

The Gypsy/Traveller Partnership Group Guidelines for the Response to Unauthorised Camping in the Highlands

1. Purpose

- 1.1 The purpose of this document is to give clear guidelines on the procedures to be followed by all agencies when responding to unauthorised camping of Gypsy/Travellers in the Highland area (see flowchart attached as Appendix One). These guidelines will provide the framework for a consistent balanced approach towards unauthorised camping in order to manage such camps appropriately, whether or not the camp is required to move in a specified period. The guidelines have been agreed by all partners involved in the Highland wide Gypsy/Travellers Partnership Group and demonstrate the importance of successful partnership working.

2. Background

- 2.1 The Equal Opportunities Committee of the Scottish Parliament produced a report in the summer of 2001 on Gypsy/Travellers and public sector policies after taking evidence from individual Gypsy/Travellers, groups representing Gypsy/Travellers, Councils and Health Boards.
- 2.2 In its report the Equal Opportunities Committee recognised the lack of awareness of the Gypsy/Traveller lifestyle/culture and the discrimination, at both an individual and institutional level, faced by many Gypsy/Traveller families. The report also looked at how public sector policies related to Gypsy/Travellers. The aim of that Inquiry was to provide the basis for practical proposals and examples of best practice.
- 2.3 This guidance has been drafted to provide a co-ordinated and coherent approach to unauthorised camps.

3. The Highland Context

- 3.1 A number of different agencies, such as the Council and the Police are involved with Gypsy/Travellers in unauthorised camping. Previously the approach to such camps has been ad hoc and uncoordinated. It is also the case that historically camps have been accepted to a greater degree in some areas than in others
- 3.2 In August 2000 a Highland wide Gypsy/Traveller Partnership Group was formed. The current group is led by the Highland Council's Director of Housing Services and its membership is drawn from representatives of:
- NHS Highland
 - The Highland Council Housing, Education and Social Work Services
 - The Northern Constabulary
 - Save the Children
 - Local Gypsy/Traveller Representatives
 - Lochaber Gypsy/Traveller Forum

- 3.3 The Gypsy/Traveller Partnership Group is able to consider issues relating to Gypsy/Travellers across the Highlands and formulate co-ordinated responses.
- 3.4 In addition to this Highland wide group a previously established local forum in Lochaber, the Lochaber Gypsy/Traveller Forum is continuing to meet. A similar Forum has now been established in Inverness. These forums also involve partners from a number of agencies, including Gypsy/Traveller representation and can consider local Gypsy/Traveller issues.
- 3.5 Both the Gypsy/Traveller Partnership Group and the Lochaber Gypsy/Traveller Forum have been involved in developing these guidelines.

4. The Legal Framework

- 4.1 The legal framework consists principally of:

- The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
- The Children (Scotland) Act 1995
- The European Convention on Human Rights
- The Human Rights Act 1998.

- 4.1.1 The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 – This imposes a positive duty on all local authorities, in carrying out their various functions, to have due regard to the need to:

- eliminate unlawful discrimination and
- promote equality of opportunity and good relations between people of different racial groups.

The Commission for Racial Equality recognises Gypsy/Travellers as coming within the definition of an ethnic group within the terms of the Act, although this is yet to be tested in the courts.

- 4.1.2 The Children (Scotland) Act 1995 – under this Act local authorities must have regard to children's religious persuasion and cultural and linguistic background when reaching decisions about them. The Act makes clear that a child's views must be taken into account in any decisions affecting him or her. Importantly it further notes that the child's welfare is paramount.

- 4.1.3 The European Convention of Human Rights – Article 14 is a key Article in relation to Gypsy/Travellers, which enshrines the right to enjoy any other convention rights and freedoms without discrimination. This means, for example, that no one should be turned away from a camping or residential site simply because they are Gypsy/Travellers – the facilities on any site whether owned by the local authority or privately owned, should be available to Gypsy/Travellers to enjoy in the same way as any other member of society. Article 8 should also be considered as it provides a right for respect for one's private and family life.

- 4.1.4 The Human Rights Act 1998 – All public authorities have a positive obligation to ensure that respect for human rights is at the core of their day-to-day work.

5. Roles and Responsibilities

5.1 All of the agencies likely to be engaged in responding to unauthorised camping recognise that services such as education and health can be difficult for Gypsy/Travellers to access and the agencies will work to minimise these difficulties. The agencies involved agree to:

Act at all times in a humane and compassionate manner

Co-operate with each other

Maintain an open and honest working relationship

Keep accurate records

Liaise with other agencies in assessment and decision making.

