbers of people / vehicles involved before action can be taken in both sections would possibly be helpful.

There are some encampments with fewer than six vehicles (usually just one family, very often) which can be problematic occasionally, where Section 61 often cannot be applied, but other remedies can be used – e.g. Section 77 / 78 of the Criminal Justice and Public Order Act 1994, where the powers are much more wide-ranging.

The current six vehicle limit allows families or groups to travel and camp in smaller groups whereas the removal of that possibility could lead to larger groups travelling together which could cause more resource implications for police and local authority services.

Given that the 1994 Act referred to originally intended to address situations of “mass trespass”, lowering the number to two vehicles would be a very different approach and again, very careful thought would need to be given to the possible effects this would have.

We would welcome views on whether to amend section 61 of the Criminal Justice and Public Order Act 1994 to enable the police to remove trespassers from land that forms part of the highway. The police are currently restricted in dealing with these encampments unless there is a suitable pitch in the same local authority area. This could make it easier for the police to tackle problematic encampments.

Question

Q12: To what extent do you agree or disagree that the police should be granted the power to remove trespassers from land that forms part of the highway?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

This is an area that could potentially benefit from some amendment but again, this would need to be very carefully considered.

There are already very wide powers available to local authorities under Section 77 and 78 of the Criminal Justice and Public Order Act 1994 which are more than comprehensive and include highway land, indeed pretty much all land. The lead role as above is for local authorities, **but we would advocate police and local authorities working together.** There are many areas where police forces work to a protocol agreed with their respective local authorities. This allows for a fair and consistent approach to managing encampments in a proportionate way.

There can be instances where some unauthorised encampments on adjacent highway land can cause disruption to local communities. Although the Section 77 process will often be instigated appropriately at an agreed time, where the impact of the encampment quickly escalates, there are not alternative options to deploy should the need arise to do so in line with the NPCC Operational Advice. The ability to use Section 61 on highway land in a discretionary and proportionate way would be useful in those cases.

The solution to unauthorised encampments lies in the provision of sufficient lawful accommodation accompanied by closer working between the police, local authorities and all other public services.

This has worked in Cheshire and many other areas.

Cheshire has a unit called the **Cheshire & Warrington Traveller Team (CWTT)** which involves the local authorities and the police working together in a joint team.

Cheshire has a county-wide and indeed sub-regional approach to Gypsy and Traveller issues. The Partnership has built capacity and expertise whilst making progress in developing a consistent approach to these issues to ensure an excellent level of service delivery. The Partnership has also attained a credible reputation as providers of good practice and innovative approaches to meeting Gypsy and Traveller accommodation needs. The Cheshire and Warrington Traveller Team is headed by a local authority manager.

There has been an increase in accommodation provision within the Partnership in the last ten years and, just as importantly, the vast majority of unauthorised encampments are dealt with smoothly by staff who understand the issues involved and the encampments cause little disruption to local communities.

Joint-working with Gypsies and Travellers themselves should also be a crucial part of partnership working.

We believe giving the police powers to seize property, including vehicles, could enable the police to remove unauthorised encampments more quickly and act as deterrent to setting up an unauthorised encampment. We would welcome views on whether to grant police powers to seize property from trespassers and in what circumstances they should have these powers.

Question

Q13: To what extent do you agree or disagree that the police should be granted the power to seize property, including vehicles, from trespassers who are on land with the purpose of residing on it?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

This seems not far short of criminalisation in effect and is thus not something we would support.

What would happen to the individuals once all their property / vehicles etc. has been seized – given that the seizure would effectively include the homes in which they live?

As will be seen in our answer to Question 18, the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another. Anything that prevents this comprises a potential breach of the Equality Act and other legislation etc.

Q14: Should the police be able to seize the property of:

- i) Anyone whom they suspect to be trespassing on land with the purpose of residing on it;
- ii) Anyone they arrest for trespassing on land with the purpose of residing on it; or
- iii) Anyone convicted of trespassing on land with the purpose of residing on it?

Please explain your answer

Again, this seems not far short of criminalisation in effect and is thus not something we would support.

What would happen to the individuals once all their property / vehicles etc. has been seized – given that the seizure would effectively include the homes in which they live?

As will be seen in our answer to Question 18, the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another. Anything that prevents this comprises a potential breach of the Equality Act and other legislation etc.

As stated earlier, we would envisage that the above amendments to the Criminal Justice and Public Order Act 1994 would be as an alternative to criminalising unauthorised encampments, rather than in addition to.

