

# Joint Agency Protocol for responding to unauthorised Gypsy and Traveller Encampments.

September 17th 2007 version 4

## Policy Statement.

1. It is recognised that Gypsies and Travellers are not the only groups to be involved in unauthorised camping. The intention of focusing this protocol on the Travelling community is to ensure that their needs are part of the solution to any problems arising from unauthorised encampment.
2. There will be a joint agency approach to unauthorised encampment in Cumbria that will balance the needs of Gypsies and Travellers and the settled community, reflect compliance with applicable law and take account of guidance from the Home Office and the Commission for Racial Equality.
3. There will be a Joint Agency Strategic Planning group, including Gypsy and Traveller representatives. It will meet bi-annually to consider and review Policy and Guidelines on issues and matters affecting Gypsies and Travellers. When appropriate it will make representations and respond as needed to various bodies, authorities and Government Departments.
4. There will also be Joint Agency Groups at practitioner level, including Gypsy and Traveller representatives, in each council area. These groups will meet twice a year, with additional meetings being called if any partner perceives a need.

## Other associated documents:

Cumbria Constabulary Gypsy and Traveller policy

Cumbria Constabulary Unauthorised encampment policy

Gypsy and Traveller Culture guide

**The Parties undersigned agree to the policy statement and the attached guidelines.** The Policy and Guidelines apply to all unauthorised encampments by Gypsies and Travellers, including New Travellers, and to

authorised encampments, whether temporary or permanent, where problems are identified.

<b>Agency</b>	<b>Signature</b>	<b>Full name</b>	<b>Date</b>
Cumbria Constabulary			
Cumbria County Council			
Copeland BC			
Allerdale BC			
Barrow BC			
South Lakeland DC			
Eden D C			
Carlisle City C.			
HMP Haverigg			
The Crown Prosecution service			
The Furness Multi Cultural Forum at Barrow			
Connexions Cumbria			
Cumbria PCT			
Lake District National Park Authority			
Her Majesty's Court Service. HMCS.			

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## Aims

- To work with partners in other authorities, the voluntary sector and the Police to address issues of social exclusion amongst Gypsy and Traveller communities.
- To establish effective communication between partners, the settled community and Gypsies and Travellers.
- To help strike an appropriate balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsies and Travellers.
- To manage unauthorised encampments in an efficient and effective way taking account of the potential level of nuisance for local residents and the rights and responsibilities of Gypsies and Travellers.
- To set out recommended courses of action which local authorities, the police and other partner agencies should follow to provide an effective response to unauthorised camping in their areas.
- To develop a more consistent approach to unauthorised encampments across the county.
- To involve the settled and Gypsy/Traveller communities in the development of the Protocol.
- To improve records of unauthorised encampments.

## The Policy

### 1. Who does the protocol relate to?

This protocol relates to all travelling groups and all unauthorised encampments in Cumbria. This includes New Travellers, as the issues raised by encampments are similar and the education welfare and homelessness duties are identical.

Travellers themselves have difficulty in providing an appropriate name for their whole group. The main groups are:

- The Romanies or 'Romany chals' of England and Wales;
- The Kale of North Wales;
- The Romanies who have come to the UK from Europe in the last hundred years;
- Irish Travellers;
- Scottish Travellers;
- Show and Fairground Travellers;
- Bargees and other families living in boats;
- New Travellers;

Some would prefer to be called Gypsies and others Travellers. The Equal Opportunities Commission recommends the terms Travellers or Gypsy, as an overarching title for all traditional, indigenous, hereditary Travellers. (Equal Opportunities Committee 1st Report 2001).

Consideration should be given to the choice of name for any particular group. In most cases and in communication it will be reasonable to use the term Traveller. In written communications the terms should be capitalised.

Unauthorised developments are outside the scope of this document.

### 2. Introduction

The first joint agency protocol was agreed in April 2004. Key partners are the Highways and Children's Services departments of the County Council, district councils, the police, the Fire Service health and Gypsies and Travellers. Many other agencies and groups have supported the Gypsy and Traveller joint agency work in the last 4 years.

The Joint agency Gypsy and Traveller groups have met at least bi annually to share information about unauthorised encampments, maintain the protocol and in the last two years, to discuss wider issues such as the provision of authorised or 'allowed' sites.

Representatives of the Gypsy and Traveller community have been involved in developing this protocol in order to foster better understanding and appreciation of their needs.

### **Who takes the lead for each unauthorised encampment?**

In line with the Government 'Guidance on Managing Unauthorised Camping guidelines', the local authority will be the lead agency in managing unauthorised camping in its area. There will be circumstances where other agencies will take the lead. This would be by negotiation and agreement.

The police will take the lead where urgent action is needed eg in the use of the Criminal Justice and Public Order Act (CJPOA) s61.

Who ever leads this work, all agencies carry their own responsibility to respond appropriately to unauthorised encampments.

The Police will look to the local authority to identify 'acceptable' sites. in circumstances where there are no available pitches on authorised sites.

Each encampment location will be considered on its own merits against criteria such as health and safety considerations for the unauthorised campers, traffic hazard, public health risks, serious environmental damage, genuine nuisance to neighbours and proximity to other sensitive land-uses.

Wherever possible, local authorities and/or police will seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location.

### **Five key principles to be considered when responding to unauthorised encampments:**

- The Joint Agency group recognises their statutory and moral responsibility to work together for the safety and well being of Gypsies and Travellers and the settled community.
- Gypsies and Travellers and the settled community are entitled to live free from crime, harassment and intimidation.
- Gypsies and Travellers should have equitable access to Services.
- A nomadic way of life is legitimate.
- Gypsies and Travellers who offend will be treated in the same manner as any one else who challenges the rule of law.

## **3. Local information and data on which the protocol is based**

### **3.1 Current provision for Gypsies and Travellers in Cumbria:**

There are three private authorised sites in Carlisle and Eden; Fair Hill in Penrith and Hadrians Park and Ghyll Bank near Carlisle. There are authorised sites for Showmen in Carlisle, Wigton and Kendal. There are no local authority sites for Gypsies and Travellers in Cumbria.

It is known that some Travellers live in houses in Cumbria, but little is know about this group.

There are no records of Roma in Cumbria (Travellers recently arrived from Eastern Europe).

### **3.2. Patterns of travel:**

#### **Associated with Appleby:**

Appleby Fair is always in the second week of June. It is one of the largest horse Fairs in Europe and a very important event in the Gypsy calendar. The Royal charter for the fair dates back to 1685.

The population of Appleby ward in the last census was 1317. There are in excess of 96,000 visitors over the fair week end. There have been no official vehicle counts. It is estimated that 30,000 – 52,000 vehicles go to Appleby on the Saturday of the Fair...so congestion and parking are serious issues. It is estimated that 10,000 people stay in the Eden area during Fair week. The fair is mainly about horse sales, harness racing, flashing...or showing off the horses to their best advantage and grooming.

District Council officers have worked hard to find temporary authorised sites outside the town for Fair week, but despite going out to look, adverts in the paper and discussions with local people it has not been possible to extend provision in the last couple of years. The main reason for the difficulty has been opposition from local people,

Although the Joint agency protocol is relevant to Appleby Fair, a separate Appleby Fair Incursion Strategy also exists. This strategy is used by the Police and EDC when carrying out joint visits to encampments associated with the Fair.

There are always many unauthorised encampments associated with the Fair. Some Travellers arrive early, some up to a month before the event. Some Travellers stay in the county for a few weeks after the Fair.

#### **Associated with Brough Fair:**

Brough Fair has grown in the last few years, but is still fairly small. It lasts for a week and takes place at the end of September. There are very few unauthorised encampments associated with this event which is held in a private field.

#### **Other patterns:**

There is some evidence to suggest that unauthorised encampments in the west of the county are by people from the North east visiting relatives. Some Travellers, notably Irish Travellers appear to be en-route through the county using the M6 corridor.

**3.3. Planning Application information:**

<b>District Council</b>	<b>No. applications 2005</b>	<b>No. applications 2006</b>
<b>Allerdale BC</b>		
<b>Barrow BC</b>		
<b>Carlisle City Council</b>		
<b>Copeland BC</b>		
<b>Eden DC</b>		
<b>South Lakeland DC</b>		
<b>Lake District National Park Authority</b>		

**3.4. Children's Services- Education information**

The Ethnic Minority Achievement (EMA) team within Cumbria Children's Services works with schools, settings and families to encourage access to education for all Traveller pupils. EMA will challenge any assumptions based on cultural stereotypes about Traveller pupils not accessing education at whatever age, as we are committed to the Children's Services vision of the best for every child. We offer support to schools to enable access to the curriculum of those Traveller pupils who have additional educational needs, resulting from an interrupted learning experience due to a mobile lifestyle. We also collate attendance data on Traveller pupils in Cumbria in order to establish an idea of population and area of need.

During the academic year 2005 – 2006, there were 135 Traveller pupils recorded in Cumbrian schools. The majority (79.3%) were in primary education. This figure is consistent with previous years and shows no major fluctuation in population, although the numbers attending secondary school are increasing yearly.

During the autumn term of the current academic year (2006 – 2007), there were 110 Traveller pupils recorded, with 72.73% in the east of the county, 17.27% in the west and 10% in the south. It is likely these figures are under-representative of the entire Traveller population in schools.

**3.5. Summary of information to date:**

The Joint agency group is very grateful to County Council officer, Keiran Barr, for his six monthly summaries of unauthorised encampments, from which the information below has been lifted.



**Between March 2004-March 2005**

Month	Pilot project count	ODPM count (Unauthorised)	ODPM count (Authorised)
March 04	1	-	
April 04	-	-	
May 04	-	-	
June 04	-	-	
July 04	-	13	114
August 04	-	-	
September 04	1	-	
October 04	7	-	
November 04	4	-	
December 04	3	-	
January 05	1	6	117
February 05	-	-	
March 05	9	-	

**Location of encampments**

Encampments were reported at numerous sites, with some sites being visited on multiple occasions, these included:

- South bound slip road on A74 at Harker, Carlisle
- Rosehill Industrial Estate, Carlisle
- Parkhouse Road/Chandler Way, Kingmoor Park, Carlisle
- Devonshire Walk car park, Carlisle
- Old Side, Workington
- St Helen's Business Park, Workington

In total encampments were recorded in 14 separate locations, predominantly located around Carlisle, Workington and between Ravensglass and Bootle.

**Duration of encampments**

Recorded encampments varied in length from 1 to 30 days. One encampment was recorded at 365 but this was atypical. The majority of encampments were between 1 and 5 days. The overall average however was 7 days.

