

**From:** Jessica Lancod-Frost <[Jessica.Lancod-frost@nalc.gov.uk](mailto:Jessica.Lancod-frost@nalc.gov.uk)>  
**Sent:** 10 April 2018 11:56  
**To:** County Associations <[CountyAssociations@nalc.gov.uk](mailto:CountyAssociations@nalc.gov.uk)>  
**Subject:** Consultation: unauthorised developments and encampments

Dear colleague,

As you may know, the Government have recently issued a consultation on powers for dealing with unauthorised developments and encampments. The consultation document can be found here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/697354/Consultation - unauthorised encampments.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697354/Consultation_-_unauthorised_encampments.pdf).

NALC will be responding to the consultation on behalf of the local councils that we represent. To help us we would like your council to email us your thoughts on the consultation questions. These include:

1. What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?
2. We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:
  - a. the number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.
  - b. whether the land in a) required cleaning or repair once the encampment had left, and if so, what was the cost?
  - c. how was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority able to move them on; or did the police become involved?
3. Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?
4. Do you think local authorities could improve their use of existing powers?
5. What other powers may help local authorities deal with unauthorised encampments?
6. Do you consider that the current powers for police to direct trespassers to leave land are effective?

7. Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?
8. Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?
9. What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?
10. Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?
11. Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?
12. In your view, what would the advantages and disadvantages be of extending the IPO process to open land? Are you aware of any specific barriers which prevent the effective use of current planning enforcement powers?
13. If you are aware of any specific barriers to effective enforcement, are there any resourcing or administrative arrangements that can help overcome them?
14. Are you aware of any specific barriers which prevent the effective use of temporary stop notices? If so, do you have a view on how these barriers can be overcome?
15. How do you think the existing enforcement notice appeals process can be improved or streamlined?
16. How can Government make existing guidance more effective in informing and changing behaviour?
17. If future guidance was issued as statutory guidance, would this help in taking action against unauthorised development and encampments?

18. Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?
19. What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?
20. Do you expect that extending the powers referred to above 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?
21. Do you have any other comments to make on the issue of unauthorized development and encampments not specifically addressed by any of the questions above?

Local councils are at the very heart of their local community and that is why NALC thinks it is vital we hear from them.

The deadline for responses to us is **5pm Friday 25 May**.

Please email me with any thoughts you have on any of the points included above at [Jessica.Lancod-frost@nalc.gov.uk](mailto:Jessica.Lancod-frost@nalc.gov.uk)

If you have any queries please do let me know.

I look forward to hearing from you.

Kind regards,

Jessica Lancod-Frost

**Jessica Lancod-Frost**

**POLICY AND DEVELOPMENT OFFICER**

National Association of Local Councils

109 Great Russell Street

London

WC1B 3LD

Direct Line 020 7290 0317

[www.nalc.gov.uk](http://www.nalc.gov.uk)



HM Government

Consultation:

Powers for dealing with unauthorised  
development and encampments

April 2018



© Crown copyright, 2018

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at <https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Ministry of Communities and Local Government  
Fry Building  
2 Marsham Street  
London  
SW1P 4DF  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: @CommunitiesUK

April 2018

ISBN: 978-1-4098-5233-9

# Contents

Ministerial foreword .....	5
Introduction .....	6
Unauthorised development and encampments .....	7
Powers for dealing with unauthorised encampments .....	8
Court processes .....	14
Powers for dealing with unauthorised development .....	17
Government guidance .....	19
Planning and traveller site provision.....	20
Impacts on the travelling community .....	21

## General information

Topic:	This consultation seeks views on the effectiveness of powers to deal with unauthorised development and encampments.
Scope:	Views are sought on the range of powers available to local authorities, the police and landowners, for dealing with unauthorised development and encampments.
Geographical scope:	These proposals relate to laws and policies which apply in England, and at times to England and Wales.
Impact Assessment:	N/A