Question

Q15: To what extent do you agree or disagree that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation are sufficient measures to tackle the public disorder issues which are associated with unauthorised encampments without the requirement for introducing specific powers that criminalise unauthorised encampments?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Please explain your answer

As stated in our answer to Question 5, current legislation affords the police and local authorities a range of powers, the use of which is discretionary subject to a range of factors.

4.3 Impacts on the Gypsy, Roma and Traveller communities

While there are clear challenges presented to settled communities by unauthorised encampments, it is also highly likely that such unlawful encampments can lead to significant hardships for Gypsy, Roma and Traveller communities themselves.

The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Therefore, we would welcome views on any adverse impacts that these proposals could have on the Gypsy, Roma and Traveller communities.

Question

Q16: Do you expect that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities?

Highly positive impact / Positive impact / Neither positive nor negative impact / Negative impact / Highly negative impact

If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

This is another poorly framed question and the “Highly Positive” to “Highly Negative” range of responses is not helpful and indeed could be considered insulting by relevant community members.

See our response to Question 18.

Question
<p>Q17: Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities?</p> <p><i>Highly positive impact / Positive impact / Neither positive nor negative impact / Negative impact / Highly negative impact</i></p> <p>If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?</p> <p>This is another poorly framed question and the “Highly Positive” to “Highly Negative” range of responses is not helpful and indeed could be considered insulting by relevant community members.</p> <p>See our response to Question 18.</p>

4.4 Other Comments

Question
<p>Q18: Do you have any other comments to make on the issue of unauthorised encampments not specifically addressed by any of the questions above?</p> <p><u>This consultation does not seem to have taken account of other cross-governmental work being conducted at the same time.</u></p> <p>The Government announced on Thursday 6 June 2019 that it was launching a new cross-governmental strategy to tackle inequalities suffered by Gypsy, Roma and Traveller communities. The announcement came from the Ministry for Housing, Communities and Local Government (MHCLG) and can be found at this link below...</p> <p>https://www.gov.uk/government/news/new-national-strategy-to-tackle-gypsy-roma-and-Traveller-inequalities</p> <p>This prospective strategy is to some degree at least in response to the Women and Equalities Select Committee report published in April 2019 entitled Tackling Inequalities faced by Gypsy, Roma and Traveller Communities.</p> <p>The below link directs to the parliamentary news item from where the full Select Committee report can be seen...</p> <p>https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/grt-tackling-inequalities-report-published-17-19/</p>

The NPCC would say that there is little in the above report that we would disagree with, or be surprised by. The one thing that we would suggest is missing is that the issue of site provision is not addressed.

The report states at the outset that it wanted to look at other areas rather than accommodation, which often eclipses other issues, but given how pivotal suitable accommodation is, questions are left unanswered as to how best to address the inequalities that are highlighted, when we know that the shortage of places to live is intrinsically linked to the social, educational and health inequalities faced by Gypsy, Roma and Traveller communities.

The MHCLG response to the Women and Equalities Select Committee report was published on 2 July 2019 by the Committee, along with a letter in reply to the then Minister (Lord Bourne of the MHCLG). Both these documents can be read here on the [Committee's website](#).

The Committee website nicely summarises the content of these two documents and Paragraph 17 in the Government Response is something the NPCC would support...

17. In addition, we are aware of a lack of integration and poor quality accommodation which needs to be tackled. We will be looking to support Gypsy, Roma and Traveller communities on these issues as part of our wider strategy.

The Women and Equalities Select Committee has asked for more detail on the Government's cross-Governmental strategy and is also asking for the Minister to return to the Committee in 12 months – presumably by July 2020 – to update them on the progress that has been made.

The above work and this consultation seem “out of balance” and lacking a coherent government approach to tackling these issues that will surely be crucial to any successful outcome.

The NPCC believe that changes to fundamental legislation that affects Gypsy, Roma and Traveller communities should not be considered whilst this new strategy is being formulated.

The “Bromley Case” – London Borough of Bromley v Persons Unknown, London Gypsies and Travellers and others

This case has recently been subject of a Court of Appeal judgment on 21 January 2020 and is an important case to be aware of in respect of dealing with unauthorised encampments.

To summarise the case, an application by Bromley Council in London for an injunction prohibiting camping on 171 open spaces and car parks in the borough was refused by the High Court in a judgment handed down on 17 May 2019. Bromley had sought what it described as a “**de facto borough-wide injunction**” to prevent people from occupying or camping on parks and car parks. The High Court refused to grant this and instead made a much more limited injunction preventing people from fly-tipping, depositing substantial amounts of waste, or entering parks and car parks in vehicles for the purposes of waste disposal or fly-tipping.