**Between April and September 2005.**

Month	Project count	ODPM count 19 <sup>th</sup> July (Unauthorised)	ODPM count (Authorised)
April	5	-	-
May	4	-	-
June	4	-	-
July	13 (9 Carlisle, 4 Allerdale)	17 (14 Allerdale, 3 Eden)	160
August	4		-
Sept	3		-

Encampments were reported at numerous sites with some sites being visited on multiple occasions, these included:

- Chandler Way, Carlisle
- Cloffocks, Workington
- Devnshire Walk, Carlisle
- Old Side, Workington
- Anne Pits Lane, Workington

In total encampments were recorded in 27 separate locations, predominantly located around Carlisle and Workington.

### Duration of encampments

Recorded encampments varied in length from 1 to 32 days. The majority of encampments were between 1 and 5 days. The overall average however was 6 days.

### Between October 2005 and September 2006.

Information in this update comes from several sources:

- Gypsy/Traveller Information Collection Forms submitted to Kieran Barr during this period. 36 forms were submitted.
- Annual count of Gypsy caravans conducted by the DCLG
- Information on numbers attending Appleby Horse Fair in 2006.

### Gypsy/Traveller Information Collection Forms

- 22 forms were returned detailing encampments in Carlisle.
- 1 was returned detailing encampments in Copeland (this relates to the period October 2005 to March 2006)
- 13 were returned detailing encampments in Allerdale.
- no forms were returned from Barrow, Eden or South Lakeland.

Encampments were recorded in the following locations:

Location	No. of encampments recorded during time period
Allonby Rd (CA15)	1
Back road to Kingmoor Park, Cargo	1
Chandler Way	11
Cowgate Corner	1
Findlay Place (CA14)	1
Fletcher Way, Parkhouse Business Park	1
Harker Slip Road	2
Irish St (Maryport)	1
Kingmoor Park	1
Merchants Drive, Park Lane	1
Mossbay Rd (CA14)	1
Mossbay Rd, Workington	1
Northside (Old dog track)	2
Parkhouse Business Park	1

Peart Rd, Workington	1
Queens Ave, Maryport	1
Reedlands Rd (CA14)	1
Shaddongate	1
St Helens Business Park (CA14)	1
Wagon Rd, Whitehaven	1
Wolsrey (CA15)	1

The average duration of encampments was 5 days; they ranged from a minimum of 1 day to a maximum of 20 days. On average, encampments had 3 caravans and 3 vehicles. The largest encampment had 11 caravans.

#### **4. Arrangements for Sharing Information**

Non personal information about Gypsy and Traveller unauthorised encampments will be shared at least bi-annually at Joint agency meetings: before Appleby Fair in April/May, and at the end of the summer after Brough Fair September /October.

As a minimum, information should include the location of encampments, the number of caravans/vehicles involved, the number of visible people recorded by age and the duration of each encampment.

The County Council has been collating unauthorised encampment information, on behalf of the joint agency group, since 2004. Unfortunately statistics from some parts of the county have been missing.

To improve the quality of records agencies will use the form in appendix (iii) for each encampment. The group recognises the importance of keeping accurate records to assist District Councils with their assessment of Gypsy and Traveller accommodation needs.

#### **5. The Approach to be taken on Site provision**

Site provision is an essential element in this protocol. The Joint agency group recognises the need to consider population increase and family growth among Gypsies and Travellers.

##### **5.1. Assessment of Gypsy and Traveller Accommodation Needs**

In 2006 Government Office NW contracted, Salford Housing and Urban Studies Unit at Salford University, to undertake some research. Cheshire and Lancashire contributed to the cost, Cumbria declined. The '*NW Regional Gypsy and Traveller Accommodation and related services assessment*' is the preliminary report of that research. It provided sufficient information for Cheshire and Lancashire to consider the provision of more accommodation for Gypsies and Travellers, but it only provided an overview of the situation for Cumbria.

The Strategic Development Department of the County Council working with the County Housing group began work in Feb 2007 to complete the accommodation needs assessment for Cumbria. Once the assessment is completed all six local

authorities will review the provision of sites for Gypsies and Travellers in Cumbria.

It is anticipated that site provision might be provided publicly or privately and take a variety of forms:

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

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

The joint agency group recognises that Gypsies and Travellers should be involved in site planning and design to ensure that sites are well used, are safe and appropriate to the cultures and lifestyles of Gypsy and Traveller families.

## **5.2. Site Provision and Land Use Planning**

The Government's policy provides for a flexible approach and is set out in Planning for Gypsy and Traveller Caravan Sites ODPM 1/2006. The Circular puts Gypsies on the same footing in planning law as everyone else whilst recognising their special circumstances. It is designed to ensure that applications for Gypsy caravan sites are treated in the same way as any other form of development. It places emphasis on assessing the need for Gypsy site provision.

To try and reduce instances of unauthorised camping local planning authorities will endeavour to follow the advice in Circular 1/2006 which encourages them to increase the number of sites in appropriate locations, mindful that:

- Sites on traditional routes are likely to be well used and sustainable. It may be easier to gain acceptance for sites in areas where Gypsies and Travellers traditionally stop and are a known part of the local community.
- Sites, which are screened from view, may be deemed suitable by Gypsies and Travellers as well as by the settled community.

- Granting temporary planning permissions for sites in a planned sequence might make provision more acceptable to the settled community. This is particularly appropriate for stopping places where little fixed infrastructure may be involved. Temporary sites could be provided in advance of longer-term development proposals.

The seven local authorities in Cumbria will encourage Gypsies to consult with them on planning matters before buying land on which they intend to camp and for which planning permission would be required.

### **5.3. Authorised Sites and Managing Unauthorised Camping**

Where appropriate, partner agencies will try to integrate site management and the management of unauthorised camping. At the moment this applies in Carlisle and Eden only as there are no sites elsewhere.

- Local authority and police officers dealing with unauthorised encampments should have information about vacancies on local authority sites within their area, and ideally in neighbouring areas. Ideally, local authority officers should also be prepared to assist unauthorised campers without local accommodation to find places on privately-owned sites and in permanent housing if this is requested.
- There must be close working between site managers and local authority and police officers dealing with unauthorised camping over allocations of pitches on sites. Site managers may be aware of issues around Gypsy/Traveller group and family compatibility, which must be taken into account when allocating pitches on residential sites.
- More specifically, where police are seeking to use the new powers under s62A of the Criminal Justice and Public Order Act 1994 (inserted by the Anti-social Behaviour Act 2003), a police officer must consult the local authorities in whose area the encamped land lies about the availability of suitable pitches on relevant sites.
- Transit sites and stopping places will be managed to prevent Gypsies and Travellers staying longer than the maximum permitted stay. Site turnover must be maintained if such sites are to continue to cater for Gypsies and Travellers with a nomadic lifestyle. Reluctance to move from transit sites and stopping places may indicate a need for further residential site provision.

The Joint Agency Practitioner groups will co-operate on these issues.

Unauthorised encampments are almost always, by definition, unlawful. However, **while there are insufficient authorised sites, it is recognised that some unauthorised camping will continue.**

## **6. Process to be followed when unauthorised encampments occur**

### **6.1. Graded response**

When an unauthorised encampment occurs there will be a graded response.

These responses will involve consultation with all partners. Police powers will only be used in exceptional circumstances.

1.	A decision should be made as to whether police/local authority resources should be deployed to the site.
2.	If deployed to the unauthorised encampment, a 'site' risk assessment should be conducted. An 'acceptable behaviour' contract should be struck with the occupiers, if appropriate.
3.	If the site is deemed as 'allowed', no further action needs to be taken other than monitoring that the situation remains the same and reassurance of the local community may be necessary.
4.	If the site is deemed as 'not allowed', negotiations need to begin for the occupiers to leave the site.
5.	If negotiations fail, court action or the use of police powers should be considered.

### **6.2. Initial response:**

When an unauthorised encampment is reported in Cumbria, the Constabulary will notify the District Council and/or the County council as appropriate and vice versa. See the table for initial contacts in appendix (vi)

A decision will be made as to whether a site visit is necessary. The response will be proportionate to the information reported. i.e. has there been any wrong doing, how many people or vehicles are involved, are there persons trespassing or engaged in any form of anti-social behaviour etc.

If necessary and practicable there will be an initial joint visit involving the police, district /County Council and if possible the landowner.

It is anticipated that the District Council or the County Council will be the lead agency for each encampment. There will be circumstances where other agencies such as the Police will take the lead. This would be by negotiation and agreement.

The purpose of the visit is to check the accuracy of initial reports/complaints of an encampment, and to gather basic information on its location and size, who

owns the land, past and intended future movement, anticipated length of stay and reasons for the stay.

It may be appropriate to involve the Ethnic Minority Achievement team within Children's Services.

When approaching the site, supervisors and partner agencies present should engage in constructive discussion with all those involved in the unauthorised encampment and the landowner. Care should be taken to ensure those involved are treated with dignity and respect.

It should be explained that in Cumbria the problems of unauthorised camping are managed through a co-ordinated approach from interested agencies. At no time should it be suggested that unauthorised encampment is the sole responsibility of a particular agency.

It should be made clear to all concerned that police/agency attendance in this first instance is simply to carry out an initial assessment of the circumstances of the encampment.

Those involved in the encampment should not feel that the police/local authority have already made decisions to take action, nor should it be intimated this is the case. The officers attending should explain the process that will take place.

### **Unauthorised camping on the public highway**

It is anticipated that all encampments on the highway will be unauthorised or 'not allowed'. There are no powers to authorise them and they are technically an obstruction although in most cases they pose little or no danger to vehicular, pedestrian or other traffic. Each encampment will be considered on its own merits.

All complaints or enquiries will be handled by the Cumbria Highways Hotline Call Centre. The Hotline Call Centre should inform the appropriate Engineer of the County Council's Consultant for the area and the County Council's representatives on the local Joint Liaison Groups. The Engineer should contact the Police and District Council to arrange a joint visit to the site. The purpose of the site visit is to;

- Confirm the location.
- Determine the number of vehicles and living units (photos if possible/practical).
- Establish contact and determine how long the group intend to stay.
- Make a judgement on the obstruction and whether or not this is simply technical or whether the encampment poses a danger to the volume and type of traffic likely to use the highway.

If in the judgement of the Engineer and the Police representative the site is an obstruction then the Police Communication Centre (Tel: 0845 33 00 247) should be informed and formally requested to take appropriate action. If the obstruction is technical then the County Council's representative on the local Joint Liaison Group should be informed and the information from the initial site visit passed on. The Call Centre should be informed of the involvement of the Joint Liaison Groups and all subsequent calls or correspondence from the public

passed to the Council's representative. It is the responsibility of the Joint Liaison Group which includes County Council representatives to co-ordinate a response to the encampment. They will do this through site meetings, assessing the needs of the Travellers, monitoring the encampment and determining if or when a 'Direction to Leave' notice or letter requiring them to leave and warning of civil proceedings should be served. The Engineer should attend if road safety or obstruction is identified as an issue.