5.2 The Northern Constabulary, The Highland Council and NHS Highland all have complex and wide ranging roles. Each of these agencies will be required to monitor, update and share relevant information as necessary, subject to the constraints of the data protection legislation and any professional codes of conduct. The Highland Council and NHS Highland will ensure that they provide appropriate services positively to Gypsy/Travellers, whilst at the same time fulfilling their statutory duties. The Lochaber 'Routes' project to provide support to Gypsy/Travellers in Lochaber and Save the Children may also have an important role to play in terms of liaising between Gypsy/Travellers and other agencies where this is requested. Such organisations also have an important role in terms of training, awareness raising and in consultation on Gypsy/Traveller issues.

5.3 Gypsy/Travellers, like other members of the community, have a responsibility to look after land they use, to dispose of rubbish properly and to keep animals tied up or under control at all times.

5.4 Gypsy/Travellers should also have consideration for the potential health, safety and fire risk of parking too close together and should therefore space themselves out. Only land not needed for another purpose should be used for camps.

6. Principles of the Approach to Unauthorised Camping

6.1 Public agencies in the Highlands recognise and respect the fact that people may wish to maintain a travelling way of life whether because of family tradition, economic necessity, or simply a desire not to be 'tied down'. They acknowledge that there should be no discrimination against Gypsy/Travellers because of their way of life and culture.

6.2 The Highland Council is a major landowner in the Highland Area. The Council will not evict Gypsy/Travellers needlessly from land that it owns or manages. Any eviction will be pursued in accordance with these guidelines and will take equally into account the desire and rights of Gypsy/Travellers for a nomadic life and the needs and rights of the settled community. The Highland Council will also ensure that it fulfils its statutory duties. The key principle to be considered when responding to unauthorised camping is that a

nomadic way of life is legitimate. This procedure may also be offered as a guide in relation to unauthorised camping on land outside the Highland Council's ownership.

- 6.3 When considering action on an unauthorised camp thought should be given to the number of vehicles in relation to the capacity, location and nature of the ground where the camp is set up. It is important to be aware that the provisions of the Criminal Justice and Public Order Act 1994 could potentially be invoked. Under this Act if police believe that two or more people are trespassing on land and intend to reside on that land for any period and if they have six or more vehicles on the land, then provided the owner/tenant has taken reasonable steps to ask them to leave, they may be required to leave. In reaching the decision the police can take into account the particular circumstances of each case, as outlined in the Scottish Office Circular No. HHD 17/1994 – 'for example the presence of elderly persons, invalids, pregnant women, children and other persons whose well being may be jeopardised by a precipitate move'.
- 6.4 The public agencies of the Highlands recognise that Gypsy/Travellers and the settled community are entitled to services according to need and have the same rights and responsibilities.

7. Procedures for dealing with Unauthorised Camping

- 7.1 Communication is a key issue when dealing with unauthorised camping. In order to facilitate communications and to promote consistency of approach each relevant agency will have named contacts for dealing with unauthorised camping. These contacts will normally include a centrally based officer. Where the agency is represented on the Gypsy/Traveller Partnership Group this will normally be the officer attending that group. In addition to this, in order to reflect the decentralised nature of public agencies in the Highlands, and to facilitate operational work, there will be a named contact within each agency's operational areas. Contact officers will also need to be aware of the need to communicate effectively with the settled community where this is required and appropriate.
- 7.2 A current list (December 2003) of these contacts is contained in Appendix Two. Good working relations and communication between agencies will be essential. Contact officers must recognise the difficulties that Gypsy/Travellers can experience when residing in unauthorised camps which may limit their access to services such as education, health and community services. Officers must work with Gypsy/Travellers in order to minimise these difficulties.
- 7.3 When a complaint or report of an unauthorised camp on land which is or may be owned by the Highland Council is received, the following procedure (see flowchart as noted in Appendix One) will be followed:
 - a) The person who receives the complaint should advise the Area contact of Housing Service of the complaint. They should also pass