The ruling had potential major implications across the country as many councils have taken out similar “wide” injunctions which threaten all Gypsies and Travellers with fines and imprisonment if they camp on open land within their boundaries.

London Gypsies and Travellers (LGT) are a charity that supports the GRT communities in London and they argued on behalf of GRT communities that borough-wide injunction orders are a disproportionate and discriminatory response to the accommodation needs of Gypsies and Travellers. The injunction orders are usually against “persons unknown” and LGT claim they effectively criminalise the way of life of a whole group of people recognised as ethnic minorities under the Equality Act 2010.

The Borough of Bromley appealed against this and the final judgment by the Court of Appeal was published on Tuesday 21 January 2020. In essence, the Court of Appeal dismissed Bromley’s claim and found in favour of LGT.

The full judgment can be read and downloaded [here](#)

The final judgment contains what is now crucial legal guidance in respect of “wide injunctions” and indeed has potential ramifications for the “criminalisation of trespass” proposals in this consultation.

Lord Justice Coulson, who gave the unanimous judgment of the Court of Appeal, stated in the judgment (in paragraphs 5 & 6):

*A nomadic lifestyle is an integral part of Gypsy and Traveller tradition and culture. While the majority of Gypsies and Travellers now reside in conventional housing, a significant number...live in caravans in accordance with their traditional way of life.....
In the UK, there is a long-standing and serious shortage of sites for Gypsies and Travellers...This lack of housing inevitably forces many Gypsies and Travellers onto unauthorised encampments.*

He went on to quote from the High Court judgment as follows (in paragraph 16):

Whilst there is no general entitlement to encamp or reside on public or recreational spaces and it is a matter for the planning system to ensure suitable provision is made for Gypsies and Travellers, I am told that there are no authorized transit sites available for nomadic Gypsies and Travellers anywhere in London, including Bromley, which then raises the question of where they are to go.

Very importantly, the Court of Appeal then gave guidance to local authorities on how to approach such injunctions. In the guidance Lord Justice Coulson said, amongst other things, that:

- The obvious solution to the inescapable tension between the article 8 rights of the Gypsy and Traveller community, and the common law of trespass, was the provision of more designated transit sites:

It is a striking feature of many of the documents that the court was shown that the absence of sufficient transit sites has repeatedly stymied any coherent attempt to deal with this issue. The reality is that, without such sites, unauthorised encampments will continue and attempts to prevent them may very well put the local authorities concerned in breach of the Convention (paragraph 100).

- *That [Government] guidance presupposes that there will be unauthorised encampments, and does not suggest, save as a last resort, that such encampments should be closed down, unless there are specific reasons for doing so. There is no hint in the guidance that it is or could be a satisfactory solution to seek a wide injunction of the sort in issue in this case: indeed, on one view, much of that guidance would be irrelevant if the answer was a boroughwide prohibition on entry or encampment (paragraph 101).*
- *Through a process of dialogue and communication, and following the copious guidance..., it should be possible for the need for this kind of injunction to be avoided altogether. 'Negotiated stopping' is just one of many ways referred to in the English caselaw in which this might be achieved (paragraph 102).*
- *If a local authority considers a quia timet injunction may be the only way forward, then it will still be of the utmost importance to seek to engage with the Gypsy and Traveller community before seeking any such order if time and circumstances permit. Welfare assessments should be carried out, particularly in relation to children. An up-to-date EIA will always be important...In my view, if the appropriate communications and assessments (like the EIA) are not properly demonstrated, then the local authority may expect to find its application refused (paragraph 103).*

Lord Justice Coulson summarised the main points of how to proceed in respect of any further applications for such injunctions as follows at paragraph 108:

- a) When injunction orders are sought against the Gypsy and Traveller community, the evidence should include what other suitable and secure alternative housing or transit sites are reasonably available. This is necessary if the nomadic lifestyle of the Gypsy and Traveller community is to have effective protection under article 8 and the Equality Act.*
- b) If there is no alternative or transit site, no proposal for such a site, and no support for the provision of such a site, then that may weigh significantly against the proportionality of any injunction order.*
- c) The submission that the Gypsy and Traveller community can "go elsewhere" or occupy private land is not a sufficient response, particularly when an injunction is imposed in circumstances where multiple nearby authorities are taking similar action.*
- d) There should be a proper engagement with the Gypsy and Traveller community and an assessment of the impact ...an injunction might have, taking into account their specific needs, vulnerabilities and different lifestyle. To this end, the carrying out of a substantive EIA, so far as the needs of the affected community can be identified, should be considered good practice, as is the carrying out of welfare assessments of individual members of the community (especially children) prior to the initiation of any enforcement action.*
- e) Special consideration is to be given to the timing and manner of approaches to dealing with any unlawful settlement and as regards the arrangements for alternative pitches or housing.*

Most powerfully, he concluded at paragraph 109:

Finally, it must be recognised that the cases referred to above make plain that the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another. An injunction which prevents them from stopping at all in a defined part of the UK comprises a potential breach of both the Convention and the Equality Act, and in future should only be sought when, having taken all the steps noted above, a local authority reaches the considered view that there is no other solution to the particular problems that have arisen or are imminently likely to arise.

