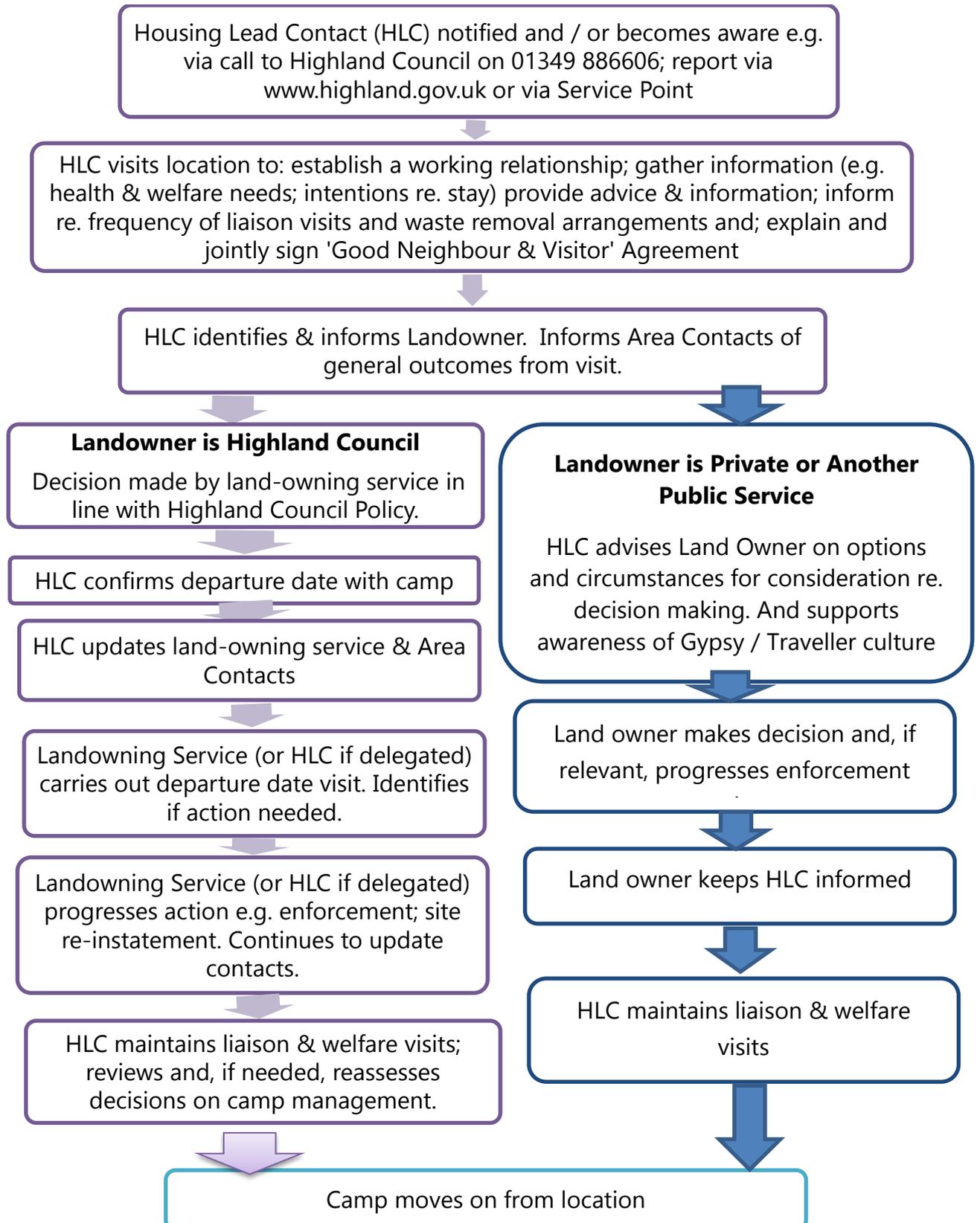


Supporting Co-operation & Managing Roadside Camps - Policy & Procedures

Contents

- Procedure Flowchart Summary
- Policy and Approach
- Appendices:
 - 1 Roles & Responsibilities
 - 2 Procedures (Council Owned / Private Land
 - 3 Legislative Summary
 - 4 Enforcement Guidance
 - 5 Liaison Checklist
 - 6 Good Neighbour & Visitor Agreement

Managing Gypsy / Traveller Road-side Camps Summary



Policy & Approach

1. Purpose

1. This document sets out:
 - a) The Highland Council's Policy for managing any issues arising from roadside camps by Gypsy / Travellers on land which it owns or controls. It also sets out how we will assist individuals and others to manage unauthorised road-side camps on land that they own. We will aim to what we can, as resources allow, to deliver it.
 - b) Clear guidance and procedures which will support Council Officers to deliver: consistent and equitable advice; quality information; access to services and; consistent responses to issues. Our practices will ensure that we are able to demonstrate transparent decision making and accountability.
 - c) How we will deliver our commitments set out in The Highland Council's Programme¹ and our obligations under equalities legislation.
2. It is informed by Scottish Government guidance², good practice and engagement with Gypsy/Travellers and others.
3. The Council uses the term "Gypsy/Traveller" for people in the Travelling communities, and so that term is used throughout this guidance with those out with the Gypsy/Traveller community referred to as the 'settled community'. "Road-side camps" and "unauthorised camps" refers to camps established by Gypsy/Travellers, without permission, on land that they do not own. In the main, for a limited number of days.

2. Context

1. Gypsy/Traveller communities have a long and proud history in the Highlands, but they also face many challenges and barriers to accessing services, and

¹ www.highland.gov.uk/info/695/council_information_performance_and_statistics/381/our_priorities

² <https://www.mygov.scot/gypsy-travellers/unauthorised-sites/>

participating in society. Evidence shows that Gypsy/Traveller communities are among the most disenfranchised and discriminated against in Scotland.