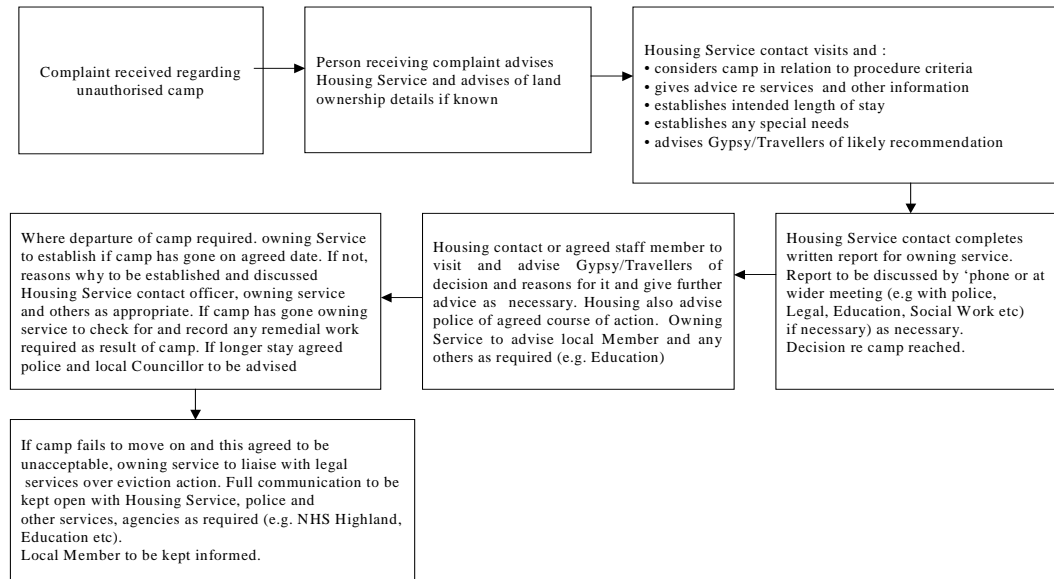
on any information they may have regarding the ownership of the area of land where the camp is.

- b) If there is doubt over the land ownership the Housing Service will investigate and where necessary confirm with Legal Services, and advise owning service.
- c) Housing Service contact or other delegated officer will visit the camp within 1 working day (or 2 in rural areas). Prior to visiting they will advise the police that a report of an unauthorised camp has been received, and that they will advise the police of the agreed outcome after an assessment has been made and any action required agreed with the owning service. They will explain to the Gypsy/Travellers this procedure for unauthorised camping and provide them with a copy on request.
- d) The Housing Service contact will obtain information as necessary and will consider the camp, with other statutory agencies as necessary, and the implications of the camp remaining. The following will be considered:
 - The number of vehicles included in the camp in relation to capacity of the area
 - The intended length of stay
 - Any special needs (e.g. health needs)
 - Road safety (i.e. the Road Traffic Act)
 - Any other relevant information such as the welfare and educational needs of children, physical or mental health needs
 - Impact on the amenity of the area
 - Impact of camp on the normal operational use of the land and on the community – e.g. does it prevent the proper use of a lay-byNone of the above will automatically imply that a camp should/should not be required to move, but all the information will be considered in order to achieve a balanced and fair decision.
- e) The named officer or delegated officer will advise the Gypsy/Travellers of relevant information- e.g. location, access availability and cost of official Gypsy/Traveller Sites, waste disposal facilities and will advise on service provision –e.g. refuse collection. Contacts for information on services, e.g. education, health, housing benefit and where possible information on the cost and location of other Sites in the area. Where requested they will also give information on housing.
- f) The Housing Service contact will report in writing to the owning service the details obtained on the visit and give recommendations on future action. Short stays (e.g. overnight or weekend only) will normally be acceptable, unless there is a clear reason why they should not be accepted. Longer stays will normally be acceptable unless there are specific objections. Any extended stay e.g. more than about 3 to 4 weeks will normally only be considered where there are exceptional needs or where the landowner permits.

- g) The Housing contact will discuss their report with the contact for the owning service. Where necessary other services/agencies will be involved in this discussion (e.g. Legal Services, Northern Constabulary). The decision made and the reasons for it will be recorded in writing. Once an agreement has been reached, in the light of the principles noted above, and in the light of the information gathered about the particular camp, the Housing Service contact or delegated officer will advise the Gypsy/Travellers of the decision and the reasons for it.
- h) The Housing contact will advise the police of the decision and the owning service will advise the local Councillor.
- i) When it has been agreed that the camp will be accepted for an agreed period, the owning service will ascertain whether the camp has moved on after the agreed period. If this has not happened that officer, or the Housing Service contact as appropriate will visit the camp to find out if there are reasons for this. If there are special reasons for this (such as medical reasons) appropriate contact information should be provided and the matter considered again with the service owning the land. Depending on the circumstances it may be appropriate to agree a longer stay. The police and the local Councillor should be advised of any changes agreed.
- j) Where Gypsy/Travellers forming an unauthorised camp do not move on and the camp is not acceptable, eviction action will be started. The owning service will be responsible for liaising with Legal Services over this. They should also keep the Housing contact informed of progress. At all times a written record will be kept of action taken, decisions made and the reasons for them, and good communication will be maintained between the service owning the land, the Housing Service, the police, the Gypsy/Travellers and any other relevant agency.
- k) When an unauthorised camp leaves, the site will be inspected by the service which owns it and where remedial action is necessary as a result of the camp photographs will be taken and the cost of remedial work noted in order to recharge the cost where possible. A written record of unauthorised camps will be kept by the service, including information on any damage caused by the camp. However care should be taken that damage/litter left etc. in the surrounding area which may not have been caused by the camp is not included, unless there is clear evidence that Gypsy/Travellers from the camp are responsible.