Bromley Council has stated that it will not appeal to the Supreme Court in respect of this judgment.

The Court of Appeal has stated in this judgment that an injunction which prevents Gypsies and Travellers from stopping at all in a defined part of the UK comprises a potential breach of both the European Convention on Human Rights and the Equality Act.

Given that finding, it is difficult to see how a proposal to criminalise trespass can possibly be justified.

FINAL COMMENTS

In conclusion, trespass is a civil offence and the NPCC view is that it should remain so.

Some amendments to existing legislation are possible but would need to be very carefully considered as per our comments in answer to the relevant questions.

The NPCC believe that changes to such fundamental legislation that affects Gypsy, Roma and Traveller communities should not be considered whilst the new cross-governmental strategy to tackle inequalities suffered by Gypsy, Roma and Traveller communities is being formulated.

The solution to unauthorised encampments lies in the provision of sufficient lawful accommodation accompanied by closer working between the police, local authorities and all other public services.

5. About you

Please use this section to tell us about yourself

Q19: Full name	Deputy Chief Constable Janette McCormick QPM
Q20: Job title or capacity in which you are responding to this consultation exercise (for example, member of the public)	National Police Chiefs' Council (NPCC) Lead for Gypsy / Roma / Traveller issues, NPCC Diversity, Equality & Inclusion Business Area.
Q21: Date	12/02/2020
Q22: Company name/organisation (if applicable)	Deputy Chief Constable, College of Policing Programme Director, NPCC Police Uplift Programme
Q23: Address	c/o NPCC Offices 10 Victoria Street London
Q24: Postcode	SW1H 0NN janette.mccormick@college.pnn.police.uk
Q25: If you would like us to acknowledge receipt of your response, please tick this box	<input checked="" type="checkbox"/>
Address to which the acknowledgement should be sent, if different from above	Email to both:
	janette.mccormick@college.pnn.police.uk
	mark.watson@cheshire.pnn.police.uk

Q26: If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

National Police Chiefs' Council (NPCC). See details at the link below...

<https://www.npcc.police.uk/About/AboutNPCC.aspx>

6. Contact details and how to respond

Please respond using the online system available at:

www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments

Please submit your response by 05/03/2020

You are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it to:

Strengthening police powers to tackle unauthorised encampments consultation
Police Powers Unit
Home Office
6th Floor NW, Fry Building
Home Office
2 Marsham Street
LONDON
SW1P 4DF

Email: UnauthorisedEncampmentsConsultation@homeoffice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments

Alternative format versions of this publication can be requested from:
UnauthorisedEncampmentsConsultation@homeoffice.gov.uk

Publication of response

A paper summarising the responses to this consultation will be published in [insert publication date, which as far as possible should be within three months of the closing date of the consultation] months' time. The response paper will be available online at www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

7. Impact of Proposals

Impact Assessment

In accordance with the Better Regulation Framework Manual issued by the Department for Business, Energy and Industrial Strategy (BEIS)⁴, an initial assessment of the impact of these proposals has been carried out and no material financial impact on business, charities or voluntary bodies is envisaged. Impact on the public sector, such as the police and the Crown Prosecution Service, is expected to be relatively minor.

Equalities Statement

Section 149 of the Equality Act 2010 places a duty on Ministers and Departments, when exercising their functions, to have 'due regard' to the need to eliminate conduct which is unlawful under the 2010 Act, advance equality of opportunity between different groups and foster good relationships between different groups.

In accordance with these duties, we have considered the impact of the proposed changes on those sharing protected characteristics in order to give due regard to the matters mentioned above.

Eliminating unlawful discrimination

The Traveller community includes Romany Gypsies and English, Scottish, Welsh and Irish Travellers are legally recognised as ethnic groups under the Equality Act 2010.