2. Gypsy/Travellers are recognised as an ethnic group under the definition of 'race' in the Equality Act 2010 and, like other groups covered by this Act, are protected against discrimination³.
3. The Equality Act 2010 contains general equality duties for all public bodies - in the exercise of their functions, they require to have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation.
 - advance equality of opportunity between persons who share a relevant protected characteristic, and persons who do not share it.
 - foster good relations between persons who share a relevant protected characteristic, and those who do not share it.
4. In Scotland there is a presumption against prosecution where the sole issue in relation to an encampment is the physical occupation of land by Gypsies/ Travellers.
5. The Highland Council is committed to working for a Highland that includes and supports all children and adults to lead fulfilled and productive lives, free from poverty and discrimination. We welcome people of all faiths, nationalities and backgrounds who wish to live, study, work or visit here. And are committed to listening and responding to communities, valuing their diversity and treating everyone with respect.
6. The Highland Council recognises and accepts that the travelling lifestyle is part of the ethnic identity of Gypsy/Travellers and that camping temporarily on land without seeking permission (unauthorised roadside camping) has been an integral part of that lifestyle for centuries.
7. Gypsy/Travellers are not a single group, but a diverse set of communities with differing cultures, histories, and languages. There are also a variety of reasons for travelling and camping. Many Gypsy/Travellers will travel for part of the year and are otherwise settled on permanent sites or in houses.
8. The Highland Council provides and manages 4 permanent sites for Gypsy/Travellers at Inverness, Newtonmore, Spean Bridge and Kentallen.

³ www.gov.uk/guidance/equality-act-2010-guidance

Whilst those who are actively travelling are welcome to stay there for a time, it is recognised that this option may not be suitable for them.

9. The number of unauthorised camps varies across the seasons and locations. Information on this is in the Highland Need & Demand Assessment⁴.
10. Camps generally fall into two distinct types. This influences our approach to managing issues:
 - Small family groups with around three to five caravans, primarily focussed on visiting family and friends, attending cultural or family events (including funerals), and sometimes undertaking work. This is the most common in Highland.
 - Larger working parties with many vehicles, and equipment, primarily focussed on carrying out business in the locality (e.g. gardening, minor building work, etc.)

3. Approach to Unauthorised Road-side Camps

1. The Highland Council recognises the right of Gypsy/Travellers to practise a travelling lifestyle, moving and camping across Scotland. We also appreciate the need to balance this right with the needs of the settled community. This Policy aims to achieve that balance by ensuring that Gypsy / Travellers are not discriminated against and, by supporting good community relations.
2. The appendices set out roles and responsibilities; procedures; further guidance and tools.
3. Unauthorised camping requires sensitive and proportionate management by all concerned. The setting up of an unauthorised camp can cause concerns to be raised by the landowner or members of the settled community. Some of these concerns are perceptual, and unfounded, often based on lack of knowledge or discrimination. While many camps do not cause concern, some do - for example if they are in inappropriate locations, if those living on a site are not behaving in a responsible manner, or because of tension with local settled communities.

⁴ www.highland.gov.uk/downloads/file/6383/consultation_with_residents_of_gypsy_traveller_sites

4. The Highland Council will not take action to evict Gypsy/Travellers needlessly and without due cause from land that it owns or controls. Unauthorised camps will be managed in line with the approach set out in this document⁵. We will ensure that a balance is struck between the needs of all involved.

Working together

5. Success requires good working relations and a partnership approach between: landowners; The Highland Council; Police Scotland; other public sector bodies; (such as NHS Highland) as well as co-operation from the Gypsy Traveller community. We will seek to achieve this.
6. Public agencies are significant landowners. Whilst many unauthorised camps are on privately owned sites, others are owned by public sector bodies including the Highland Council; Highlands & Islands Enterprise, Forestry Scotland, NHS Highland, Scottish National Heritage, Military of Defence (MOD) and Scottish Government.
7. Multi-agency partners have a role too. Appendix 1 summarises the roles and agreed responsibilities of the key parties. Together, we will promote and encourage wider partnership working with landowners, both strategically and operationally, to support a consistent and coordinated approach. And, will ensure appropriate statutory services are provided positively and appropriately.
8. We recognise that Gypsy/Travellers move across local authority boundaries as they travel. We will facilitate co-operation with our neighbouring authorities to improve responses and, where relevant, share local knowledge.

Unsuitable locations

9. There are some locations where an unauthorised site will not be acceptable under any circumstances - because of traffic hazards, public safety, environmental damage, etc. These locations will likely include these features:
 - a site of scientific or environmental interest;
 - parks, public open spaces in regular use, sports and recreation grounds;
 - a site where pollution could damage water courses/water supply;

- an area with toxic waste, serious ground pollution or other environmental hazard;
 - on a public road;
 - on the verge of a road (from a road safety perspective), including lay-bys;
 - in proximity to a railway line where there may be a danger to individuals.
10. The above list is not exhaustive. Where possible, we will aim to proactively identify such locations, and will communicate and make that information available to everyone involved.

