



Home Office

# Strengthening police powers to tackle unauthorised encampments

## Government consultation

This consultation begins on 05/11/2019

This consultation ends on 05/03/2020

# About this consultation

**To:** This consultation is open to the public.

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

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

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

Email:

[UnauthorisedEncampmentsConsultation@homeoffice.gov.uk](mailto:UnauthorisedEncampmentsConsultation@homeoffice.gov.uk)

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

[www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments](http://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments)

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

Strengthening police powers to tackle unauthorised encampments consultation  
Police Powers Unit  
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Email:

[UnauthorisedEncampmentsConsultation@homeoffice.gov.uk](mailto:UnauthorisedEncampmentsConsultation@homeoffice.gov.uk)

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

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

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# 1. Foreword by the Home Secretary

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

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

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

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

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

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



**Rt Hon Priti Patel MP**

**Home Secretary**

## 2. Executive summary

We would like to consult on measures to;

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

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

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

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

### 3. Introduction

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

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

The responses to the consultation were clear<sup>1</sup>, suggesting that significant problems are created by many unauthorised encampments. Responses highlighted the sense of unease and intimidation residents feel when an unauthorised encampment occurs, the frustration at not being able to access amenities, public land and business premises, and the waste and cost that is left once the encampment has moved on.

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

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

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

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

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

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

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

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

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

## 4. The proposals

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

### 4.1 Criminalising Unauthorised Encampments

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

#### **The Republic of Ireland: Criminal trespass and site provision**

The Irish Government has criminalised trespass in certain circumstances, in conjunction with a statutory requirement for local authorities to provide traveller sites. In response to concerns about trespassers occupying public spaces and private land, the Irish Republic introduced the Housing (Miscellaneous Provisions) Act 2002<sup>2</sup> (the Act).

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

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

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

#### **Scotland: Criminal trespass**

Under the Trespass (Scotland) Act 1865, it is an offence to occupy private land without the permission of the landowner<sup>3</sup>

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

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

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

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

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

#### Question

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

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

#### Agree

This proposed change in the law would meet the demands of communities across the country who are concerned - and in many cases adversely impacted by - unauthorised encampments and the antisocial behaviour often associated with them. Criminalising trespass with intention to reside would enable forces to take swift action against unauthorised encampments and prevent problems before they occur, rather than wait for criminal or antisocial behaviour to occur, as they must do now.

The Irish model is appropriate if local authorities have the same burden of provision.

#### Question

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

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

*Please explain your answer –*

### Agree

This would seem to be a proportionate approach to tackle the issue of illegal encampments and believe that stipulating the involvement of a vehicle in the offence could be an effective way to prevent the legislation from having unintended consequences such as the criminalisation of homeless people residing on land temporarily or those conducting otherwise lawful protest.

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

### Question

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

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

*Please explain your answer –*

**Agree** – A provision on landowners to take reasonable steps to ask such persons to remove themselves would be an effective way of establishing that permission to reside did not exist.

### Question

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

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

**Agree**

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

**Agree**

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

**Agree**

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

**Agree**

*Please explain your answer –*

We would support an approach in which a criminal offence is only committed when certain conditions are met, to ensure that the new powers are only used sparingly when there is a genuine problem. Some of the conditions described above may be appropriate, but we feel further discussion and consideration is needed in terms of how these would be specified in law.

#### Question

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

*See above.*

## 4.2 Criminal Justice and Public Order Act 1994

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

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

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

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

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

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

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

## Question

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

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

*Please explain your answer*

### Agree

This criteria should be extended to include “neighbouring local authority area” or “within the police force area”. In the case of Thames Valley the number of local authorities and the complexities of the borders between them would mean that appropriate sites within the Force area would be a more appropriate criteria (providing distance limits were met see Q8). This is likely to apply to other large police forces, but would make no difference to smaller county forces.

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

**No** – Whilst agreements would be desirable but if required then there would be a disincentive on authorities with sites to come to an agreement with those lacking facilities. A duty to cooperate may be preferable along with a stronger requirement on local authorities to provide sites.

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

**No** – A specific distance is likely to lead to anomalies and potentially create “hot-spots” just out of reach of authorised sites. However a reasonableness test of some kind would be required as an absence of some measure is likely to be challenged in the courts.

If yes, what distance should that be?

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

*Yes / No*

If yes, what should these be?

### Yes

The factors that should be considered would include:

- a. If any children or young people on the camp are attending school or other educational facilities, whether their removal to a site in a neighbouring authority would prevent them from reaching their place of learning.
- b. If any people residing on the camp are receiving on-going medical care, whether their removal to a site in a neighbouring authority would prevent them from receiving treatment.

In all two instances outlined above, we would recommend that letters or references would be

required from the employer, school or medical facility to prove that the individual would be unable to access their work/school/medical treatment if they were removed to a site in a neighbouring authority.