## Basic Information

To:	This consultation is open to everyone.
Body/bodies responsible:	Ministry of Housing, Communities and Local Government, Home Office, Ministry of Justice
Duration:	This consultation will begin on Thursday 5 April and will run for 10 weeks. All responses should be received by no later than 23:45 on Friday 15 June.
Enquiries:	For any enquiries about the consultation please contact: <a href="mailto:UnauthorisedDevelopmentandEncampments@communities.gsi.gov.uk">UnauthorisedDevelopmentandEncampments@communities.gsi.gov.uk</a>
How to respond:	<p>Consultation responses should be submitted by online survey: <a href="https://www.surveymonkey.co.uk/r/NW6G3YD">https://www.surveymonkey.co.uk/r/NW6G3YD</a></p> <p>We strongly encourage all respondents to respond via the online survey, particularly organisations with access to online facilities such as local authorities, representative bodies and businesses.</p> <p>However, should you be unable to respond online we ask that you complete the pro forma found at the end of this document. Additional information or evidence can be provided in addition to your completed pro forma.</p> <p>In these instances you can email your pro forma to: <a href="mailto:UnauthorisedDevelopmentandEncampments@communities.gsi.gov.uk">UnauthorisedDevelopmentandEncampments@communities.gsi.gov.uk</a></p> <p>Or send to: Unauthorised Development and Encampments Consultation Ministry of Housing, Communities and Local Government 3<sup>rd</sup> floor, North East Fry Building 2 Marsham Street LONDON SW1P 4DF</p>

# Ministerial foreword

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. The Government is committed to creating a just and fair country, where equality of opportunity flourishes and the life chances of all are enhanced. I want to see harmonious relations between communities, and we are working hard towards this aim. The Integrated Communities Strategy Green Paper, published in March, invites views on the Government's vision for building strong, integrated communities where people – whatever their background – live, work, learn and socialise together, based on shared rights, responsibilities and opportunities.

Recent debates in Parliament have addressed the topic of unauthorised traveller encampments, and Members of Parliament have voiced their constituent's concerns regarding the impact on both settled and nomadic populations. I was deeply troubled by these concerns, particularly by the widespread perception that the rule of law does not apply to those who choose a nomadic lifestyle, and the sense that available enforcement powers do not protect settled communities adequately.

Unauthorised encampments can cause settled communities significant distress, and they perpetuate a negative image of the travelling community, the vast majority of whom are law-abiding citizens. Unauthorised encampments also have a detrimental effect on the life chances of those who live within such encampments, and their children, who may not benefit from the same opportunities as everyone else.

This document serves to show that the Government is listening: we want to understand more about the nature of the issue, and to hear views on the effectiveness of enforcement powers against unauthorised development and encampments. I welcome suggestions as to whether existing measures should be strengthened, and how public authorities can use the powers available to them more effectively. I look forward to hearing your views.

Dominic Raab MP

Minister of State for Housing



# Introduction

1. There have been long-standing concerns about the issue of unauthorised development and encampments. These were most recently voiced during the debate in the House of Commons on 9 October 2017<sup>1</sup>, when the Government heard strong views that in spite of a range of powers already in place, unauthorised development and encampments remain a significant issue which causes genuine difficulties for communities. These include:
  - trespassing on private land
  - occupying public land, including playing fields and children's playgrounds
  - damage to property
  - extensive litter and waste
  - the public and private cost of cleaning or protecting unauthorised sites
  - noise and antisocial behaviour
  - abusive and threatening behaviour
  - carrying out development without planning permission
2. Since 2010, the Government has taken concerted action to address these matters, including issuing revised planning guidance on enforcement and updated policy and reforms to temporary stop notices. In March 2015<sup>2</sup> the Government issued advice in *Dealing with illegal and unauthorised encampments* to all local authorities, the police and landowners to encourage them to work collaboratively to tackle unauthorised encampments and to remind them of the array of powers which exist for tackling such situations.
3. The July 2017 Traveller Caravan Count, published by the Ministry of Housing, Communities and Local Government on 16 November<sup>3</sup>, illustrates that the number of traveller caravans on authorised sites has risen from 14,498 in July 2010 to 19,071 in July 2017 – an increase of 32 per cent between counts. This suggests that the planning process led by local planning authorities is having an impact. However, figures also illustrate that there are still a significant number of unauthorised encampments across England, accounting for 16% of all caravans in July 2017.
4. During the 9 October debate, the Government announced that it would seek views on the effectiveness of existing powers, and gather information to inform future policy and legislative proposals.