Sensitive locations *(This section is subject to further consultation with stakeholders including Gypsy/ Travellers, public service partners and community representatives)*

11. *Some locations will be regarded as sensitive as they may lead to increased community tension. Such locations may not be regarded as suitable and the Council will work proactively to prevent community conflict. In addition, Gypsy / Travellers may be actively discouraged from stopping. These may include:*
- *vehicle parking areas*
 - *business premises / land being actively marketed for development*
 - *footpaths*
 - *within close proximity of housing*
 - *National Scenic Areas*
12. *Some locations are more likely to support the Council's policy aim to recognise and respect the needs of all, provided those camping act responsibly and respectfully. These will likely include the following characteristics:*
- *likely to cause minimum disruption to surrounding communities*
 - *no / minimal risk from adjoining land use*
 - *'Off-road' roadside, public sector owned sites separate from established communities or not immediately adjacent to the road*
 - *large enough to accommodate traveller vehicles without affecting traffic flow and general needs parking;*
 - *not in National Scenic Areas*
 - *have a water main connection or this can be provided at an economic cost;*
 - *are on or close to existing refuse vehicle routes;*
 - *and in locations of proven Gypsy/Travelling community demand.*

13. *Where stopping for a time has been agreed in such cases, the Council will commit to actively supporting good relations between all those involved.*

Conduct and behaviour

14. In managing unauthorised camps we will seek to minimise disruption for all concerned and ensure that any anti-social or nuisance behaviour is tackled firmly, regardless of who the perpetrators are. The same standards of behaviour will be expected from all members of the community, whether Gypsy/Travellers or the settled community, based on mutual respect and with regard to the rights and responsibilities of all those concerned.
15. We will treat everyone with dignity, respect and courtesy.
16. In the interests of good relations, we ask everyone in the Highlands to act responsibly and to be respectful of others. For people who are living on an unauthorised camp, in practice this means asking that they:
- Respect and help to protect the land they are camping on.
 - Show respect to other people living nearby - including their peace of mind (e.g. don't act in ways that might annoy or alarm others).
 - Work positively with us.
 - Keep animals under control at all times - and dog barking to a minimum.
 - Dispose of household waste and other rubbish appropriately (e.g. use strong bags. Bags left where they can be easily collected e.g. by road side).
 - Get rid of animal and human waste hygienically and responsibly.
 - Don't 'fly-tip' but dispose of commercial waste at landfill sites or recycling centres.
 - Prevent 'out-of-control' fires by being careful.
 - Take responsibility for own actions – for example, be aware of hazards.
 - Minimise the noise from generators to prevent nuisance to neighbours.
 - Make sure there are not too many vehicles for the location.
 - Respecting the rights, and way of life, of others who use the land.
 - Caring for the local environment – for example, not disturbing wildlife.
 - Leave the area clean – and as it was found.
 - If possible, inform us on arrival to camp (if the landowner's permission hasn't been given already). This will help us provide services which may be needed.

17. This policy recognises that there may be occasions where these standards of responsible and respectful behaviour may not be followed. On these occasions, it may be necessary to take appropriate enforcement action.
18. The Highland Good Neighbour & Visitor Agreement⁶ (Appendix 5) summarises the key responsibilities, and expectations, of those staying in or visiting the area whilst respecting each other's rights. It provides information that may be useful to Gypsy/Travellers whilst travelling. It is being refined with the involvement of Gypsy/Travellers. The Housing Lead Contact, who will liaise between parties, will provide camps with a copy and will take time to discuss and explain the information within it. Breaches will be brought to the attention of those involved, with a warning that if they are not remedied, action to repossess the land will be considered. Where relevant it will be provided to landowners and neighbouring communities.

Waste and waste disposal

19. We will take action to prevent waste and, where necessary, will act to remove it. This includes action to prevent fly-tipped materials. It is a criminal offence to keep, treat or deposit waste on land without a waste management licence to do so⁷.
20. Help with removing household refuse will be provided if requested or required.

Dogs

21. Under the Control of Dogs (Scotland) Act 2010, dog owners are responsible for keeping their dogs under control. The Highland Council can take action against dogs deemed "out of control" and impose requirements on the owner through a Dog Control Notice.

Behaviour around encampments

22. Whilst there are standards of behaviour expected of those living on unauthorised camps sites, there are also clear expectations for the behaviour from members of the settled community around sites. Any incidents of anti-social behaviour directed at Gypsy/Travellers will be reported to the police. In the course of managing unauthorised sites, we will be clear with the local

⁶ Available on www.highland.gov.uk and a copy at appendix 6

⁷ Appendix 3 sets out legal duties

settled community that anti-social behaviour directed at those on an unauthorised site will not be tolerated. Gypsy/Travellers can be the victims of crime, and we expect that any crimes committed against those living on an unauthorised site are investigated and handled by the police in line with their normal procedures.

23. Crime directed at someone because they are a Gypsy/Traveller, a Hate crime, is a criminal offence. A hate crime can be reported directly to the Police, or through a local Third Party Reporting Centre (see Police Scotland website - www.scotland.police.uk/contact-us/hate-crime-and-third-party-reporting/)

Welfare needs

24. Evidence shows that Gypsy/Traveller communities may experience poor outcomes in relation to health, education, etc.. Services including those dealing with housing, education, health, care and support potentially have an interest in the wellbeing of Gypsy/Travellers. We will maintain arrangements to make sure that all the relevant services within the Council and NHS Highland work effectively together to help meet the needs of Gypsy/Travellers living on an unauthorised camp. This includes providing advice and help with, accessing services which may be needed or of value.

Communication

25. Communication is a key issue when dealing with unauthorised encampments. To support good communication and to promote consistency of approach, each relevant service has named contacts to manage relevant issues linked to unauthorised camps. The Council's Housing Service has the lead role in managing unauthorised camp related issues and has nominated liaison officers ('Lead Contact'), with relevant experience, skills and knowledge. They can be contacted by calling the Council's Service Centre on 01349 886606 (ask for Gypsy/Traveller area contact) or by getting this information from any Highland Council Service Point.
26. When responding to an unauthorised camp, we will ensure there is regular, clear, communication with Gypsy/Travellers living on the camp, the local settled community, and relevant elected representatives. Where possible, this will be carried out by the nominated 'Lead Contact'.