### 6.3. Recording Decisions

All decisions (including the rationale behind any decision to allow an encampment to remain for a period) must be fully recorded and documented. Any damage and nuisance should be charted in writing; a photographic or video record might also be taken in support. Records should also be kept of all complaints received about the encampment, with comments as to their validity.

Information passed to unauthorised campers should be recorded, along with offers of assistance made - for example help with a housing application, offer of a pitch on an authorised site - and the response. Similarly it would be good practice to record the fact that an encampment was unproblematic and did **not** cause nuisance or damage. Any complaints received, including any from Gypsy/Traveller unauthorised campers, should be recorded. A summary of the information should be recorded on the form in appendix (iii).

This information will be useful in assessing the need for further site provision, site protection priorities and in setting budgets and appropriate staffing levels. It provides material on which a risk-based response to encampments could be developed drawing on past experience relating to the site or the group/family involved.

### 6.4. Making a Risk Assessment

As part of any risk assessment consideration needs to be given to the following:

- Who owns the land in occupation?
- Is the landowner aware or given consent?
- Is there any damage to the land or its environment?
- Is there any litter or waste present and is this the result of the encampment?
- Are there any children on the site and what welfare needs might they have?
- Does the group in general have any health or welfare needs?
- Are there any animals and what condition are they in?
- What is the likely impact on the local community – unacceptable/significant or minimal?
- Is there any need for them to leave immediately – why?
- What welfare issues are there in relation to sanitation?
- What is the attitude of those present i.e. co-operative / dismissive / evasive / abusive / threatening
- Is the location suitable for habitation i.e. is there any environmental issues such as a rising river etc are there dangers of passing traffic



More information about risk assessment is in appendix (ii) and (iii).

Once a risk assessment has been carried out a decision needs to be made regarding the site. Is it one that will be 'temporally allowed' or 'not allowed'?

It may be necessary to negotiate a period of time after which the Travellers will leave, for the site to be 'allowed'.

Attending officers should set out clearly what is expected of the Travellers. The code of conduct (appendix (v)) should be discussed with those present, if appropriate. This is a useful tool in negotiating with those involved in the unauthorised encampment regarding their conduct whilst at the site and whether the site is allowed or not allowed.

If the site is allowed and the Travellers intend to stay more than two nights, there should be discussions with the Travellers about sanitary arrangements and payment for this facility.

Consideration will be given to longer stays on the following grounds:

- Medical, educational and welfare assessments,
- special needs cases and
- where the landowner permits.

This decision to 'allow' or 'not allow' should not be made before consulting partner agencies and local police management i.e. Local Policing Team Inspector.

Decisions should be made about ongoing joint assessment and monitoring by the police and by the local authority.

Where possible the needs of the group should be facilitated.

If the media are involved, there should be a joint media strategy to ensure the message to the community is consistent and factually correct.

### **Expectations of Gypsies and Travellers in Cumbria.**

The leaflet, 'Code for Gypsies and Travellers in Cumbria' sets out what is expected of Gypsies and Travellers. See Appendix (iii). Officers should use this leaflet with sensitivity; perhaps briefly explaining the information that it contains as some Travellers may have difficulties with reading.

#### **From the Police and other agencies, Gypsies and Travellers can expect:**

- officers from all agencies to be courteous, friendly and supportive of any immediate needs.
- to be asked about which services they might need to access.
- that information about the encampment will be shared with other agencies.
- Cumbria Constabulary and the local authority will monitor the encampment. "This means that **if necessary** there will be more discussions about when you leave and about looking after the land on which you are encamped.
- the Police to investigate any racist or other crimes committed against Gypsies or Travellers.
- the Police to investigate crimes involving Gypsies and Travellers, **if it is appropriate** and in same way as they would with the settled community.

- agencies will work co-operatively to ensure that the necessary services will be provided.

### **Consideration of the Risk Assessment**

Once sufficient information has been gained, partner agencies need to discuss and agree what action should follow and whether the site should be 'temporarily allowed' or 'not allowed'. The risk assessment should provide a good indication as to whether action is required or not and should be used as the basis for any decision made.

#### **6.5. 1. Temporarily Allowed Sites**

If the site is deemed as one which will be 'temporarily allowed', there will be no need for the police to use any legislative powers concerning the site.

Cumbria Constabulary has a commitment to police all communities and this will be considered in deciding what monitoring and service provision should be made available.

There will need to be regular review/risk assessment of the site to ensure that conditions do not change. Regular visits should be made by both the local authority and police supervisors to engage with those present on the site and the landowner.

Those on the site should be made aware that if the conditions of the code of conduct are broken this could lead to the site being deemed 'not allowed'.

If a site is 'temporarily allowed' because of a negotiated time period in which to leave it has been agreed, and that period has been breached, a review should be made of the initial risk assessment. On the basis of that review a decision should be made as whether the site should continue to be 'temporarily allowed' or be deemed 'not allowed'.

#### **6.5.2. Access to services.**

Local authorities will act as the main contact point for specialist service providers and will facilitate access to services: health, welfare and education. Information from the welfare enquiries will indicate what services are required. The business cards shown in appendix (vii) could be used to help Travellers to access local services.

#### **6.6.1 Not Allowed Sites**

The site **may be** deemed 'not allowed' for any number of reasons. Such as where:

- Local amenities are deprived to communities. This could include forming an encampment on school car parks or playing fields, public recreation grounds and parks, village greens or public car parks, hospital car parks or at leisure facilities.

- There is local disruption to the economy. This would include forming an encampment on a shopping centre car park or in an industrial estate where it disrupts workers and customers. It could include agricultural land if this results in the loss of the use of the land for its normal purpose.
- There is other significant disruption to the local community, or there is a need to take preventative action. This might include where a group of trespassers have persistently displayed criminal and anti-social behaviour at a previous site, and there is evidence that such conduct is continuing. This reasoning will take on greater emphasis if the land occupied is privately owned, as the landowner will be responsible for the cleansing and repair of their property.
- Where access to the Public Rights of Way network and public open space is compromised

There is more information on 'not allowed sites in appendix (iv)

When a site is deemed 'not allowed', measures will need to be put in place to facilitate removal of the unauthorised encampment.

#### 6.6.2 Measures to assist in the removal of a group from a 'Not Allowed' site.

It is the responsibility of the landowner to secure, protect and reclaim their land. The landowner must inform trespassers that they are encamped without authority.

It is preferable that eviction from a site is achieved through negotiation with those trespassing.

The process of negotiation is predominantly the responsibility of the landowner, however as part of a multi-agency response officers may engage in this process.

Where negotiation fails the landowner may decide to take court action. If required police officers may assist in this process and provide any information the court may require.

If bailiffs are used, consideration should be given for police officers to be present in order to ensure there is no breach of the peace. Police Officers should note they are to play no part in the eviction of trespassers unless police powers are used.

#### **Removal of a group from a public highway**

If the Joint Liaison Group decides to serve a 'Direction to Leave' notice or a letter requiring the Travellers to leave an encampment on highway land then responsibility will rest with the County Council as Highway Authority. The Joint Liaison Group decision should be given in writing and acted upon by the Engineer arranging for Legal Services to produce the documentation. The Engineer should then arrange for the notice or letter to be served on the occupants of each caravan. If a 'Direction to Leave' notice is to be served, the visit to do this must include the Engineer, a representative from Legal Services and the Police. If a letter is being served, Legal Services need not be in

attendance. However, a Certificate of Service will be prepared by Legal Services for completion by the person serving the letters. If any caravan is unoccupied or no response received then the notice or letter must be fixed to it. Suitable records must be made of the caravans that the notice or letter has been served on. The Direction to Leave Notice or letter will include a reasonable time, normally 48 hours, for occupants to leave. At the end of this period the Engineer should check if those caravans which had notice served on them have left the site. If not, Legal Services should be informed. Any press or media contact should be referred to the Council's representative on the Joint Liaison Group.

### 6.6.3. Use of Police Powers

Police Powers will only be used in exceptional circumstances.

Police have powers granted to them to move unauthorised encampments under sections 61 and 62 of the Criminal Justice and Public Order Act 1994. There are also powers of removing obstructions on a highway such as *A Wilful Obstruction of the Highway* (under Section 137(1) Highways Act 1980), *Unnecessary Obstruction* (under Section 42 Road Traffic Act 1988 & Section 103 Road Vehicles (Construction & Use) Regulations 1986)

Although there will likely be strong pressure exerted for the police to move unauthorised 'not allowed' encampments, it is essential that all alternative methods should have been explored before the use of police powers are considered. Police officers should work with partner agencies and those involved in the encampment to negate the need for such powers to be used.

Officers considering the use of police powers should ensure that all the implications have been considered e.g. human rights, resource commitments, and public / media reaction. They should also revisit the risk assessment carried out at the start of the process to ensure there is no change in circumstance. Officers also need to consider where it is they would like the occupiers to move to and should look to the local authority to assist in this. It could be that if a site is deemed 'not allowed' because of the land owner's resistance to it, the local authority may be able to suggest a 'temporally allowed site'.

Where children are involved at an encampment where eviction is due to take place, they should be given adequate time to be prepared for moving. Eviction can be a traumatic event that will colour their view of the authority for years to come. This action may contribute to greater harmony in the future.

Police powers will not be used unless authorised by a Superintendent or above or in an emergency an officer of at least Inspector Rank. Detailed guidance on the use of these powers is contained on the police national legal database.

### 6.6.4. Post eviction or voluntary evacuation of the Site

The practice of following Travellers or those evicted from a site into another police area is both intimidating and humiliating and may well breach Human Rights. It is extremely unprofessional and contravenes Association of Chief Police Officers guidelines. The only time this practice can and will be tolerated is if they request such action after being victimised or are fearful for their own safety. In such circumstances there may be evidence of offences being committed against them and they should be investigated fully.

### 6.6.5 Post Incident

Eviction is an area where good practice is hard to establish. It is particularly important all agencies should monitor and evaluate local instances of eviction and learn from that experience, by feeding back information to the Joint Agency groups.

### 6.7. Reassuring local communities

It is recognised that rightly or wrongly tensions within the settled community increase due to an unauthorised encampment, but steps can be taken by the police and partner agencies to minimise this risk. It is essential that the rights and needs of the settled community be balanced with those involved in an unauthorised encampment.