---

<sup>1</sup> <https://hansard.parliament.uk/Commons/2017-10-09/debates/E1DC6872-5335-41CC-A5DE-991D06FE9B3E/GypsiesAndTravellersAndLocalCommunities>

<sup>2</sup> <https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>

<sup>3</sup> <https://www.gov.uk/government/statistics/traveller-caravan-count-july-2017>

# Unauthorised development and encampments

5. The Government is aware that unauthorised development and encampments can be a source of real concern and inconvenience to communities, and wishes to hear more evidence about the nature of the issue. Unauthorised development occurs when land is developed, or there has been a material change of use of land, without the appropriate planning approval being secured in advance. Unauthorised encampments occur where trespassers enter and occupy land belonging to private landowners or local authorities.

## **Question 1:**

What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?

6. The subsequent sections in this document seek views on the range of existing powers available to public bodies including local authorities and the police, for responding to unauthorised development and encampments. It asks questions about how these powers are used at present, any difficulties associated with the use of those powers, and what, if any, further powers may be required. The case study below provides an example of unauthorised encampments that took place in 2017, and the council's response to the issue.

## **Case Study - Sedgemoor District Council**

Between June and September 2017 there were 2 unauthorised encampments at Burnham on Sea. The unauthorised encampments were set up in the Council's Pier Street pay and display car park. This is the major car park for Burnham, catering for shoppers and holiday makers, and is the only car park suitable for coaches.

The Council were aware of problems during the unauthorised encampments including occupying public land, the public cost of cleaning the site, noise and antisocial behaviour, abusive and threatening behaviour and loss of revenue.

During each incident, the Council Officers attended the site. Once they assessed the response they served the occupiers with 24 hours notice to vacate. When the occupiers failed to vacate, the Council started County Court proceedings, and papers were served on the occupiers. Hearing dates were set and in both cases the occupiers vacated 24 to 48 hours in advance of the hearing date. While the police were aware of these cases, and spoke to the travellers, there was no formal police involvement.

# Powers for dealing with unauthorised encampments

7. Local authorities and the police have a wide range of existing powers to deal with unauthorised encampments. The advice published in March 2015, *Dealing with illegal and unauthorised encampments*<sup>4</sup>, set out details of the enforcement powers available to local authorities to tackle such cases. Where occupation of land occurs on public land and local authorities use their powers proactively, enforcement action can be taken relatively quickly. The process for private landowners is through civil possession procedures.
8. Despite the existing powers there are instances of encampments which continue for prolonged periods of time with a consequent impact on local communities. Local authorities and private landowners can also incur costs in evicting trespassers from land and repairing any damage caused. If unauthorised encampments could be moved on more quickly or deterred from occupying unauthorised sites in the first place, this could have tangible benefits for local authority budgets and for community cohesion.
9. We would like to gather evidence to understand the scale of the issue with unauthorised encampments on public or private land, and the costs incurred to evict trespassers and repair damage done to sites.

## **Question 2:**

We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:

- a. the number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.
- b. whether the land in a) required cleaning or repair once the encampment had left, and if so, what was the cost?
- c. how was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority able to move them on; or did the police become involved?

---

<sup>4</sup> <https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>

# Streamlining the powers under which local authorities can direct unauthorised campers to leave land

10. Local authorities have wide ranging powers to remove unauthorised campers under section 77<sup>5</sup> and 78<sup>6</sup> of the Criminal Justice and Public Order Act 1994. These powers allow the local authority to issue a section 77 direction to leave notice to anybody on any land forming part of a highway; on any other unoccupied land; or on any occupied land without the consent of the occupier.
11. If the unauthorised campers do not comply with the section 77 Notice, the local authority would then apply to the Magistrates' Court for a Court Order authorising the local authority to enter upon the land to remove the unauthorised campers.
12. We would like to hear from local authorities that consider section 77 powers could be made to be more effective, in enabling them to direct unauthorised campers to leave land. We would also welcome views on whether there may be issues with the capability and capacity within local authorities in using their existing powers.