27. Verbal communication, and an appreciation of potential issues with literacy, will be an important part of our approach.
28. Where issues are reported to The Highland Council, we will respond to these in line with our customer standards.
29. Where relevant, we will signpost to information such as the online⁸ Planning Aid for Scotland (PAS) guides to increase awareness and knowledge of the Scottish planning system and engagement between key stakeholders. These provide useful information on Gypsy/Traveller culture for elected members and community representatives.

Legal framework

30. Appendix 3 sets out legislation which may be relevant in some circumstances. It is not comprehensive and parties should seek their own legal advice.
31. Appendix 4 sets out guidance aimed at Highland Council services on instructing enforcement powers to evict.

4. Non-Council owned land

1. The Highland Council does not have responsibility for management or enforcement of unauthorised camps on land that is in the ownership of another public agency or is in private ownership. Nonetheless it will act in an advisory capacity within its statutory general duties and as part of its commitment to partnership working. This document will be offered as a guide to managing issues on land outside The Highland Council's ownership.
2. The Highland Council has no powers of eviction from land which is not in its ownership or control. Landowners must seek independent legal advice.
3. The Highland Council will deliver a visiting liaison service (where resources allow) to unauthorised camps on land that is not in its ownership or control. This reflects our commitment to supporting good community relations and partnership working.

5. Communication

1. Client confidentiality will be respected as a key underpinning principle.

⁸www.pas.org.uk/news/recognition-of-unique-gypsytraveller-culture/.

2. This policy will be delivered in line with the Highland Data Sharing Partnership Information Sharing Protocol which states:
 - All organisations accept a duty of confidentiality and will not disclose information without the consent of the person concerned, unless there are statutory grounds and over-riding justification for doing so.
 - Organisations will use information only for the purpose of these procedures.
 - Information shared with a member of another organisation for a specific purpose will not be regarded as intelligence for general use of that organisation.
3. Information regarding specific details and actions taken regarding a particular camp will not be made available to the public as a matter of course, especially where there are ongoing legal actions to consider. Complaints will be responded to in accordance with this Policy and The Highland Council Customer Care Strategy and service standards.
4. Enquiries from the media relating to unauthorised camps will be managed in consultation with the Highland Council's and partner agencies' communications teams. As the Highland Council has the lead responsibility for the management of unauthorised camps, it will have the lead responsibility when co-ordinating a multi-agency response (with the exception of where criminality is involved – in which case Police Scotland will lead).
5. Communication updates to elected representatives and communities will be managed and delivered through Ward Managers in collaboration with Area Housing Managers.
6. This Policy will be available to the public. Clear concise information on the Policy and approach will be provided at unauthorised camps this includes the Good Neighbour & Visitor Agreement.

6. Monitoring and review

1. To make sure it is effective in supporting co-operation and respect, an essential element will include monitoring situations which arise and learning lessons. This will be led by the Housing Lead Contact with their manager.

2. Monitoring the success of this policy and service delivery will also be informed by feedback from Gypsy Travellers, service users, local communities, Members and other relevant stakeholders.
3. This Policy will be considered a 'living' document where changes in law, recommended guidance or agreed improvements can be implemented quickly. It will be reviewed in 2022 or following such developments.

7. Further Information

For queries, contact the local Housing Lead Contact.

Appendix 1 - Roles & Responsibilities

This section sets out the roles and responsibilities of key parties.

Gypsy/Travellers

1. When living on an unauthorised camp, or choosing the location for one, there are responsibilities that we expect Gypsy/Travellers to meet. These are:
 - not setting up an unauthorised site on locations that are considered to be unsuitable (see Section 3.9);
 - treating the land that they are occupying responsibly and with respect;
 - co-operating and working positively with us and our partners when arriving in an area.

Housing Service

2. The Highland Council's Community Services **Housing Team** has the lead role in liaising and managing responses to any report of unauthorised camping including:
 - working to support positive liaison between the household(s) who is camping and the settled community;
 - responding with respect and with an understanding of the cultures as well as the particular circumstances - and advise others on that basis
 - supporting good communication
 - visiting to determine the circumstances and plans of the household(s);
 - providing relevant advice, information, signposting and actively referring to services;
 - advising on, or arranging services in agreement with the lead services e.g. waste, screening etc.
 - communicating the general details of the camp and any impact to relevant stakeholders, including the Land Owner and, in the case of Highland Council owned land, the landowning service;
 - if necessary, requesting statutory inspection visits from other services or agencies in relation to any specific concerns or complaints;
 - offering advice and guidance on length of stay and departure dates;
 - communicating the agreed departure date;
 - maintaining communication updates with the area contacts and the landowner, following any subsequent visit to the camp;

- visiting at the agreed date of departure to establish the position and/or clarify the intentions of the household at the encampment – and communicating these to the landowner and the area contacts; and
 - maintaining liaison and welfare visits, as resources allow, until such time as the encampment moves off voluntarily (including during the course of any due process being taken by the landowner).
3. This will generally be carried out by nominated liaison officers ('Lead Contacts'), with appropriate skills and knowledge. Unless otherwise agreed, they or their line managers will be the focal point for all unauthorised camp related issues.
 4. The **Housing Service** is responsible for coordinating any case conferences with the relevant area contacts and landowner in the case of complex, sensitive or contentious encampments.
 5. Where an unauthorised camp is on land held on the Housing Revenue Account, the Housing Service has decision-making responsibility for any eviction action where that is necessary.