There are a number of measures that can be undertaken that will help reassure and inform the settled community thereby helping to prevent an increase in tension that could lead to confrontation.

The key to reassurance is ensuring that the settled community are kept informed and made aware of what is, or is likely to happen, as a result of an unauthorised encampment in the community.

Tactics that could be considered to aid reassurance:

- High visibility patrols in the immediate vicinity of the unauthorised encampment, especially patrols carried out on foot.
- The Community Officer/Local Policing Team/ Police Community Support Officers/district/County Councils to carry out a leaflet drop of premises in the immediate vicinity. The leaflet might provide information about what is happening, that the relevant agencies are aware and providing appropriate services, the Code of Conduct in relation to the behaviour standards expected from the unauthorised encampment and contact details of police and partner agencies.
- Involvement of local Councillors. The Race Relations Act duty 'to promote good relations between different groups of people, extends to all councillors. Consider attendance at local meetings. eg parish council meetings.
- Consideration to be given to carry out further leaflet drops if the unauthorised encampment may be resident for more than 1 week, keeping the settled community up to date with developments.
- Joint agency contact with the local media, providing information as per the leaflet drop, providing added reassurance and information to the wider local community.
- The holding of a community meeting, to address any concerns members of the settled community may have, allowing officers to dispel any misconceptions that may arise and challenging unacceptable

behaviour/comments thereby promoting good community relations and social cohesion.

### 6.8. The Media

We should avoid conflicting press releases coming from different agencies.

The Local authority and the Police are likely to be the lead agencies. It would be beneficial for them to make a joint press release, if that is an appropriate action to inform the local community and other interested parties. This will start to set the media agenda for the incursion. Other agencies could add to, or give separate releases specific to their area of responsibility.

Considerations may include:

- Summary of police powers and those of other agencies.
- Identification of a central point of contact for the enquiries, rather than every agency issuing its own information.
- Selection of staff for this point of contact could include an officer specifically detailed to address public perception of both the incursion and police action.
- Regular updates
- Regular liaison with LVA, Pub Watch schemes, Chamber of Commerce etc. This may minimise local disruption caused by unnecessary closure of businesses due to rumour and incorrect information.

• The co-operating agencies will be operating under tension. They will be caught between the needs of the Travellers for somewhere to stop and the fervent desire of many non-travellers not to live and work in close proximity to encampments.

#### 6.9.1 Preventing waste

Local authority officers will discuss keeping the site clean and tidy and the disposal of household refuse as part of the agreement that a site is 'allowed'.

- If appropriate plastic sacks will be made available and arrangements made for regular collection of bagged refuse. Regular removal of domestic refuse should deter tipping by members of the settled community.
- Some groups of Gypsies and Travellers are willing to use skips for domestic waste. Again, provision and removal may be cost-effective if the alternative is a build-up of refuse acting as a magnet for other fly tipping by members of the settled community. Local authorities will check that skips would be used before providing them and to seek to recover costs from the unauthorised campers.
- One of the common complaints about unauthorised encampments is of people urinating and defecating in public. Public defecation is a difficult and sensitive issue, is visually unpleasant and can be a nuisance. The practice is a nuisance and a health hazard. However, Gypsies and Travellers have strict cultural codes about hygiene and consider it unclean to use toilet facilities in a caravan or to share facilities. Local authorities will liaise with unauthorised campers and make plain that public defecation is not acceptable behaviour, and discuss what form of toilet

provision the local authority can assist with to prevent it and any arrangements for payment for that service.

Unauthorised campers need to realise that, under a pro-active approach to managing unauthorised encampments, failure to keep the site clean and tidy in breach of a Code of Expected Behaviour is likely to lead to rapid eviction.

Such a policy should be cost-effective in reducing the need to spend large sums on cleaning up.

### **6.9.2. Enforcement Action regarding waste**

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

District council policies with regard to size of van or trailers visiting waste disposal sites need to be checked to ensure that the good intention to dispose of waste does not result in Travellers being turned away.

Enforcement measures are available. Collecting sufficient evidence for successful prosecution requires determination and partnership working from the agencies involved.

#### **Measures for Enforcing against Pollution, Littering and Fly-tipping**

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

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

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

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

**Clean Neighbourhoods and Environment Act 2005.** Extends the offence of dropping litter on all types of land, including water, which is open to the air and to which the public have access.

## 7. Roles and Responsibilities.

### 7.1. Call Handlers

Each agency will ensure that their call handlers:

- know about the Joint Agency Protocol
- have training to deal with calls appropriately and effectively
- are provided with up to date information about who deals with unauthorised encampments
- are provided with up-to-date information about service provision to Gypsies and Travellers.

### 7.2. Cumbria Constabulary

- Identify a named officer in each local authority area
- Identify and respond to public safety concerns
- Inform all relevant agencies of location and number of Travellers.
- Monitor, update and share relevant information to other agencies.
- Provision of policing services to the Gypsy and Traveller community
- Maintenance of public order
- Prevention and detection of crime
- Work with partners to address road safety concerns

### 7.3. Cumbria PCT.

- Identify a key contact officer and key contacts in each district council area.
- Assess health needs and provide client held records
- Monitor, update and share relevant information to other agencies.

### 7.4. Cumbria County Council: (Children's Services, CEE, Social Services and other relevant departments)

- Identify and respond to public health concerns
- Assess education needs and provide information on service provision
- Provide an outreach educational service where appropriate
- Identify and respond to road safety concerns.
- Provide information on service provision (adult and child social care services, community, library etc.)
- Monitor, update and share relevant information to other agencies.



- Provide a strategic lead for the provision of Gypsy and Traveller accommodation

#### **7.5. Copeland BC, Allerdale BC, Barrow BC, South Lakeland DC, Eden DC, Carlisle City Council:**

- Identify a named officer with responsibility for Gypsy and Traveller issues
- The responsible officer in a local authority should establish procedures for reporting to and informing elected members and parish councils about encampments. Ensuring that elected members are fully aware of the legislative background, local strategies and policies on managing unauthorised encampments including, for example, their race relations responsibilities.
- Identify and respond to public safety concerns.
- Provide information on service provision
- Monitor, update and share relevant information to other agencies.
- Provide accommodation to meet the needs of Gypsies and Traveller

#### **7.6 The Joint agency Gypsy and Traveller groups**

##### **The Strategic Planning Group Chair (currently provided by the County Council)**

- Chair and administer working group.
- Assist in the development of and maintenance of clear guidelines for unauthorised encampments.
- Facilitate additional meetings as appropriate.
- Monitor, update and share information with other agencies.

##### **Cumbria Joint Agency Strategic Planning Group.**

The responsibility of the officer representing each agency is to work with others in developing Cumbria wide policy and guidance for working with Gypsies and Travellers. His/her responsibility is to participate in this process, advising on their own agency's policy and procedure with regard to unauthorised encampments, and developing national practices.

They will need an overview of incidents, Gypsy and Traveller numbers and travelling patterns in the County, cultural preferences of each family group, family structures, economic activity, accommodation, health and education needs.

The Strategic Planning Group representative should know who to liaise with in associated agencies, within Cumbria neighbouring counties and in Scotland. He/she should liaise with their own agency's Legal Department and work co-operatively with other agencies to develop a good relationship with the media.

This group, with the help of the Practitioner groups, will monitor the Protocol arrangements and review and update the document at least annually, on the anniversary of the formal signing by chief executives.

##### **Joint agency Practitioners group Chair.**

- Chair and administer working group.
- Assist in the development of and maintenance of clear guidelines for unauthorised encampments.

- Facilitate additional meetings as appropriate
- Monitor, update and share information with other agencies.

### Practitioners groups

Members should:

- a) Be proactive in helping this group to function.
- b) Develop good relationships with settled and visiting Gypsies and Travellers in their area and with the permission of these contacts share information as appropriate to support Gypsy and Traveller needs.
- c) Consult, in conjunction with other agencies, with Gypsies and Travellers on Gypsy and Traveller policy and guidance and other issues as appropriate.
- d) Meet formally, twice a year, with additional meetings being called if any partner perceives a need, with the other members of the Joint Agency Practitioner group, to enable information to be cascaded to a local level from the Strategic planning group, to ensure uniform and consistent management and allow examples of good working practice to be shared upwards.
- e) Liaise with the settled community over Gypsy and Traveller issues and promote better relationships between the two groups.
- f) Organise additional training, in conjunction with the other agencies for staff that might come into contact with Gypsies and Travellers. This training should raise awareness of:
  - Gypsy and Traveller culture and history and
  - Effective ways of handling Gypsy and Traveller issuesProvide other officers within their agency with information so that local issues can be resolved effectively.
- g) For their area, practitioners should have an overview of incidents, Gypsy and Traveller numbers and travelling patterns, cultural preferences of each family group, family structures, economic activity, accommodation, health and education needs.

Responsibilities within the strategy for dealing with unauthorised camping should be recognised within the job descriptions and workloads of the named officers from each agency.

## 8.0. Resources and Constraints

Some agencies have an identified budget for unauthorised encampments. The Joint agency group has no joint resource.

At the time of writing Cumbria Constabulary leads the joint agency Gypsy and Traveller work. It is anticipated that district councils or the County Council will assume the lead during the lifetime of this version of the protocol. This has been a constraint on progress as the police have no responsibility for provision of accommodation.

## 9. Strategy for communicating the Protocol widely

The *Protocol for Dealing with Unauthorised Camping* will be published and widely disseminated to local businesses, landowners, local residents, and Gypsies and Travellers.

<b>Strategy for communicating the protocol</b>	<b>Target date</b>
Publish protocol on district council, police and county council website	
Press release about new protocol	
Contact details for key officers available on.....	
Each practitioners group to identify key groups within each district to inform about the protocol. Inform those key groups	
Inform those key groups	
Publish an article in the CALC newsletter.	

## 10. Monitoring the Strategy

The County Council will be the lead agency.

Monitoring will concentrate on whether:

- whether the protocol is being implemented effectively
- on identifying any adverse impact on particular groups.
- whether the protocol is meeting stated objectives

### **Key monitoring questions:**

Are all the key agencies involved in each district council area?

Are key agencies adhering to the protocol?

Are the unauthorised encampment records complete for each district council area?

Are Gypsies and Travellers involved in Joint agency meetings and other relevant consultations?

### **Sources of data:**

Contact details for each area.

Verified complaints about unauthorised encampments from Gypsies and Travellers and the settled community.

Verified complaints about the delivery of services to Gypsies and Travellers.

Six monthly review from the County Council

Newspaper articles

## 11. A Holistic Approach

This protocol recognises that unauthorised camping does not exist in a vacuum. Relevant policy areas are land use planning (including development planning, planning control and enforcement), housing and homelessness, environmental health, animal welfare, health and education. Strategic approaches to dealing with local issues, crime and social exclusion may also be relevant and might refer to Gypsies and Travellers.