Unauthorised Camping Procedure

Appendix One



Appendix Two

Service & Agency Contacts – Managing Unauthorised Encampments in Highland 2009/2010

Lochaber

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Morag Cameron	Principal Housing Officer	01397 707217
Legal			
TEC			
Social Work			
Northern Constabulary	Inspector Allan	Area Inspector	01397 707627
NHS			
Fire Service		District Officer	01397 707670
HIE			
Corporate	Dot Ferguson	Ward Manager	

Skye and Lochalsh

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Liz Williams	Principal Housing Officer	01478 613829
Legal			
TEC			
Social Work			
Northern Constabulary	Inspector Maclean	Area Inspector	01478 611618
NHS			
Fire Service		District Officer	01478 612793
HIE			
Corporate		Ward Manager	

Ross

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Lewis Hannah	Principal Housing Officer	01349 868474
Legal			
TEC			
Social Work			
Northern Constabulary	Chief Inspector Coats	Area Commander	01349 869501
NHS			
Fire Service		District Officer	01349 852341

HIE			
Corporate		Ward Manager	

Inverness

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Ann Edwards	Principal Housing Officer	01463 724 519
Legal			
TEC			
Social Work			
Northern Constabulary	Chief Inspector Innes	Area Commander	01463 228402
NHS	Anne Johnstone	Public Health Nurse	01463 706700
Fire Service		District Officer	01463 227057
HIE			
Corporate		Ward Manager	

Badenoch & Strathspey

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Ann Edwards	Principal Housing Officer	01463 724 519
Legal			
TEC			
Social Work			
Northern Constabulary			
NHS	Chief Inspector Henderson	Area Commander	01479 810222
Fire Service		District Officer	01479 811410
HIE			
Corporate		Ward Manager	

Nairn

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Ann Edwards	Principal Housing Officer	01463 724 519
Legal			
TEC			
Social Work			
Northern Constabulary	Inspector Bushell	Area Inspector	01667 452222
NHS			
Fire Service		Inv District Officer	01463 227057

HIE			
Corporate		Ward Manager	

Caithness

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	George Sanders	Principal Housing Officer	01955 607707
Legal			
TEC			
Social Work			
Northern Constabulary	Chief Inspector Brown	Area Commander	01955 607433
NHS			
Fire Service		District Officer	01847 893338
HIE			
Corporate		Ward Manager	

Sutherland

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Jim Holden	Principal Housing Officer	01408 635382
Legal			
TEC			
Social Work			
Northern Constabulary	Inspector Aitken	Area Inspector	01862 810222
NHS			
Fire Service		District Officer	01862 811044
HIE			
Corporate		Ward Manager	

Easter Ross

Service/Agency	Contact person	post	Contact details
Education			
Culture & Sport			
Housing & Property	Donna Mackenzie	Principal Housing Officer	01349 886615
Legal			
TEC			
Social Work			
Northern Constabulary	Inspector Aitken	Area Inspector	01862 810222
NHS			
Fire Service		District Officer	01349 852341
HIE			
Corporate		Ward Manager	

Central Services

Service/Agency	Contact person	post	Contact details
Education	Karen McMaster	Gypsy/Traveller Development Officer - Education	01349 868208
Culture & Sport	Pablo Mascarenhas	Principal Youth Development Officer	01463 702026
Housing & Property	Lyn Kilpatrick	Housing Policy Officer	01463 702863
Legal	Leslie Johnston	Head of Legal & Democratic Services	01463 702110
TEC	Brian Donnet	Principal Service Support Officer	01463 702537
Social Work	Innis Mitchell	Children's Planning Officer	01463 711176
Northern Constabulary	Gordon Macleod	Inspector Policy & Co-ordination	01463 723371
NHS	Moira Paton	Head of Community & Health Improvement Planning	01463 704929
Fire Service	Cathie Way	Community Risk Management Co-ordinator	01463 227170
HIE	Liz Scott		
Corporate			
Chief Executive	Rosemary Mackinnon	Equal Opportunities Officer	01463 702094
Planning & Development	Lynn Bell	Graduate Planner	01463 702262