Waste Management Service

6. Local authorities have legal obligations to keep their land and roads clear of litter and refuse⁹ - and take account of the Code of Practice on Litter & Refuse¹⁰.
7. The Highland Council **Waste Team** has primary responsibility for waste and refuse management on unauthorised camps including:
 - ensuring arrangements are in place for adequate removal of rubbish and waste;
 - providing information and advice about waste management and bulky uplift arrangements;
 - where not on Council owned land, liaising and agreeing arrangements with the landowner;

⁹ <https://www2.gov.scot/Publications/2006/12/13125718/29>

¹⁰ <https://www.gov.scot/publications/code-practice-litter-refuse-scotland-2018/>

- maintaining waste and refuse collection arrangements on an ongoing basis during the course of the camp; including consideration of sanitation / toilet facilities if required;
- continually assessing and making recommendations for public health intervention where necessary;
- clearing and making good sites following departure of encampments (Highland Council land only);
- recovering costs from Gypsy/Travellers for any necessary interventions;
- an enforcement remit along with SEPA for any fly-tipping issues.

Environmental Health - Public Health

8. The Highland Council's **Environmental Health Team** has responsibility to promote or enforce standards that preserve public health, public safety and protect the environment. It is responsible for:
- undertaking appropriate statutory impact assessments following concerns or complaints, and making recommendations as appropriate;
 - providing advice, information and guidance to the Gypsy/Travellers and the multi-agency area contacts on management or enforcement of public health issues at a particular camp;
 - providing advice on services such as access to water; and
 - where relevant, taking appropriate statutory action.

Legal Services

9. The Highland Council's Legal Services provides advice, guidance and legal assistance on civil remedies to unauthorised encampments **on land which is in the ownership or control of Highland Council.**
10. Landowning Services are responsible for making decisions in line, with this Policy, and instructing any actions for eviction from unauthorised camps and these actions will be progressed by Legal Services. Legal Services may be required to participate in case conference meetings.

Highland Council, Care and Learning

11. Care and Learning staff, such as Health Visitors, the Interrupted Learning Development Officer and Social Workers, are responsible for helping children and families to access health, education and social care services.

12. Care and Learning Services will work with partners at an operational level where there are educational needs and / or other issues.

Ward Managers

13. The Highland Council's Chief Executive Service Ward Managers are responsible for ensuring the efficient delivery of services within each Ward and work with other agencies and community groups. They will:
 - assist in supporting good communication and relations between communities;
 - be kept informed via communication updates about unauthorised camps and manage and deliver, in collaboration with Area Housing Managers, communication updates to elected representatives and communities and;
 - participate, where needed, in case conference meetings.

Corporate Communications

14. Client confidentiality is a key principle. Enquiries from the media will be managed in consultation with Corporate Communication Officers from The Highland Council and where relevant, Communications Officers in partner agencies (such as Police Scotland). As The Highland Council has the lead responsibility for the management of unauthorised camps, the Council's Corporate Communications Team will have the lead responsibility for coordinating media responses unless criminality is concerned in which case Police Scotland will take the lead.

Police Scotland

15. The role of Police Scotland is to:
 - act in partnership with Highland Council and the multi-agency partners in ensuring that the welfare and human rights of the Gypsy/Traveller Community are met and; at the same time,
 - ensure that public order and wider community safety issues are effectively addressed at unauthorised camps locations;
 - investigate any allegations of criminal offences and anti-social behaviour on or around a site in line with their normal procedures (i.e. offences those living on a site are alleged to have committed, or offences alleged to have been committed against Gypsy/Travellers living on a site);

- if requested, support Council officers, landowners or their representatives by visiting unauthorised sites with them whilst they serve eviction notices, or similar. This is to ensure there are no public order issues. The Police will not play any active part in the service of any papers or the eviction process itself unless instructed by the court or where a crime is being committed.
16. Lead contacts from the Council's Housing Service will ensure that relevant area-based Police Scotland contacts are included in communication updates about unauthorised encampments. The relevant Police Scotland contact may be required to participate in case conference meetings.

NHS Highland

17. NHS Highland will work with partners at an operational level where there is a specific issue at unauthorised camps relating to the social care or health of adults. NHS contacts will support ease of access to services such as GPs and Dentists. In lieu of named contacts, requests will be made via the relevant Single Point of Access:
www.nhshighland.scot.nhs.uk/Services/ASC/Pages/SinglePointofAccess.aspx
18. Staff with Health Improvement remit work in partnership with services and the public to empower people to make healthier lifestyle choices by building on the strengths that are already present in communities ("assets approach"). There are successful examples, e.g. supporting uptake of health screening opportunities, which we will encourage them to build on.

App. 2 – Procedures - Council Owned & Private Land

Part 1 of this section relates to road-side camps on land owned by Highland Council.
Part 2 relates to land owned by others.

Part 1

Camps on Council owned or controlled land – what will happen?

1. When a report of an unauthorised camp is received, and or the Housing Team becomes aware that an unauthorised camp has been set up, the following procedure will be followed.
2. In all cases of known camps, Housing Service, as a minimum, will record information on the camp's location, land ownership, and any outcomes arising from the camp. This will enable partners to understand potential need for public sector responses.
3. The person who receives the report of and / or becomes aware of a camp, will advise the appropriate Housing Service Lead Contact. And will pass on any information they may have regarding the ownership of land. If there is doubt over the land ownership, the Housing Service will investigate, and where necessary confirm ownership with The Council's Legal Services. They will then advise the Council Service or public agency landowner, or private landowner.
4. The Housing Service 'Lead Contact' notifies, by email, all relevant stakeholders for the area **plus** Police Scotland of the camp location and details, including arrangements for the initial visit.