**Question 3:**

Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?

**Question 4:**

Do you think local authorities could improve their use of existing powers?

**Question 5:**

What other powers may help local authorities deal with unauthorised encampments?

<sup>5</sup> <https://www.legislation.gov.uk/ukpga/1994/33/section/77>

<sup>6</sup> <https://www.legislation.gov.uk/ukpga/1994/33/section/78>

# Extending the circumstances in which police can direct trespassers to leave land

13. Under section 61<sup>7</sup> 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 any of the trespassers have caused damage to land or property;
- ii. 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
- iii. that the trespassers have between them six or more vehicles on the land.

We would welcome views on whether the requirements under section 61 should be reviewed.

14. Section 62A of the Act allows the police to direct trespassers to remove themselves and their vehicles and property from land 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.

15. Failure to comply with a police direction under section 61 or 62A 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. We would welcome views on whether there is evidence supporting an extension of this time period before a person can legally return to a site once directed to leave by the police.

## **Background - The Republic of Ireland: criminal trespass and site provision**

A number of contributions during the debate in the House of Commons on 9 October referred to the law on trespass in Ireland. This section provides some background on how this operates.

The Irish Government has criminalised trespass in certain circumstances, in conjunction with a statutory requirement for local authorities to provide sites for travellers. In response to concerns about trespassers occupying public spaces and private land, the Irish Republic introduced the Housing (Miscellaneous Provisions) Act 2002<sup>8</sup>.

<sup>7</sup> <https://www.legislation.gov.uk/ukpga/1994/33/part/V>

<sup>8</sup> <http://www.irishstatutebook.ie/eli/2002/act/9/section/24/enacted/en/html#sec24>

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.

## Aggravated trespass

16. Aggravated trespass is already a criminal offence under section 68<sup>9</sup> of the Criminal Justice and Public Order Act 1994. It occurs when one or more people trespass on land and intimidate the landowner or others who are lawfully on the land, deterring them from carrying out or engaging in any lawful activity, or do anything to obstruct or disrupt that activity. A person guilty of this offence is liable to imprisonment for a term not exceeding three months, a fine or both.

17. In addition to views on whether existing powers are sufficient, if you think they are not, we would welcome views on whether additional powers should be considered, and whether consideration should be given to a new offence, in addition to aggravated trespass, that further criminalises actions in relation to unauthorised encampments that substantially damage land or cause serious inconvenience to the land owner or other lawful users of the land.

### **Question 6:**

Do you consider that the current powers for police to direct trespassers to leave land are effective?

### **Question 7:**

Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?

<sup>9</sup> <https://www.legislation.gov.uk/ukpga/1994/33/section/68>

**Question 8:**

Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?

## Use of injunctions to protect land

18. Civil injunctions can be an alternative option for protecting land from unauthorised development and encampments. We would like to seek views on any barriers that exist in other local authorities to using such powers, and how these barriers might be overcome.
19. We are aware that injunctions are used by local authorities to ban the establishment of unauthorised encampments across a number of specific pieces of land. This mechanism has been used to protect parks and playgrounds, business areas, highway verges, schools, cycle tracks, previously occupied sites and private land.

**Question 9:**

What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?

# Joint-working between local authorities, communities and the police

20. The Government is aware that in tackling unauthorised encampments, joint working across all relevant public bodies, and communities, can bring faster and better results than attempting to resolve the issue in isolation. Joint working between local planning authorities on planning for traveller sites is referred to later in the section on planning and traveller site provision.

21. During the recent debates in Parliament, the Government has heard views on joint-working including that existing legal powers are limited by an inability to use them across administrative boundaries; some areas suffer from a lack of shared intelligence and resources; and that there should be a better understanding of the needs of traveller groups, and a greater ability to negotiate with them. We would welcome views on whether joint-working may help to deal with any issues with the capability and capacity within local authorities, in using their existing powers.