### **Strategies and Partnerships Relevant to Gypsies and Travellers**

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

## 12. Animal Welfare

### 12<sup>th</sup> May 1971 CHAPTER 22

An Act to make provision with respect to civil liability for damage done by animals and with respect to the protection of livestock from dogs; and for purposes connected with those matters

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows This Act does not extend to Scotland.

## **1 New provisions as to strict liability for damage done by animals**

- (1) The provisions of sections 2 to 5 of this Act replace—
- (a) the rules of the common law imposing a strict liability in tort for damage done by an animal on the ground that the animal is regarded as *ferae naturae* or that its vicious or mischievous propensities are known or presumed to be known;
  - (b) subsections (1) and (2) of section 1 of the Dogs Act 1906 as amended by the Dogs (Amendment) Act 1928 (injury to cattle or poultry); and
  - (c) the rules of the common law imposing a liability for cattle trespass.
- (2) Expressions used in those sections shall be interpreted in accordance with the provisions of section 6 (as well as those of section 11) of this Act.

## **2 Liability for damage done by dangerous animals**

- (1) Where any damage is caused by an animal which belongs to a dangerous species, any person who is a keeper of the animal is liable for the damage, except as otherwise provided by this Act.
- (2) Where damage is caused by an animal which does not belong to a dangerous species, a keeper of the animal is liable for the damage, except as otherwise provided by this Act, if—
- (a) the damage is of a kind which the animal, unless restrained, was likely to cause or which, if caused by the animal, was likely to be severe; and
  - (b) the likelihood of the damage or of its being severe was due to characteristics of the animal which are not normally found in animals of the same species or are not normally so found except at particular times or in particular circumstances: and
  - (c) those characteristics were known to that keeper or were at any time known to a person who at that time had charge of the animal as that keeper's servant or, where that keeper is the head of a household, were known to another keeper of the animal who is a member of that household and under the age of sixteen.

## **3 Liability for injury done by dogs to livestock**

Where a dog causes damage by killing or injuring livestock, any person who is a keeper of the dog is liable for the damage, except as otherwise provided by this Act.

## **4 Liability for damage and expenses due to trespassing livestock**

- (1) Where livestock belonging to any person strays on to land in the ownership or occupation of another and—

(a) damage is done by the livestock to the land or to any property on it which is in the ownership or possession of the other person; or

(b) any expenses are reasonably incurred by that other person in keeping the livestock while it cannot be restored to the person to whom it belongs or while it is detained in pursuance of section 7 of this Act, or in ascertaining to whom it belongs;

the person to whom the livestock belongs is liable for the damage or expenses, except as otherwise provided by this Act.

(2) For the purposes of this section any livestock belongs to the person in whose possession it is.

### **5 Exceptions from liability under sections 2 to 4**

(1) A person is not liable under sections 2 to 4 of this Act for any damage which is due wholly to the fault of the person suffering it.

(2) A person is not liable under section 2 of this Act for any damage suffered by a person who has voluntarily accepted the risk thereof.

(3) A person is not liable under section 2 of this Act for any damage caused by an animal kept on any premises or structure to a person trespassing there, if it is proved either—

(a) that the animal was not kept there for the protection of persons or property; or

(b) (if the animal was kept there for the protection of persons or property) that keeping it there for that purpose was not unreasonable.

(4) A person is not liable under section 3 of this Act if the livestock was killed or injured on land on to which it had strayed and either the dog belonged to the occupier or its presence on the land was authorised by the occupier.

(5) A person is not liable under section 4 of this Act where the livestock strayed from a highway and its presence there was a lawful use of the highway.

(6) In determining whether any liability for damage under section 4 of this Act is excluded by subsection (1) of this section the damage shall not be treated as due to the fault of the person suffering it by reason only that he could have prevented it by fencing; but a person is not liable under that section where it is proved that the straying of the livestock on to the land would not have occurred but for a breach by any other person, being a person having an interest in the land, of a duty to fence.

### **6 Interpretation of certain expressions used in sections 2 to 5**

(1) The following provisions apply to the interpretation of sections 2 to 5 of this Act.

(2) A dangerous species is a species—

- (a) which is not commonly domesticated in the British Islands; and
- (b) whose fully grown animals normally have such characteristics that they are likely, unless restrained, to cause severe damage or that any damage they may cause is likely to be severe.

(3) Subject to subsection (4) of this section, a person is a keeper of an animal if—

- (a) he owns the animal or has it in his possession; or
- (b) he is the head of a household of which a member under the age of sixteen owns the animal or has it in his possession;

and if at any time an animal ceases to be owned by or to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.

(4) Where an animal is taken into and kept in possession for the purpose of preventing it from causing damage or of restoring it to its owner, a person is not a keeper of it by virtue only of that possession.

(5) Where a person employed as a servant by a keeper of an animal incurs a risk incidental to his employment he shall not be treated as accepting it voluntarily.

## **7 Detention and sale of trespassing livestock**

(1) The right to seize and detain any animal by way of distress damage feasant is hereby abolished.

(2) Where any livestock strays on to any land and is not then under the control of any person the occupier of the land may detain it, subject to subsection (3) of this section, unless ordered to return it by a court.

(3) Where any livestock is detained in pursuance of this section the right to detain it ceases—

- (a) at the end of a period of forty-eight hours, unless within that period notice of the detention has been given to the officer in charge of a police station and also, if the person detaining the livestock knows to whom it belongs, to that person; or

- (b) when such amount is tendered to the person detaining the livestock as is sufficient to satisfy any claim he may have under section 4 of this Act in respect of the livestock; or

- (c) if he has no such claim, when the livestock is claimed by a person entitled to its possession.

(4) Where livestock has been detained in pursuance of this section for a period of not less than fourteen days the person detaining it may sell it at a market or by public auction, unless proceedings are then pending for the return of the livestock or for any claim under section 4 of this Act in respect of it.

(5) Where any livestock is sold in the exercise of the right conferred by this section and the proceeds of the sale, less the costs thereof and any costs

incurred in connection with it, exceed the amount of any claim under section 4 of this Act which the vendor had in respect of the livestock, the excess shall be recoverable from him by the person who would be entitled to the possession of the livestock but for the sale.

(6) A person detaining any livestock in pursuance of this section is liable for any damage caused to it by a failure to treat it with reasonable care and supply it with adequate food and water while it is so detained.

(7) References in this section to a claim under section 4 of this Act in respect of any livestock do not include any claim under that section for damage done by or expenses incurred in respect of the livestock before the straying in connection with which it is detained under this section.

### **8 Duty to take care to prevent damage from animals straying on to the highway**

(1) So much of the rules of the common law relating to liability for negligence as excludes or restricts the duty which a person might owe to others to take such care as is reasonable to see that damage is not caused by animals straying on to a highway is hereby abolished.

(2) Where damage is caused by animals straying from unfenced land to a highway a person who placed them on the land shall not be regarded as having committed a breach of the duty to take care by reason only of placing them there if—

- (a) the land is common land, or is land situated in an area where fencing is not customary, or is a town or village green; and
- (b) he had a right to place the animals on that land.

### **9 Killing of or injury to dogs worrying livestock**

(1) In any civil proceedings against a person (in this section referred to as the defendant) for killing or causing injury to a dog it shall be a defence to prove—

- (a) that the defendant acted for the protection of any livestock and was a person entitled to act for the protection of that livestock; and
- (b) that within forty-eight hours of the killing or injury notice thereof was given by the defendant to the officer in charge of a police station.

(2) For the purposes of this section a person is entitled to act for the protection of any livestock if, and only if—

- (a) the livestock or the land on which it is belongs to him or to any person under whose express or implied authority he is acting; and
- (b) the circumstances are not such that liability for killing or causing injury to the livestock would be excluded by section 5(4) of this Act.

(3) Subject to subsection (4) of this section, a person killing or causing injury to a dog shall be deemed for the purposes of this section to act for the protection of any livestock if, and only if, either—

- (a) the dog is worrying or is about to worry the livestock and there are no other reasonable means of ending or preventing the worrying; or



(b) the dog has been worrying livestock, has not left the vicinity and is not under the control of any person and there are no practicable means of ascertaining to whom it belongs.

(4) For the purposes of this section the condition stated in either of the paragraphs of the preceding subsection shall be deemed to have been satisfied if the defendant believed that it was satisfied and had reasonable ground for that belief.

(5) For the purposes of this section—

(a) an animal belongs to any person if he owns it or has it in his possession; and

(b) land belongs to any person if he is the occupier thereof.

### Supplemental

## 10 Application of certain enactments to liability under sections 2 to 4

For the purposes of the Fatal Accidents Acts 1846 to 1959, the Law Reform (Contributory Negligence) Act 1945 and [the Limitation Act 1980] any damage for which a person is liable under sections 2 to 4 of this Act shall be treated as due to his fault.

## Animal Welfare Act 2006: Sections 18, 19, 20

### Animals in distress

#### **18 Powers in relation to animals in distress**

(1) If an inspector or a constable reasonably believes that a protected animal is suffering, he may take, or arrange for the taking of, such steps as appear to him to be immediately necessary to alleviate the animal's suffering.

(2) Subsection (1) does not authorise destruction of an animal.

(3) If a veterinary surgeon certifies that the condition of a protected animal is such that it should in its own interests be destroyed, an inspector or a constable may—

(a) destroy the animal where it is or take it to another place and destroy it there, or

(b) arrange for the doing of any of the things mentioned in paragraph (a).

(4) An inspector or a constable may act under subsection (3) without the certificate of a veterinary surgeon if it appears to him—

(a) that the condition of the animal is such that there is no reasonable alternative to destroying it, and

(b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.

(5) An inspector or a constable may take a protected animal into possession if a veterinary surgeon certifies—

(a) that it is suffering, or

(b) that it is likely to suffer if its circumstances do not change.

(6) An inspector or a constable may act under subsection (5) without the certificate of a veterinary surgeon if it appears to him—

(a) that the animal is suffering or that it is likely to do so if its circumstances do not change, and

(b) that the need for action is such that it is not reasonably practicable to wait for a veterinary surgeon.

(7) The power conferred by subsection (5) includes power to take into possession dependent offspring of an animal taken into possession under that subsection.

(8) Where an animal is taken into possession under subsection (5), an inspector or a constable may—

(a) remove it, or arrange for it to be removed, to a place of safety;

(b) care for it, or arrange for it to be cared for—

(i) on the premises where it was being kept when it was taken into possession, or

(ii) at such other place as he thinks fit;

(c) mark it, or arrange for it to be marked, for identification purposes.