Initial Visit

5. This initial visit should take place within 2 working days of being reported – where possible by the Housing Service Lead Contact. If it is felt to be necessary, this (and subsequent visits) may be a joint visit e.g. with the Waste Management Service.
6. The main aim of this visit will be to establish a positive working relationship with the household(s) with a view to successfully managing any issues, minimising upset and helping the household(s) access relevant services. As well as providing advice, including contact details for the Lead Contact and likely frequency of visits, they will gather information to support this and good

communication, between all parties. They will explain the policy and procedure for unauthorised camping to the Gypsy/Travellers, and provide them with a copy if asked. They will also explain and make sure the expectations summarised in the Good Neighbour & Visitor Agreement are understood.

7. The Lead Contact will explore with the household(s) whether there are health, education or welfare needs and will signpost and actively support referrals to the appropriate service where agreed or relevant.
8. The Visit Checklist (Appendix 5) notes the information to be collected and covered during the discussion.
9. The Waste Management Services Officer, or Lead Contact if delegated, will, at this initial visit, make sure that there is an adequate supply of refuse sacks on the camp and / or that arrangements are otherwise in place for adequate refuse collection, for example provision of bins for a time limited period. They will confirm refuse collection arrangements. This may include agreeing arrangements with the Housing Lead Contact. They will also provide information and advice about waste management and bulky uplift arrangements.
10. Following this initial visit, the Housing Service 'lead contact' notifies, by email, relevant Area Contacts plus Police Scotland with general information¹¹ about the camp. This may include information, requests or recommendations for relevant services to take forward e.g. education, health, waste services. In responding to these services may decide to make a visit to the camp.

Decision Making (Council Owned Land Only)

11. Decisions taken about managing an unauthorised site will take account of various factors. Evidence of any nuisance or damage being caused by the unauthorised site will be weighed against the needs of the Gypsy/Travellers on the site, particularly any health and welfare needs that have been identified. All decisions will be based on the evidence available, in light of the specific circumstances of each site and as per the Council's Policy and agreed

¹¹ Personal information will not be shared with the landowner or the Area contacts.

approach. Appendix 4 sets out further guidance on enforcement considerations.

12. The landowning service shall consider the specific circumstances of the camp and its location in relation to the timescale guidelines set out at paragraph 22. They will confirm their position to all partners included in the communication chain. Any decision not to follow these guidelines must be clearly stated and recorded.
13. Where the proposed or expected date of departure is considered unreasonable in the circumstances of the camp, or no date of departure has been given by the household(s), the Housing 'Lead Contact' shall clarify the timescale guidelines (as per paragraph 22).
14. Land-owning Services should consult with Legal Services on a case by case basis **at the earliest possible time** where it appears there may be a need for civil action.

Liaison

15. The Housing Lead Contact will re-visit, within 2 working days where possible, the unauthorised camp to confirm the agreed date of departure with them.
16. Housing Service again communicates an update to the Area Contacts advising:
 - a) that the agreed date of departure has been communicated;
 - b) of the general condition of the camp and environment at this visit;
 - c) If necessary, of the role and responsibility of the named landowning service to establish if the camp has moved on at the agreed date of departure; and
 - d) of the role and responsibility of the named landowning service to progress and communicate any further action following the agreed date of departure. If agreed, this responsibility may be delegated to the Housing Lead Contact.
17. Decisions to manage an unauthorised camp for a period of time will be kept under review taking into account any new complaints or information regarding the conduct of the camp – and resources.
18. In cases of longer stays, the Housing Lead Contact will continue to make regular liaison visits at least fortnightly (if resources allow). As well as ensuring that welfare needs are being met, they will assess whether there are any issues

regarding the expected responsibilities. It may be necessary to visit more frequently if it is felt that there are, or may be, issues.

19. Waste management services will maintain waste and refuse collection arrangements during the course of the encampment where agreed. And will continually assess and, where necessary, make recommendations for public health intervention.
20. At the agreed date of departure, the landowning service, via the delegated Housing Lead Contact if agreed, establishes whether the encampment has moved on and if any response is needed. For example, arranging with the Waste Management Service, for the quick and efficient clearance of any debris, or by making an assessment of the need for enforcement action depending on the circumstances and the location of the camp.
21. The Housing Lead Contact will also make a visit at the 'Date of Departure' for the purpose of establishing the position, the intentions of the household at the camp, and whether there is a need for continuation of visits.

Enforcement Action

22. Providing that the camp is acting respectfully and responsibly with regard to the expectations set out in the Good Neighbour and Visitor Agreement, any assessment of the need for enforcement action to reclaim possession of land shall take into account general guidance that:
 - a) **Short stays** (e.g. overnight or weekend only) will normally be acceptable, unless there is a clear reason why they should not be accepted.
 - b) **Longer stays** (normally 1 – 2 weeks) will normally be acceptable unless there are specific lawful objections from any agency, for example, on the grounds of land use or road obstruction etc.
 - c) **Extended stays** e.g. more than 3 to 4 weeks will normally only be considered where there are: exceptional needs; where there is no impact on land use, public health or road obstruction; or any other statutory considerations, and where the landowning service permits.
23. Enforcement action will likely be considered if:
 - the unauthorised camp is in an unsuitable location;