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

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

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

## Question

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

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

*Please explain your answer*

**Agree** – 13 months would be a better timeframe as many encampments are seasonal or annual; 12 months may still not be sufficient to prevent repeat offending.

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

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

## Question

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

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

*Please explain your answer*

### **Agree**

If the government were to pursue amending the Criminal Justice and Public Order Act 1994, instead of criminalising trespass, we think that reducing the number of vehicles involved in an unauthorised encampment could potentially enable forces to use their powers more frequently.

Although, “two vehicles” could constitute a car and a caravan, so in order to not criminalise individuals who may be residing on land on a very short-term basis, it would be necessary to prove that the vehicles were intended to be parked on the land for a sufficient duration of time.

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

## Question

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

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

*Please explain your answer*

### Agree

By statute, highway authorities must ensure that public rights of way are in a fit state for public use, that obstructions are removed and that the public's right to use a public right of way is protected.

Therefore, in the event that an encampment is causing damage to or obstructing the highway and/or inhibiting the public's right of way, then the police should be able to remove trespassers from land that forms part of the highway.

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

## Question

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

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

*Please explain your answer*

### Neither agree nor disagree – See Q14

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

- i) Anyone whom they suspect to be trespassing on land with the purpose of residing on it;

**No**, suspicion should not be adequate grounds for seizure

- ii) Anyone they arrest for trespassing on land with the purpose of residing on it;

**Yes**, temporary seizure upon arrest would be required, otherwise it may lead to individuals being removed but their vehicles still causing a problem for communities.

- iii) Anyone convicted of trespassing on land with the purpose of residing on it?  
**Yes, on conviction permanent seizure or destruction could be ordered by the court.**

*Please explain your answer*

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

## Question

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

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

*Please explain your answer*

### **Disagree**

We believe that whilst the proposed amendments described to the Criminal Justice and Public Order Act 1994 could be effective, they would fall short of the fuller protection against the public disorder issues associated with unauthorised encampments which would be provided by the criminalisation of trespass with the intention to reside.

Additionally, an approach focusing on enforcement only would not address the wider problems that cause the public disorder issues are associated with unauthorised encampments; any enforcement would need to be carried out in tandem with preventative work and strategies to create positive community relations.

### 4.3 Impacts on the Gypsy, Roma and Traveller communities

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

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

#### Question

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

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

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

#### **Positive impact**

Significant discrimination of Traveller communities is based on the existence and conduct of people in authorised encampments. If this is improved, then potentially more sites would lead to less prejudice, and better abidance of the law.

## Question

**Q17:** Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities?

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

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

[See Q16](#)

## 4.4 Other Comments

### Question

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

The government should also provide support for forces to enable them to improve their national intelligence framework, so that forces and local authorities are better informed regarding the movements of encampments, are able to proactively prevent unauthorised encampments from being established, and can work with Gypsies and Travellers to direct them to nearby available authorised sites.

The government should take direction in forcing local authorities to provide authorised and/or negotiated stopping points.

## 5. About you

Please use this section to tell us about yourself

<b>Q19: Full name</b>	Gary Evans
<b>Q20: Job title</b> or capacity in which you are responding to this consultation exercise (for example, member of the public)	Policy Adviser
<b>Q21: Date</b>	27.02.20
<b>Q22: Company name/organisation</b> (if applicable)	Police and Crime Commissioner for Thames Valley
<b>Q23: Address</b>	The Farmhouse, Police HQ South, Oxford Road, Kidlington, Oxfordshire.
<b>Q24: Postcode</b>	OX5 2NX
<b>Q25: If you would like us to acknowledge receipt of your response, please tick this box</b>	<input checked="" type="checkbox"/>
Address to which the acknowledgement should be sent, if different from above	Gary.evans@thamesvalley.pnn.police.uk

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

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## 6. Contact details and how to respond

Please respond using the online system available at:

[www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments](http://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments)

Please submit your response by 05/03/2020

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

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

**Email:** [UnauthorisedEncampmentsConsultation@homeoffice.gov.uk](mailto:UnauthorisedEncampmentsConsultation@homeoffice.gov.uk)

### Complaints or comments

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

### Extra copies

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

Alternative format versions of this publication can be requested from:  
[UnauthorisedEncampmentsConsultation@homeoffice.gov.uk](mailto:UnauthorisedEncampmentsConsultation@homeoffice.gov.uk)

### Publication of response

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

## Representative groups

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

## Confidentiality

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

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

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

# 7. Impact of Proposals

## Impact Assessment

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

## Equalities Statement

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

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

## Eliminating unlawful discrimination

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

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

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

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

## **Advancing equality of opportunity between different groups**

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

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

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

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

## **Fostering good relationships between different groups**

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

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

## 8. Consultation Questions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yes / No

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

Yes / No

If yes, what distance should that be?

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

Yes / No

If yes, what should these be?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 9. Consultation principles

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

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



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