**Question 10:**

Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?



# Court Processes

22. There have been a number of improvements made to the court system, to streamline and improve the efficiency of the appeal and judicial review (JR) process. Prominent among them was the introduction of the Planning Court in 2014<sup>10</sup>, which considers JRs and statutory challenges to decisions made by planning authorities. The Planning Court was created because of the clear need to deal more swiftly with planning cases, large and small, in the interests of justice for everyone involved in the planning process. It works to fixed, rigorous timescales which are strictly adhered to, and has led to a marked increase in timeliness of the resolution of planning cases.
23. Notwithstanding recent improvements, we would welcome evidence of any cases that have proved difficult to resolve, the apparent reasons for this, including the impact on the resourcing of public bodies, and any suggestions for further improvement.
24. Under current legislation, to evict unauthorised encampments from open-land, landowners must first make an application to the relevant court for an order for possession. A hearing date will be set by the court when it issues the claim form, and in a claim against trespassers the defendant must be served with the papers not less than 2 days before the hearing date. At the hearing the judge will decide the claim and unless there is a defence, the judge will usually make an order for possession to take place immediately. Once an order for possession is made it can then be enforced.
25. The time taken to evict unauthorised encampments includes the time required for the legal procedures to be completed. It may also include time required by defendants to make alternative arrangements, especially where there are children or vulnerable adults involved. However, if a land owner considers that court action will be needed, they could advise the court in advance, so that the date for a hearing can be expedited.
26. Applications in respect of trespasser incursions are treated as urgent business and the local court, subject to court capacity, will issue proceedings and set a hearing on the same day, with the hearing fixed for the next available date. In exceptional circumstances, the matter may be dealt with by the High Court without notice.

## **Question 11:**

Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?

<sup>10</sup> <https://www.gov.uk/courts-tribunals/planning-court>

# Interim possession orders

27. The Government is aware of concerns raised by local authorities and landowners that the possession process is too slow. The process involves obtaining a possession order in the county court and appointing bailiffs to carry out the eviction. The Criminal Justice and Public Order Act 1994 enabled the creation in the Civil Procedure Rules of an accelerated possession procedure known as the Interim Possession Order (IPO)<sup>11</sup>. An IPO can currently be granted against trespassers in premises but not open land.
28. The rules came into force on 24 August 1995.
- Property owners can use the accelerated procedure if:
  - They are only claiming possession, not making a claim for damages. The applicant has an immediate right to possession and has had this right throughout the period of unlawful occupation.
  - The respondents entered the premises as trespassers.
  - The application for an order is made within 28 days of the date when the owner first knew (or ought reasonably to have known) that the respondents were in occupation).
29. The Civil Procedure Rules provide that:
- A hearing of an application for an interim possession order will be “as soon as practicable but not less than three days after the date of issue”.
  - Once an interim possession order is served, a trespasser has 24 hours to leave the property.
  - There are no appeals that can delay enforcement of the order (instead a return date is set for considering whether or not a full possession order should be granted).
  - After the 24-hour period expires, a trespasser who remains in the property or returns during the period of validity of the order commits a criminal offence.
  - There is no need to seek a warrant of possession or instruct bailiffs as once the period for the trespassers to leave the property expires, the property owner can call the police and the trespassers may be arrested.
30. Due to the speed of the accelerated process, an IPO is not a final order and, unlike the ordinary possession order, the claimant cannot seek damages as part of process. A future date would need to be set for a full hearing, at which point the court will confirm or set aside its original decision. Until the full hearing takes place, the landowner might need to give undertakings that he will not dispose of any of the defendant’s property left on the site and pay damages if the IPO was wrongly granted.

---

<sup>11</sup> <https://www.legislation.gov.uk/ukpga/1994/33/section/76>

31. The Government wishes to hear views as to whether the IPO should be extended to open land. This might offer the possibility of evicting trespassers on land more rapidly by offering quicker hearings and shorter timescales for trespassers to leave, than those provided by regular possession proceedings.

**Question 12:**

In your view, what would the advantages and disadvantages be of extending the IPO process to open land?