(9) A person acting under subsection (8)(b)(i), or under an arrangement under that provision, may make use of any equipment on the premises.

(10) A veterinary surgeon may examine and take samples from an animal for the purpose of determining whether to issue a certificate under subsection (3) or (5) with respect to the animal.

(11) If a person exercises a power under this section otherwise than with the knowledge of a person who is responsible for the animal concerned, he must, as soon as reasonably practicable after exercising the power, take such steps as are reasonable in the circumstances to bring the exercise of the power to the notice of such a person.

(12) A person commits an offence if he intentionally obstructs a person in the exercise of power conferred by this section.

(13) A magistrates' court may, on application by a person who incurs expenses in acting under this section, order that he be reimbursed by such person as it thinks fit.

(14) A person affected by a decision under subsection (13) may appeal against the decision to the Crown Court.

### **19 Power of entry for section 18 purposes**

(1) An inspector or a constable may enter premises for the purpose of searching for a protected animal and of exercising any power under section 18 in relation to it if he reasonably believes—

(a) that there is a protected animal on the premises, and

(b) that the animal is suffering or, if the circumstances of the animal do not change, it is likely to suffer.

(2) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling.

(3) An inspector or a constable may (if necessary) use reasonable force in exercising the power conferred by subsection (1), but only if it appears to him that entry is required before a warrant under subsection (4) can be obtained and executed.

(4) Subject to subsection (5), a justice of the peace may, on the application of an inspector or constable, issue a warrant authorising an inspector or a constable to enter premises for the purpose mentioned in subsection (1), if necessary using reasonable force.

(5) The power to issue a warrant under subsection (4) is exercisable only if the justice of the peace is satisfied—

(a) that there are reasonable grounds for believing that there is a protected animal on the premises and that the animal is suffering or is likely to suffer if its circumstances do not change, and

(b) that section 52 is satisfied in relation to the premises.

## **20 Orders in relation to animals taken under section 18(5)**

(1) A magistrates' court may order any of the following in relation to an animal taken into possession under section 18(5)—

(a) that specified treatment be administered to the animal;

(b) that possession of the animal be given up to a specified person;

(c) that the animal be sold;

(d) that the animal be disposed of otherwise than by way of sale;

(e) that the animal be destroyed.

(2) If an animal is taken into possession under section 18(5) when it is pregnant, the power conferred by subsection (1) shall also be exercisable in relation to any offspring that results from the pregnancy.

(3) The power conferred by subsection (1) shall be exercisable on application by—

(a) the owner of the animal, or

(b) any other person appearing to the court to have a sufficient interest in the animal.

(4) A court may not make an order under subsection (1) unless—

(a) it has given the owner of the animal an opportunity to be heard, or

(b) it is satisfied that it is not reasonably practicable to communicate with the owner.

(5) Where a court makes an order under subsection (1), it may—

(a) appoint a person to carry out, or arrange for the carrying out, of the order;

(b) give directions with respect to the carrying out of the order;

(c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order;

(d) order a person to reimburse the expenses of carrying out the order.

(6) In determining how to exercise its powers under this section, the court shall have regard, amongst other things, to the desirability of protecting the animal's value and avoiding increasing any expenses which a person may be ordered to reimburse.

(7) A person commits an offence if he intentionally obstructs a person in the exercise of any power conferred by virtue of this section.

(8) If the owner of the animal is subject to a liability by virtue of section 18(13) or subsection (5)(d) above, any amount to which he is entitled as a result of sale of the animal may be reduced by an amount equal to that liability.

## 13. Summary

### **Issues to consider.**

- The decreasing number of authorised sites/accommodation for Travellers has led to an increased use of unauthorised sites.
- The costs in removing Travellers from unauthorised sites and the practical difficulties likely to be incurred by any such action.
- Stereotyping of Gypsies and Traveller communities as being associated with criminality. It is acknowledged that, like any other community, the Gypsy and Traveller people have their criminal element, but previous experience and better knowledge and awareness of their lifestyle shows they have their own culture and values like other communities with the majority not being criminals.
- Many Gypsies and Travellers would prefer to police themselves, but they do want to be protected against crime and are generally supportive of the Police when criminals from within their own communities are dealt with.
- Many residents in other communities continue to be fearful of Travellers, often enflamed by media coverage. The Police and local authorities are then frequently put under pressure to take action against Travellers.

The smooth management of incidents and the improved relationships with the Travellers should help to increase the confidence of the settled and Traveller community. In the longer term this will make it easier for the co-operating agencies to identify a range of suitable and acceptable stopping places.

## Terms and definitions

**Gypsy and Traveller** (EU definitions)-an overarching title for all traditional, indigenous, hereditary Travellers. (Equal Opportunities Committee 1st Report 2001)

**Unauthorised Encampments** -are considered to be those where a group of Gypsies or Travellers have established themselves:

a) on any land forming part of the public road or

- b) on any unoccupied land without the consent of the landowner.
- c) Anywhere where an encampment is established with out planning permission.

**Officer.** In this document the word officer, unless qualified, is used to refer to an official from one of the co-operating agencies.

**Unauthorised encampment:** ODPM definition: trespassing by people on land which they do not own.

**Local Authority:** There is a two tier arrangement in Cumbria: The County Council and six district Councils. It is not always clear who has responsibility for what. The district councils do have responsibility for housing/site needs.

## Comments and Contact

**If you would like to comment on or complain about this protocol, please contact :**

The Equality Officer  
 The Courts  
 Carlilse  
 Cumbria

## Supporting information

<b>Appendix</b>	
(i)	Legislative background
(ii)	Risk Assessment
(iii)	Information collection and risk assessment form
(iv)	Sites <b>not normally</b> acceptable
(v)	Code of Conduct
(vi)	Contact details
(vii)	Business card details
(viii)	Frequently asked questions

## Appendix. (i). Legislative background

### .1. Site Provision

- The Caravan Sites and Control of Development Act 1960 s24 gives local authorities discretionary powers to provide caravan sites.
- While there is no duty on local authorities to provide Gypsy sites, DoE Circular 18/94 makes clear that authorities should maintain their existing Gypsy caravan sites, and should continue to consider whether it is appropriate to provide further permanent caravan sites for Gypsies in their areas.
- Planning Circular 1/2006 Planning for Gypsy and Traveller Caravan Sites, requires a comprehensive systematic approach to be taken to the assessment of housing needs and site provision.
- The 'Assessment of Gypsy and Traveller Accommodation Need' is a statutory requirement under the Housing Act 2004 which came into force on Jan 2<sup>nd</sup> 2007. The needs of Gypsies and Travellers identified by the assessment will inform the preparation of regional and local strategies, including the Local Development Framework which must set out policies to address those needs.
- Government is currently reviewing policy on Gypsy site provision. Gypsy Sites Refurbishment Grant makes limited funding available for provision of transit and emergency stopping places.
- Private site provision is governed by planning legislation. ODPM circular 1/2006 sets out the Government's policy on Gypsy site provision and urges local planning authorities to consider, and to look favourably, at applications for Gypsy sites in development planning and development control.

### 2. Dealing with Unauthorised Encampments

- There is no specific legislative duty placed on local authorities to deal with unauthorised encampments by Gypsies and Travellers.
- Local authorities can take action as landowners through civil actions against trespass using Civil Procedure Rules Part 55, heard in a County Court.
- Local authorities have powers given by the Criminal Justice and Public Order 1994 ss77 and 78 (see Chapter 6). These require cases to be brought in the Magistrates' Court.
- Common law rights to recover land from trespassers are also available to local authorities over land they occupy. Authorities are, however, advised not to use such powers unless there is exceptional justification for doing so and, for example, the police are unable to use their powers under s61 of the CJPOA (see 6.5 above).

- DoE Circular 18/94 provides guidance to local authorities on the exercise of s77 powers, and reminds them of their other duties towards Travellers in terms of education, children and homelessness legislation.
- Case law (starting with the judgement of Sedley J in *R v Wealden District Council ex parte Wales*) has developed and clarified the courts' expectations of the welfare enquiries and decision-making processes local authorities should adopt in making evictions under 1994 Act and other powers.
- Where Travellers camp on land which they own or on other private land with the consent of the landowner, district councils may take planning enforcement action, or prosecute for running a caravan site without a site licence.
- The Police have parallel powers granted by s61 of the CJPOA (see Chapter 6). Action under s61 is normally much quicker than under s77, and the welfare considerations less onerous although there are certain conditions in the legislation which have to be fulfilled before eviction can take place.
- The Anti-social Behaviour Act 2003 added new ss61A and 62A into the CJPOA which give police enhanced eviction powers in circumstances where there are suitable pitches on relevant Gypsy sites to accommodate the caravans affected. These sections come into force on 27 February 2004 and guidance as to their operation will be issued.

### 3. Other Enforcement Measures

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

### 4. Service Provision for Gypsies and Travel

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

### 5. Human Rights

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

## **Article 8: Right to respect for private and family life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Case law has established that, while neither eviction action against trespassers nor planning enforcement is incompatible with HRA, either could potentially breach Article 8 rights if not properly used. Authorities, and other public bodies covered by the HRA, must be able to demonstrate that all eviction and enforcement decisions are 'proportionate' in weighing individual harm (in the loss of 'home' for the Gypsy or Traveller) against the wider public interest. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny.