- there is an intolerable or statutory nuisance to the general public by reason of the: size; location; nature; duration; financial or environmental harm of a camp;
 - the site is preventing the use of the location for another purpose;
 - warnings and / or agreed remedies regarding breaches of the Good Neighbour and Visitor Code have been ignored;
 - a suitable alternative stopping place has been identified and Gypsy / Travellers have refused to relocate.
24. The final decision on eviction from Highland Council land will lie with the designated service budget holder of the land on which the encampment is sited. The landowning service (or delegated Housing Lead Contact if agreed) must notify all 'Area Contacts' plus Police Scotland of the outcome of this 'date of departure' visit and their intentions for managing the unauthorised camp. This may include requesting the Housing Lead Contact to co-ordinate a case conference for all area contacts to enable wider discussion.
 25. This may also include confirmation that they will be instructing Legal Services to progress a civil action for eviction. In the case of instructions to Legal Services, it should be noted that decrees for eviction are granted by the Sheriff Court and are subject to a reasonableness test (see Appendix 4).
 26. If it is agreed that there are grounds for eviction from the site, a Sherriff Officer OR representative from the Landowning Service will serve a Notice to Quit. This will require vacation of the site by a certain date.
 27. If the site continues to be occupied after the period of notice has ended, Legal Services will prepare the appropriate application to the Court seeking the removal of the unauthorised encampment. This will be lodged with the Sheriff Court.
 28. At the initial hearing at Court, the Sheriff may grant a warrant to serve the writ on the occupiers and would give a period of time for the occupiers to oppose the application.
 29. Legal Services will arrange for Sheriff Officers to serve the Court papers to those staying in the camp. This is normally done on either the same day the Sheriff grants the warrant or the next day. If opposition to the application is lodged, further Court procedures will follow.

30. If no opposition is lodged and the camp remains occupied, Legal Services will return to Court at the appointed time and ask the Sheriff to grant Decree.
31. Once the Council has an Extract Decree, Legal Services will instruct Sheriff Officers to enforce the Decree and carry out the eviction. A period of notice of the eviction will be required.
32. If the unauthorised encampment has not moved within the time period allowed by the Sheriff Officers, they will take steps to enforce the decree and remove the occupiers.
33. The landowning service must confirm the planned date of eviction with all 'Area Contacts' and Police Scotland.
34. Prior to any eviction date, Housing Services Area Manager will convene a meeting of relevant officers to discuss the roles and responsibilities on the eviction day. This will include ensuring an alternative site for the households to potentially be towed to, provision for any potential homelessness issues created by the eviction and any child or adult protection issues arising from the eviction procedure.
35. The Housing Service will, in their liaison capacity, continue to visit until the camp has been evicted or has moved on voluntarily. And will circulate reports on all visits to relevant Area Contacts. It is the experience of the Council that, in the majority of cases where eviction action is raised, the camp moves on voluntarily.
36. Following any eviction, Waste Services (or delegated Housing Lead Contact if agreed) must confirm to all 'Area Contacts' when they have cleared and made good the site. They will also set out the arrangements in place for recovery of these costs from the Gypsy/Travellers.

Improving Responses

37. The Housing Lead Contact, with the multi-agency partners, will reflect on any 'lessons learnt' and record these. This will help to inform future responses and improvements to the approach.

Part 2

Unauthorised Camps on Non-Council owned or controlled land – what will happen?

1. In law, The Highland Council has no responsibility for civil enforcement action on land that is not in its ownership or control.
2. Private landowners are required to take independent legal advice. In their capacity as landowner, they are also required to instruct any civil actions for removal of an unauthorised camp.
3. We will advise landowners on this Policy, including the Good Visitor and Neighbour expectations, and what assistance we can offer. We will remind them that it is their responsibility to ensure that local residents and the environment are not adversely affected. Information will be provided on any particular needs or circumstances, which the Gypsy / Traveller household has, which the landowner may wish to consider in making its decision. We will make sure that they have an awareness of Gypsy / Traveller culture. We will encourage private landowners to seek advice from us on managing camps at any point.
4. The Highland Council, via the Housing Services Lead Contact, will deliver a visiting liaison service to camps on land that is not in Council ownership or control (where resources allow). The response will be mirror the process set out in Part 1 paragraphs 1- 10 (i.e. up to 'Decision Making').
5. Following the 'date of departure' visit, the Housing Lead Contact will confirm the position with the landowner and advise whether further liaison visits will be maintained.
6. To support effective joint working, landowners are asked to communicate their intentions and progress with any legal action with the local Housing Lead Contact.
7. The Housing Lead Contact will communicate any information updates from the landowner direct to the Area Contacts and Police Scotland.
8. The Housing Lead Contact will also continue to communicate updates to the Area Contacts, Police Scotland and the landowner following any camp visits.

9. Where necessary, the landowner may request a multi-agency case conference. In these circumstances Housing will have the coordinating role. Requests should be made to the relevant Area Housing Manager.
10. Highland Council can take enforcement action related to a particular behaviour on private land (e.g. fly-tipping; nuisance) if there is sufficient evidence to identify individual perpetrators. However, it is the responsibility of the landowner to remove any fly-tipped material/litter left on site.
11. For long term encampments on private land, requirements in terms of planning legislation will require to be met.
12. If it is not possible to identify the owner of the land on which an encampment is sited, we will undertake to manage the encampment in line with the policy and procedures applied to Highland Council land.

Appendix 3 – Legislative Summary

This is a summary. More information is set out in the Scottish Government Guidance¹².

The Equality Act 2010

Under the Equality Act 2010 it is unlawful to discriminate against people because of protected characteristics such as age, race, religion or belief, disability, sex, marriage, civil partnership, gender reassignment, or sexual orientation. Gypsy/Travellers are recognised as an ethnic or racial group under the definition of 'race' in the Act.