# Powers for dealing with unauthorised development

32. Local planning authorities have a wide range of planning enforcement powers to deal with unauthorised development, with penalties for non-compliance, as set out in *Dealing with Unauthorised Developments and Encampments*, published in March 2015. Effective enforcement is important in maintaining public confidence in the planning system. Used properly, the powers can tackle unauthorised development which has already happened and help to prevent it occurring in the first place. These powers are intended to deal with the full range of breaches of planning control, including unauthorised changes of use and unauthorised new buildings – not just unauthorised encampments.
33. Although the suite of powers is extensive, enforcement practice among local authorities in England varies considerably. For example, we are aware that some local authorities take a proactive and joined up, cross-service, approach to enforcement – using their powers to tackle a range of issues beyond planning. Some are making effective use of powers under the Proceeds of Crime Act 2002<sup>12</sup> to apply for confiscation orders to recover the financial benefits accrued from unauthorised development and using those funds to help finance their enforcement service.
34. We would welcome views on the barriers that prevent some local authorities from utilising existing enforcement powers effectively, and whether there are ways in which Government can assist in overcoming these barriers. In addition, while we consider the current planning enforcement powers are extensive, we would welcome views on what, if any, further powers and capabilities might be useful in dealing with unauthorised development, and may help to bring proceedings to a swifter conclusion.

**Question 13:**

Are you aware of any specific barriers which prevent the effective use of current planning enforcement powers?

**Question 14:**

If you are aware of any specific barriers to effective enforcement, are there any resourcing or administrative arrangements that can help overcome them?

**Question 15:**

Are you aware of any specific barriers which prevent the effective use of temporary stop notices? If so, do you have a view on how these barriers can be overcome?

<sup>12</sup> <https://www.legislation.gov.uk/ukpga/2002/29/part/2/crossheading/confiscation-orders>

# Improving the efficiency of enforcement notice appeals

35. A local planning authority has discretion as to whether to initiate enforcement action by issuing an enforcement notice, if it appears to them that planning controls have been breached. If an enforcement notice is served, a person with an interest in the land or relevant occupier has a right of appeal to the Secretary of State. The Planning Inspectorate makes decisions on enforcement notice appeals on behalf of the Secretary of State. Exercise of this fundamental right of appeal will lead to the suspension of enforcement action until the appeal is resolved. Any appeal must be received before the enforcement notice comes into effect, which should be at least 28 days from the date of service of the notice.
36. All parties to the appeal (including the appellant, local planning authority and interested parties) have until the sixth week after the appeal starts to submit representations. The appellant and local planning authority has the opportunity to consider and comment on all the representations received within a further three week period. If the appeal is being decided by way of an informal hearing or local inquiry, oral evidence is allowed as well as the written representations.
37. We are seeking views on whether the enforcement notice appeals process should be streamlined so that such appeals can be determined more quickly, and action against unauthorised development taken sooner. Any procedural changes would need to take into account the right of the appellant to have sufficient time to consider whether they will make an appeal and, if so, time to prepare their case. Any proposed change would also have to be considered in terms of their impact on the fairness of the process. It should be noted that any changes would need to apply to all enforcement notice appeals.

**Question 16:**

How do you think the existing enforcement notice appeals process can be improved or streamlined?

# Government Guidance

38. The advice issued by Government in March 2015 *Dealing with illegal and unauthorised encampments*<sup>13</sup>, reminds local councils, the police and landowners of the powers available to them to work together to address unauthorised developments and encampments. The advice sets out details of the enforcement powers available to local authorities to tackle such cases. While the Government legally requires public bodies to consider the equalities and human rights impacts of their decisions before acting, it warned against gold-plating human rights and equalities legislation, and reminded local authorities and the police of the strong powers they have to deal with unauthorised encampments.
39. When considering the proportionality of intervention, the police and councils can and should also consider the negative consequences of unauthorised sites. When deciding whether to take action they can consider, for example, the harm that such developments can cause to local amenities and the local environment, the potential interference with the peaceful enjoyment of neighbouring property and the need to maintain public order and safety.