### **First Protocol, Article 1: Protection of property**

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

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

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

### **First Protocol, Article 2: Right to education**

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

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

### **Article 14: Prohibition of discrimination**



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

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

### **3.6. Race Relations and Equalities**

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

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

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

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

## **6. Legal and other references**

- Race Relations Act 1976 and the Race Relations (Amendment Act) 2000
- The European Convention on Human Rights
- Human Rights Act 1998
- Crime and Disorder Act 1998

- Criminal Justice and Public Order Act 1994
- The Treaty of Amsterdam
- Council Directive 2000/43/EC
- Equal Opportunities Committee First Report 2001
- *Gypsies and Travellers-A Strategy for the CRE.2003-2006.* Commission for Racial Equality.
- *Gypsy Travellers. A policing Strategy* Insp. Ian Taggert. Grampian Police.
- *'Unauthorised Encampments of Gypsy Travellers'* Dumfries and Galloway Constabulary.
- *Travellers Policy statement.* Central Scotland Police.
- *The Management of unauthorised Gypsy and Traveller encampments.* Leicestershire Constabulary.
- *Mass Incursions. An Aide Memoir.* Jointly produced by Cambridge, Essex, Humberside, Lincolnshire, Norfolk, Nottinghamshire and Suffolk Constabularies.
- *Homelessness. Code of Guidance for Local Authorities.* ODPM July 2002.
- *Local Authority Gypsy/Traveller Site in England.* A research paper Commissioned by the Home Office. July 2003.
- *Local Gypsy and Traveller Sites.* Pat Niner. Centre for urban and regional studies. Univ. Birmingham ODPM July 2003
- *The Planning and Compulsory purchase Act 2003* creates regional spatial strategies, which will set targets for homes including Traveller accommodation.
- *Guidance on Managing unauthorised Camping.* ODPM Feb 2004
- *Planning for Gypsy and Traveller Sites.* Consultation paper. ODPM 2004.
- *Temporary Stop notice* ODPM Circular 02/2005
- *Supplement to Managing Unauthorised Camping* ODPM March 2005
- *The provision and Condition of Local Authority Sites* ODPM Feb 2005
- *Counting Gypsies and Travellers. A Review of the Gypsy Caravan Counting System* ODPM Feb 2005
- *Circular 01/06 Planning for Gypsy and Traveller caravan sites.* ODPM Gypsy and Traveller Unit.
- *Guide to effective use of Enforcement Powers. Part 1. Unauthorised Encampments.* Feb 2006. ODPM Gypsy and Traveller Unit.
- *Gypsy and Traveller Accommodation Assessments. Draft Planning Guidance.* Feb 2006. ODPM Gypsy and Traveller Unit.
- *Local Authority and Gypsy and Traveller Guide to Responsibilities and Powers.* Feb 2006. ODPM Gypsy and Traveller Unit.
- *Report of the LGA Gypsy and Traveller task group* June 2006
- *Common Ground* CRE May 2006.

## Appendix. (ii). Risk Assessment.

It is impossible to anticipate the precise risks involved at locations used for unauthorised encampments, as it will depend on the particular circumstances relating to each encampment.

It is suggested that the following Risk Assessment provides a methodology to ensure as far as possible a similar response to all unauthorised encampments across the County.

Risk is normally assessed by the level or seriousness of the threat, on a scale of 1-3 and by multiplying this by the likelihood of the threat actually happening, again on a basis of 1-3. For these purposes, in terms of seriousness, 1 is minimal; perhaps the presence of a single family or small group of Travellers while 3 would be appropriate for a much larger gathering, where problems could be anticipated due to the sheer number of people present, regardless of their background or origin. Likelihood follows a similar scale, where 1 is unlikely to occur, 2 will happen sooner or later, and 3 are likely to happen today, or possibly has already occurred. The result gives scores between 1 and 9, where 1 is very low overall risk and 9 is very high.

For unauthorised encampments examples of how this could operate is set out below: -

### **Threat could be interpreted as follows: -**

- 1- Low**, located in a remote location, not environmentally sensitive, unlikely to interfere with settled community.
- 2- Medium**, located away from centres of population but where disruption may occur to population or premises nearby. (For example potential problems at a nearby public house)
- 3 - High**, located close to a centre of population, environmentally sensitive area, or other area giving particular cause for concern (e.g. school playground, city centre car park)

### **Likelihood could be interpreted as follows: -**

- 1 - Low** - small numbers intending to stay for short period. No known intelligence indicating likely criminal activity or disorder
- 2 - Medium** - a larger group with a longer stay planned (say over 3 nights?) - some evidence of minor disorder or confrontation
- 3- High** - large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community

### **Specific examples using this system would be: -**

- 1) Small group of caravans stop overnight on a section of old road at Stainmore: Threat = 1 (Low), Likelihood = 1 (Low) so **Risk = 1x1 = 1 Low**
- 2) Small group of vans pull up close to a school for a few nights: Threat = 2 (medium), Likelihood = 1 (Low) **Risk = 2x1 = 2 (Low)**
- 3) A large group take up residence on the outskirts of a small village. They indicate that they will be staying for two weeks until a wedding takes place. Intelligence exists to indicate that members of this same group were involved in

disorder and criminality in another force area prior to coming to Penrith. Threat = 3 (High), Likelihood = 3 High, **Risk = 3x3 = 9 (High)**

In the examples given a proportionate response would probably be to monitor the first two groups and take more positive action with the third. Applying a risk assessment assists us to objectively justify the course of action we take, and the risk can be reassessed at any time if circumstances change.

### Site Classification Risk Assessment.

	High	Medium	Low
<b><u>Threat</u></b>	- large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community	located away from centres of population but where disruption may occur to population or premises nearby. (For example potential problems at a nearby public house	Located in a remote location, not environmentally sensitive, unlikely to interfere with settled community.
<b><u>Likelihood</u></b>	large group with indefinite stay planned. Specific intelligence exists to suggest criminal activity or serious disorder. Evidence of serious disorder/confrontation having already occurred with settled community	A larger group with a longer stay planned (say over 3 nights?) - some evidence of minor disorder or confrontation	Small numbers intending to stay for short period. No known intelligence indicating likely criminal activity or disorder

## Appendix. (iii). Gypsy and Traveller unauthorised encampment information and risk assessment form

Please complete the form below and return to Kieran Barr who is the co-ordinator at [kieran.barr@cumbriacc.gov.uk](mailto:kieran.barr@cumbriacc.gov.uk)

Agency District Council Area

Person completing the form Grid reference/Postcode

Location of the encampment (detail please)

Dates of the encampment.....Duration in days.....

Number of caravans .....Number of vehicles.....

Visible number of adults..... 5-16 year olds..... under 5's.....

Needs identified in the process of dealing with the encampment

### Additional Information

Family Name Vehicle Registration number

Welfare Issues

Action taken

### RISK ASSESSMENT FORM

Scoring on a basis of 1 to 3 (1=Low Risk) (2 = Medium) (3= High Risk)

1. The locations suitability	
2. Traveller numbers (larger no. greater risk)	
3. Number of corroborated complaints received (Larger no greater risk)	
4. Length of intended stay	
5. Co-operation between authorities and travellers	

5 to 8 Low Risk  
 9 to 11 Med Risk  
 12 to 15 High Risk

### Appendix. (iv).

Below is a list of sites where an unauthorised encampment would **not normally** be acceptable is illustrative only and is not intended to be exhaustive.

<b>Some Examples of Types of Site where Unauthorised Camping would Normally be Unacceptable</b>
<ul style="list-style-type: none"><li>• A Site of Special Scientific Interest (SSSI) where an encampment endangers a sensitive environment or wildlife</li><li>• School car park or playing fields (especially in term time)</li><li>• An urban park</li><li>• Car parks, including hospital, supermarket or leisure facility car parks</li><li>• An industrial estate</li><li>• Recreation ground and public playing fields</li><li>• A site where pollution from vehicles or dumping could damage ground water or water courses</li><li>• A derelict area with toxic waste or other serious ground pollution</li><li>• A village green or other open area within a residential area</li><li>• The verge of a busy road where fast traffic is a danger to unauthorised campers' children</li><li>• All highways</li></ul>

Wherever possible, local authorities and/or police should seek to prevent Gypsies and Travellers from establishing an encampment in an unacceptable location. Where this proves impossible, they should attempt to encourage the unauthorised campers to move to an authorised site where available. Identification of possible 'acceptable' sites could assist local authorities and the police in the management of unauthorised encampments in circumstances where there are no available pitches on authorised sites.

Appendix. (v).

## **Code for Gypsies and Travellers in Cumbria.**

**Gypsies and Travellers and the settled community are entitled to live free from crime, harassment, intimidation and discrimination.**

The stay on land will depend on your co-operation.

Please keep groups small and away from built up areas.

Please space yourselves out and park away from other groups.

Please look after the land you park on and don't cause problems for nearby residents.

Please use black plastic bags for rubbish

Please use official refuse tips

Please park vehicles safely and keep animals under control

Please park on land not needed for other purposes.

## Appendix. (vi).

**Contact details of partner agencies****Copeland and Allerdale area details:****Contact as a matter of course, depending on landowner.****Revised May 2007**

<b>Agency Name</b>	<b>Name of Officer and Post</b>	<b>Contact details</b>
<b>Cumbria County Council</b>	For encampments on the public highway: Cumbria Highways Hotline	Tel: 0845 6096609
	Local highways engineer	
<b>Allerdale</b>	Trevor Gear	Tel: 01900 702699 <a href="mailto:trevor.gear@allerdale.gov.uk">trevor.gear@allerdale.gov.uk</a>
	Ken Sharples	Tel: 01900 702704 <a href="mailto:kenneth.sharples@allerdale.gov.uk">kenneth.sharples@allerdale.gov.uk</a>
<b>Copeland</b>	Steve Bishop	Tel: 01946 852638 <a href="mailto:steve.bishop@copeland.gov.uk">steve.bishop@copeland.gov.uk</a>
<b>Police</b>		0845 33 00 247
	PC Stuart Burgess	Tel: 01900 844185 <a href="mailto:stuart.burgess@cumbria.police.uk">stuart.burgess@cumbria.police.uk</a>

**Contact if appropriate**

<b>Agency Name</b>	<b>Name of Officer and Post</b>	<b>Contact details</b>
<b>Children's services- Ethnic Minority Achievement</b>	Jackie Wilson	Tel: 01946 595886 <a href="mailto:jackie.wilson@cumbriacc.gov.uk">jackie.wilson@cumbriacc.gov.uk</a>
	Pat Huxter, Basic Skills tutor	Tel: 01900 839300
<b>Lake District National Park Authority</b>	Paula Allen	<a href="mailto:Paula.Allen@lake-district.gov.uk">Paula.Allen@lake-district.gov.uk</a>
<b>Health</b>	Louise Sullivan Health Visitor	Tel: 01900 811844 Victoria Cottage Hospital Ewanrigg Road Maryport CA15 8EJ