We recognise that the proposals outlined in this document could have an adverse impact on some members of this minority group. Indeed, in response to the original consultation, some traveller groups, human rights groups and legal organisations told us that criminalising trespass would be a disproportionate response that would impact on their way of life. However, we also recognise the distress that local communities and businesses face as a result of unauthorised encampments. While we recognise that not all unauthorised encampments cause disruption and impact communities, there is evidence that shows where this is the case, the financial costs falling to landowners to evict and to clear sites along with the impact to the community can be significant.

The Home Office will seek views on all proposals and any mitigating actions to limit any disproportionate impact on the Travelling community, as well as any indirect impacts on other protected characteristics, such as disability. The Public Sector Equality Duty is an ongoing duty that will be kept under review as we develop the policy.

⁴ See: <https://www.gov.uk/government/publications/better-regulation-framework-manual>

Advancing equality of opportunity between different groups

We recognise the rights of Romany Gypsies and English, Scottish, Welsh and Irish Travellers to follow a nomadic way of life in line with their cultural heritage.

The vast majority of the Traveller community, estimated to be over 80%, live in caravans staying on permanent public and private sites which have planning permission, or in residences of bricks and mortar. A small minority of Gypsies and Traveller caravans that are classed as unauthorised are those staying in one area and are likely to be on local authority housing waiting lists, those who travel seasonally for work and a very small number who travel across the country.

The Government's overarching aim is to ensure fair and equal treatment for Gypsy, Roma and Traveller communities, in a way that facilitates their traditional and nomadic way of life while also respecting the interests of the wider community. In June this year the Government announced that the Ministry of Housing Communities and Local Government will lead development of a cross-government strategy to improve outcomes in areas including health, education and employment for Gypsy, Roma and Traveller communities.

The Home Office will seek views on all proposals and any mitigating actions to limit any disproportionate impact of the Travelling community.

Fostering good relationships between different groups

It is possible that these new measures could lead to a reduction in unauthorised encampments, which in turn could improve relations. On the other hand, it is also possible that coverage of these measures could reinforce prejudices against Travellers, even those who are compliant with the law.

The Home Office will seek views on all proposals and any mitigating actions to limit any disproportionate impact of the Travelling community.

8. Consultation Questions

Q1. To what extent do you agree or disagree that knowingly entering without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q2. To what extent do you agree or disagree that the act of knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it with vehicles?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q3. To what extent do you agree or disagree that the landowner or representatives of the landowner should take reasonable steps to ask persons occupying their land to remove themselves and their possessions before occupation of the land can be considered a criminal offence?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q4. To what extent do you agree or disagree that a criminal offence can only be committed when the following conditions have been met?

a) the encampment prevents people entitled to use the land from making use of it;

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

b) the encampment is causing or is likely to cause damage to the land or amenities;

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

c) those on the encampment have demanded money from the landowner to vacate the land; and/or

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

d) those on the encampment are involved or are likely to be involved in anti-social behaviour.

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q5. What other conditions not covered in the above should we consider?

Q6. To what extent do you agree or disagree that police should be given the power to direct trespassers to suitable authorised sites in a neighbouring local authority area?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q7: Should this be subject to conditions around agreements being in place between local authorities?

Yes / No

Q8: Should there be a maximum distance that a trespasser can be directed across?

Yes / No

If yes, what distance should that be?

Q9: Should there be any other conditions that should be considered when directing a trespasser across neighbouring authorities. If so, what should these be?

Yes / No

If yes, what should these be?

Q10. To what extent do you agree or disagree that the period of time in which trespassers directed from land would be unable to return should be increased from 3 months to 12 months?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q11. To what extent do you agree or disagree that the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised should be lowered from six to two vehicles?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q12. To what extent do you agree or disagree that the police should be granted the power to remove trespassers from land that forms part of the highway?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q13: To what extent do you agree or disagree that the police should be granted the power to seize property, including vehicles, from trespassers who are on land with the purpose of residing on it?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q14: Should the police be able to seize the property of:

- i) Anyone whom they suspect to be trespassing on land with the purpose of residing on it;
- ii) Anyone they arrest for trespassing on land with the purpose of residing on it; or
- iii) Anyone convicted of trespassing on land with the purpose of residing on it?

Q15. To what extent do you agree or disagree that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation are sufficient measures to tackle the public disorder issues which are associated with unauthorised encampments without the requirement for introducing specific powers that criminalise unauthorised encampments?

Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q16. Do you expect that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

Highly positive impact / Positive impact / Neither positive nor negative impact / Negative impact / Highly negative impact

Q17. Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

Highly positive impact / Positive impact / Neither positive nor negative impact / Negative impact / Highly negative impact

Q18. Do you have any other comments to make on the issue of unauthorised encampments not specifically addressed by any of the questions above?

9. Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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