**Question 17:** How can Government make existing guidance more effective in informing and changing behaviour?

**Question 18:** If future guidance was issued as statutory guidance, would this help in taking action against unauthorised development and encampments?

---

13

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418139/150326\\_Dealing\\_with\\_illegal\\_and\\_unauthorised\\_encampments\\_-\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418139/150326_Dealing_with_illegal_and_unauthorised_encampments_-_final.pdf)

# Planning and traveller site provision

40. *Planning Policy for Traveller Sites*<sup>14</sup> sets out that 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. The policy asks local planning authorities to make an assessment of need for sites, and to meet this need through the identification of land for sites. The policy also asks that plan-making and decision-taking should aim to reduce the number of unauthorised development and encampments and make enforcement more effective.
41. On 5 March, the Government launched a consultation on the National Planning Policy Framework, which includes a question on whether any changes should be made to the Planning Policy for Traveller Sites as a result of the proposed changes to the Framework - and if so, what changes should be made. The consultation closes on 10 May.
42. In terms of wider Government support for the provision of traveller sites, the New Homes Bonus (NHB) is paid to local authorities to recognise net increases in effective housing stock, including the provision of traveller pitches. Funding for traveller pitches is also available from the Affordable Homes Programme 2016-21<sup>15</sup>.
43. As mentioned in the introduction, the July 2017 Traveller Caravan Count illustrates that the number of traveller caravans on authorised sites has risen, suggesting that the locally-led planning process is having an impact.

## **Question 19:**

Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?

---

<sup>14</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457420/Final\\_planning\\_and\\_travellers\\_policy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf)

<sup>15</sup> <https://www.gov.uk/government/collections/shared-ownership-and-affordable-homes-programme-2016-to-2021-guidance>

# Impacts on the travelling community

44. While it is clear that unauthorised encampments can have a detrimental impact on the settled community, it is also highly likely that such encampments can lead to significant hardships for travelling communities themselves. Gypsy, Roma and Traveller communities are amongst the most disadvantaged in British society and suffer from multiple forms of discrimination. The recent publication of the *Ethnicity Facts and Figures* website<sup>16</sup> highlights the stark inequalities experienced by these groups: Gypsy, Roma and Traveller groups have the lowest attainment of all ethnic groups throughout their school years; they have a life expectancy of over 10% less than the general population, poor health-related quality of life, and only around two-thirds of Gypsy, Roma or Traveller pupils stay in education, employment or training at age 16.
45. Accommodation insecurity is an issue with far-reaching impacts, including on educational attainments, social inclusion and on both physical and mental health. Additional insecurity arises when accommodation is unauthorised and travelling communities are liable to be moved on at short notice. Across a range of public services, work is underway to seek improvements in the outcomes experienced by Gypsy, Roma and Traveller communities, including:
- The Government's Inclusion Health programme published a number of resources in 2013-2016<sup>17</sup> on issues affecting Gypsy, Roma and Traveller.
  - NHS England has produced guidance and a patient-facing leaflet to try to improve access to primary care for Gypsy, Roma and Traveller patients.
  - The publication of the Race Disparity Audit<sup>18</sup>, and associated Ethnicity Facts and Figures website, highlighted in the way different ethnic groups interact with public services. The DfE will conduct a review of exclusions to explore why certain pupil groups, including Gypsy, Roma and Traveller pupils are over represented in exclusions data.
  - We continue to help schools improve the progress and attainment of disadvantaged pupils. Through the pupil premium<sup>19</sup>, we have provided nearly £2.5 billion in 2017-18.
46. 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. Continued work will be needed by public service providers, working in consultation and

---

<sup>16</sup> <https://www.ethnicity-facts-figures.service.gov.uk/>

<sup>17</sup> <https://www.gov.uk/government/publications/gypsy-and-traveller-health-accommodation-and-living-environment>

<sup>18</sup> <https://www.gov.uk/government/publications/race-disparity-audit>

<sup>19</sup> <https://www.gov.uk/guidance/pupil-premium-information-for-schools-and-alternative-provision-settings>



partnership with Gypsy, Roma and Traveller communities, to address long-established inequalities.