	<p>Sarah Worsell Child and Family Team Leader/Health Visitor</p> <p>Doreen Bertram Senior Child Nurse Senior Nurse – Child Protection</p>	<p><a href="mailto:louise.taylor@gp-A82032.nhs.uk">louise.taylor@gp-A82032.nhs.uk</a></p> <p>Tel: <a href="mailto:sarah.worsell@gp-A82064.nhs.uk">sarah.worsell@gp-A82064.nhs.uk</a></p> <p>Tel: 01900 602244/Ext 134/147 <a href="mailto:doreen.bertram@cumbria.nhs.uk">doreen.bertram@cumbria.nhs.uk</a></p>
<b>Connexions</b>	<p>Peggy Lindow</p> <p>Michael Priestly</p>	<p>Tel: 01539 730045 <a href="mailto:peggy.lindow@connexionscumbria.co.uk">peggy.lindow@connexionscumbria.co.uk</a></p> <p><a href="mailto:michael.priestly@connexionscumbria.co.uk">michael.priestly@connexionscumbria.co.uk</a></p>
<b>Sure Start</b>		
<b>CAB</b>	<p>Mrs. Jane Donaldson Whitehaven</p> <p>Martin Telford Allerdale</p>	<p>Tel: 01946 693321 <a href="mailto:whitehaven@cabnet.org.uk">whitehaven@cabnet.org.uk</a></p> <p>Tel: 01900 604735 <a href="mailto:martin.telford@cabnet.org.uk">martin.telford@cabnet.org.uk</a></p>
<b>Shelter</b>	Vanessa Dixon	<p>01768 867040 <a href="mailto:vanessa.dixon@shelter.org.uk">vanessa.dixon@shelter.org.uk</a></p>
<b>Cumbria County Council Area Support Manager and Chair of this Group</b>	Phil Atherton	<p>Tel: 01900 3250015 <a href="mailto:phil.atherton@cumbriacc.gov.uk">phil.atherton@cumbriacc.gov.uk</a></p>

**Eden and Carlisle Contact details:**  
Contact as a matter of course, depending on landowner.

Agency	Contact name	Contact details
<b>Cumbria County Council Area Support</b>	David Sheard	<a href="mailto:david.sheard@cumbriacc.gov.uk">david.sheard@cumbriacc.gov.uk</a>

<b>Manager and Chair of this Group</b>		
<b>Carlisle City Council</b>	EPS: Janet Blair/ David Ingham	01228 817329 <a href="mailto:JanetB@carlisle.gov.uk">JanetB@carlisle.gov.uk</a> / <a href="mailto:eps@carlisle.gov.uk">eps@carlisle.gov.uk</a>
<b>Eden District Council</b>	Andrew Yates	01768 817817
<b>Police</b>		0845 33 00 247
<b>Highways Hotline</b>		0845 6096609
	Local highways engineer	

**Contact if appropriate**

<b>Children's Services</b>	Rachel Lee	01228 601183 <a href="mailto:rachel.lee@cumbriacc.gov.uk">rachel.lee@cumbriacc.gov.uk</a>
<b>Connexions</b>	Peggy Lindow	Tel: 01539 730045 <a href="mailto:peggy.lindow@connexionscumbria.co.uk">peggy.lindow@connexionscumbria.co.uk</a>
<b>Fire Service</b>		01228 815322
<b>Health</b>		
<b>Fire Service</b>		01228 815322
<b>Lake District National Park Authority</b>	Paula Allen	Paula.Allen@lake-district.gov.uk
<b>Homelessness</b>		01228 817327

**Kendal and SLDC: Contact details:**  
**Contact as a matter of course, depending on landowner.**

<b>Agency</b>	<b>Name and Title</b>	<b>Contact details</b>
<b>Environment officer.</b>	Maureen Stewart Enforcement Officer SLDC John Barwise Enforcement SLDC  Anne Holden Environment officer Barrow Phil Newton Environment officer Barrow	Tel:01539 797581 <a href="mailto:m.stewart@southlakeland.go.uk">m.stewart@southlakeland.go.uk</a>  Tel. 01229 894261 <a href="mailto:aholden@barrowbc.gov.uk">aholden@barrowbc.gov.uk</a> Tel:01229 894265 <a href="mailto:pnewton@barrowbc.gov.uk">pnewton@barrowbc.gov.uk</a>

	David Joyce	
<b>Ethnic Minority and Traveller Support Service (EMTSS)</b>	Louisa Day Specialist Education Welfare Officer	Tel: 01228 601183 louisa.day@cumbriacc.gov.uk
	South -Lynne Thomas - <a href="mailto:lynne.thomas@cumbriacc.gov.uk">lynne.thomas@cumbriacc.gov.uk</a>	South -Lynne Thomas - <a href="mailto:lynne.thomas@cumbriacc.gov.uk">lynne.thomas@cumbriacc.gov.uk</a> tel 01229 894451
	Terry Belshaw Crime Prevention Officer	Tel 01539 818787 terry.belshaw@cumbria.police.uk
	Nick Raynard. Sp??? Engineer. South lakes	Tel: 01539 773180
	Harry Horridge. Engineer. Barrow.	Tel: 01229 894065.

<b>Neighbourhood Development officer and Chair of the group</b>	Diane Whitehead	<a href="mailto:dianne.whitehead@cumbriacc.gov.uk">dianne.whitehead@cumbriacc.gov.uk</a> Interim Area Support Manager Cumbria County Council County Offices 6 Cross Street Kendal Ulverston LA9 4RQ LA12 7LF 01539 773157 01229 894102 07970 043229
<b>Health</b>	Sarah Cooper Health Visitor Service Manager	Tel: 01539 797894 Sarah.cooper@mbpct.nhs.uk
<b>Health visitor</b>	Paula Ambrose 015396 20979	<a href="mailto:paula.ambrose@mbpct.nhs.uk">paula.ambrose@mbpct.nhs.uk</a> Sedbergh Health Centre Loftus Hill Sedbergh Cumbria L10 5SP
	Mike Graham	01228 603530 mike.graham@ncumbria.nhs.uk
<b>Lake District National Park Authority</b>	Paula Allen	Paula.Allen@lake-district.gov.uk
<b>Connexions</b>	Peggy Lindow	Tel: 01931 711300 <a href="mailto:peggy.lindow@connexionscumbria.co.uk">peggy.lindow@connexionscumbria.co.uk</a>
	Claire Willett Area manager South Cumbria	Tel: 01539 730045 Claire.willett@connexions.co.uk

**Appendix. (vii). Business card details**  
**Eden and Carlisle card.**

**Carlisle and Eden areas**

Education Support	Tel: 01228 601183
Highways	Tel: 0845 6096609
NHS Direct	Tel: 0845 46 47
Police	Tel: 0845 33 00 247
Social Care Carlisle	Tel: 01228 607080
Social Care Eden	Tel: 01768 242200
Sure Start Cumbria	Tel: 01228 606320
Carlisle Council	Tel: 01228 817000
Eden Council	Tel: 01768 817817
Fire Service	Tel: 01228 815322
Connexions	Tel: 01228 596272

**Copeland and Allerdale card**

**Copeland and Allerdale areas**

Education Support	Tel: 01228 601183
Highways	Tel: 0845 6096609
NHS Direct	Tel: 0845 46 47
Police	Tel: 0845 33 00 247
Social Care Copeland	Tel: 01946 852852
Social Care Allerdale	Tel: 01900 325325
Sure Start Cumbria	Tel: 01228 606320
Copeland Council	Tel: 0845 054 8600
Allerdale Council	Tel: 01900 702702
Fire Service	Tel: 01228 815322
Connexions	Tel: 01946 695541

**Barrow and South Lakeland card**

**Barrow and South Lakeland Areas**

Education Support	Tel: 01228 601183
Highways	Tel: 0845 6096609
NHS Direct	Tel: 0845 46 47
Police	Tel: 0845 33 00 247
Social Care Barrow	Tel: 01229 894894
Social Care South Lakeland	Tel: 01539 773377
Sure Start Cumbria	Tel: 01228 606320
Barrow Council	Tel: 01229 894900
South Lakeland Council	Tel: 01539 7333 33
Fire Service	Tel: 01228 815322
Connexions	Tel: 01229 824052

## Appendix (viii)

### Frequently Asked Questions.

**Question.** What can we do with rubbish?

**Answer.** Ask the local Authority for advice. They will provide you with information about local refuse sites for the disposal of large items and bags in which to leave your rubbish. Please leave the rubbish bags in a pile for collection.

**Question.** Why is such a fuss made about burning electric cable?

**Answer.** Please do not burn electric cable. Burning cable is very, very harmful to your health and this is the reason why it is against the law.

**Question.** Where can Gypsies and Travellers go?

**Answer.** The risk assessment sheet provides an indication of the types of site from which you are likely to be moved on quickly. It is intended only as a general guide. More information may become more readily available in the near future.

**Question.** Do the Police have a duty to do anything to help?

The duty of the Police is to preserve the peace and prevent and detect crime. Prevention of trespass is the responsibility of the landowner, not the police.

What can the police do?

**Answer.** In exceptional circumstances a senior Police Officer has the authority to issue a direction to order the trespassers to leave the land. If the trespassers fail to leave the land within reasonable time, they may be liable to arrest and prosecution. However the police must be satisfied that the landowner has taken all reasonable steps to ask the trespassers to leave.

Remember that the protection of your property is your own responsibility.

**Question.** Why do Gypsies and travellers make illegal encampments?

**Answer.** Their way of life means that they travel the country, staying for various periods in different places in order to earn a living. In most cases it has been a way of life for generations.

**Question** Do the council have a duty to move Gypsies and Travellers when they are encamped without permission?

**Answer.** No. Councils may move the Gypsies and Travellers on, but it will depend on whether they are on public or private land and whether or not they are causing a problem.

**Question.** If Gypsies or Travellers camp on my land what can I do?

**Answer.** Your solicitor can go to the County Court to obtain an order granting you possession of your land or you can ask the local authority to move them on your behalf. You may be asked to pay the councils costs or they may offer only advice.

**Question.** What if I decide to let them stay on my land?

**Answer.** Unless you have already obtained permission for a caravan site, or you are a farm where labourers are helping you with fruit picking etc. you may be in breach of planning acts.

**Question.** I have seen Gypsies and Travellers camping on the side of the road and sometimes on parks or council owned land. What can the council do in these cases?

**Answer.** If the Gypsies or Travellers are causing problems, they will be moved on as is reasonable. If they are not causing a problem, the government have asked that the site be tolerated. The council will judge each site on its own merits. In all cases the site is visited and every effort is made to ensure that the site is kept tidy and that there are no public health problems.

**Question.** If the encampment is obstructing the public highway then the police will move the obstruction.

**Answer:** This will depend on the circumstances of the obstruction, and in particular whether or not any actual danger is caused. Where the obstruction is purely 'technical' the police are unlikely to act for this reason alone.

**Question.** If the council want to can they force Gypsies and Travellers off a site immediately?

**Answer.** No. The council must first be able to show that they are on land without the consent of the owner. If the Gypsies and travellers are required to move they need to be asked. If they refuse they may be served with a notice to leave. If they refuse to move the council must go to the Magistrates court to obtain a summons and ask for an order permitting the Council to move the Gypsies or Travellers. If granted they are given 24 hours to leave the site.

**Question.** Can the Magistrates refuse to grant an order to move the Gypsies and Travellers on?

**Answer.** Yes. If there is an unavoidable reason as to why they cannot leave the site then an order will not be granted. Further action will then not be taken until the Gypsy/Traveller circumstances have changed.