**Question 20:**

What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?

**Question 21:**

Do you expect that extending the powers referred to above 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?

## Other comments

**Question 22:**

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

# About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

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<sup>20</sup> (FOIA), the Data Protection Act 1998<sup>21</sup> (DPA) and the Environmental Information Regulations 2004<sup>22</sup>).

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 Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

---

<sup>20</sup> <https://www.legislation.gov.uk/ukpga/2000/36/contents>

<sup>21</sup> <https://www.legislation.gov.uk/ukpga/1998/29/contents>

<sup>22</sup> <http://www.legislation.gov.uk/uksi/2004/3391/contents/made>

# Consultation response proforma

If you are responding by email or in writing, please reply using this questionnaire proforma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space

Your Details (Required fields are indicated with an asterix(\*))

Family Name (Surname)*	
First Name*	
Title	
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	

Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?\* (please tick as appropriate)

Personal View

Organisational Response

Name of Organisation (if applicable)

--

If you are responding on behalf of an organisation, please tick the box which best describes your organisation.

Local Authority (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)

Neighbourhood Planning Body/Parish or Town Council

Private Sector organisation (including housebuilders, housing associations, businesses, consultants)

Trade Association / Interest Group/Voluntary or Charitable organisation

Other (Please specify)

--

## Unauthorised development and encampments

### Question 1:

What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?

*Please enter your comments here*

## Powers for dealing with unauthorised encampments

### Question 2:

We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:

- a. the number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.
- b. whether the land in a) required cleaning or repair once the encampment had left, and if so, what was the cost?
- c. how was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority able to move them on; or did the police become involved?

*Please enter your comments here*

**Streamlining the powers under which local authorities can direct unauthorised campers to leave land**

**Question 3:**

Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?

*Please enter your comments here*

**Question 4:**

Do you think local authorities could improve their use of existing powers?

*Please enter your comments here*

**Question 5:** What other powers may help local authorities deal with unauthorised encampments?

*Please enter your comments here*

## Aggravated trespass

### Question 6:

Do you consider that the current powers for police to direct trespassers to leave land are effective?

*Please enter your comments here*

### Question 7:

Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?

*Please enter your comments here*

### Question 8:

Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?

*Please enter your comments here*

## Use of injunctions to protect land

### Question 9:

What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?

*Please enter your comments here*

## Joint-working between local authorities, communities and the police

### Question 10:

Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?

*Please enter your comments here*

## Court Processes

### Question 11:

Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?

*Please enter your comments here*

## Interim possession orders

### Question 12:

In your view, what would the advantages and disadvantages be of extending the IPO process to open land?

*Please enter your comments here*

## Powers for dealing with unauthorised development

### Question 13:

Are you aware of any specific barriers which prevent the effective use of current planning enforcement powers?

*Please enter your comments here*



**Question 14:**

If you are aware of any specific barriers to effective enforcement, are there any resourcing or administrative arrangements that can help overcome them?

*Please enter your comments here*

**Question 15:** Are you aware of any specific barriers which prevent the effective use of temporary stop notices? If so, do you have a view on how these barriers can be overcome?

*Please enter your comments here*

**Improving the efficiency of enforcement notice appeals**

**Question 16:**

How do you think the existing enforcement notice appeals process can be improved or streamlined?

*Please enter your comments here*

## Government Guidance

### Question 17:

How can Government make existing guidance more effective in informing and changing behaviour?

*Please enter your comments here*

### Question 18:

If future guidance was issued as statutory guidance, would this help in taking action against unauthorised development and encampments?

*Please enter your comments here*

## Planning and traveller site provision

### Question 19:

Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?

*Please enter your comments here*

## Impacts on the travelling community

### Question 20:

What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?

*Please enter your comments here*

### Question 21:

Do you expect that extending the powers referred to above 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?

*Please enter your comments here*

## Other comments

### Question 22:

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

*Please enter your comments here*

**Your opinion is valuable to us. Thank you for taking the time to read the consultation and respond.**