Section 149 of the Equality Act puts a duty on all public authorities to have due regard to three specified matters when exercising their functions:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
- advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

Human Rights Act

The Human Rights Act 1998 created a statutory requirement to read all legislation in accordance with the European Convention provisions. It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

Trespass (Scotland) Act 1865 and Roads (Scotland) Act 1984

Guidance in place for prosecutors outlines that there is a presumption against prosecuting Gypsy/Travellers for trespass as defined in section 3 of the Trespass (Scotland) Act 1865, where the sole issue in relation to an unauthorised site is unlawful encampment by Gypsy/Travellers. The guidance also outlines that this presumption may be over-ridden by public interest considerations, depending on the circumstances.

The presumption against prosecution does not apply to any other criminal offences that may be committed on or around unauthorised sites. If a crime is reported to the police, it will be investigated and if there is sufficient evidence a report will be submitted where appropriate to COPFS for consideration.

¹² www.gov.scot/publications/guidance-local-authorities-managing-unauthorised-camping-gypsy-travellers-scotland/pages/1/

Anti-Social Behaviour Act 2004

The 2004 Act includes a range of measures to deal with anti-social behaviour such as antisocial behaviour orders. These powers, contained in Section 21, can be used to disperse groups for a range of antisocial and environmental offences. They may be relevant in relation to unauthorised sites as they could be used to protect both Gypsy/Travellers on a site and local settled people.

Sections 61 and 62 of the Criminal Justice and Public Order Act 1994

This Act deals with trespass and the removal of vehicles. Section 61 deals with police powers to remove trespassers on land and section 62 provides supplementary powers of seizure and imposes criminal sanctions. These provisions could be relevant to the issue of unauthorised sites by Gypsy/Travellers, where there has been disruption and where specific criteria have been satisfied.

Crime and Disorder Legislation

In Scotland protection against racially aggravated harassment is afforded under Section 33 of the Crime and Disorder Act 1998 which introduced the offences under section 50A of the Criminal Law (Consolidation)(Scotland) Act 1995. Section 96 of the 1998 Act also creates an aggravation for any offence which is racially motivated.

The Public Order Act 1986, Part 4, also applies to Scotland. It creates a number of offences which involve racial hatred such as use of words or behaviour or display of written materials intended to stir up racial hatred, and possession of inflammatory material.

Environment Protection Act 1990

Section 87 of the EPA makes it an offence to throw down, drop or otherwise deposit litter and leave it. This largely applies to publicly-owned land which is open to the air and accessible to the public.

Private land owners are responsible for the removal of waste from their land. However, Section 179 of the Town and Country Planning (Scotland) Act 1997 enables a local planning authority to require the owner and occupier of land to take specific steps to remedy the land's condition, if they consider that it adversely affects the local area.

Flytipping is the illegal dumping of waste onto land which is not covered by a licence to accept waste. It is an offence under Section 33 of the EPA. Section 59 provides powers to SEPA and local authorities to require the removal of the waste or to remove it themselves and recover the costs. Guidance (*Flytipping in Scotland: A Guide to Prevention and Enforcement*) for local authority and SEPA waste enforcement officers recognises that the

owners of flytipped land are the victims of crime. It encourages them to investigate flytipping and offer assistance. This may be in the form of advice to prevent the problem in the future or help to uplift or dispose of waste if local circumstances allow.

British Transport Commission Act 1949

Section 55(1) of the British Transport Commission Act 1949 makes it an offence to trespass upon any railway line, sidings, tunnel, embankment or cutting, or on lands in dangerous proximity to lines or electrical apparatus associated with the operation of the railway.

Assessment of Housing Needs

The Housing (Scotland) Act 2001 creates a legal requirement for a local authority to prepare a Local Housing Strategy supported a housing need and demand assessment, (HNDA), including those of Gypsy/Travellers. The Local Housing Strategy must be submitted to Scottish Government Ministers.

Planning

Based on the HNDA evidence, the planning authority for an area is required, where need is identified, to plan for the current and future needs of the Gypsy/Traveller community, and involve the community in planning and decision-making which affects them.

Appendix 4 – Enforcement Guidance

This section sets out additional guidance on instructing enforcement powers to evict.

Effective enforcement can promote confidence in the ability of the local authority to manage unauthorised camps. Local residents need to know that they and their local environment can be and will be protected.

This guidance is intended for use by Highland Council Services in situations where the land is owned or controlled by the Service. It is expected that Services minimise risk of legal challenge by referring to this guidance before instructing enforcement powers.

Consultation with Legal Services **as soon as possible** is recommended if it appears there may be a need for this type of action.

1. Enforcement Action

Enforcement action against unauthorised camps require the landowner (whether a private individual, a company or the Council) to make an application to the Sheriff Court for authority to eject an encampment from land in its ownership or control.

These applications are made in terms of the Summary Cause Rules of Procedure:

- actions can only be raised by a party with an interest in the land e.g. owner;
- are used to recover possession of land;
- require that recovery of possession is enforced by Sheriff Officers;
- do not provide any sanction for the return of trespassers onto land.

2. Making Decisions

Highland Council is required to ensure that unauthorised camps are managed sensitively and proportionately within the framework of this Policy. Landowning services must ensure they follow THC's procedures and that their actions and decisions are fully documented.

The following decision making questions should be considered. These are not exhaustive.

Is enforcement necessary?

What are the grounds for seeking recovery of possession?

- The court will require to be satisfied that the decision of the Council to seek recovery is reasonable. For example, is there a road safety issue, an assessed risk to public health or an anti-social behaviour issue?

What complaints have been received? What has been the nature of the concerns raised?

- The Service should assess the situation and have regard to the views of partner agencies such as the police.

Could the encampment be managed with a lighter touch?

- For example, based on previous experience is the encampment likely to move off the site in due course?

Is the decision to evict likely to be challenged?

In accordance with wider obligations the Service must ensure that welfare enquiries have been carried out. This is to determine whether there are pressing needs presented by the unauthorised campers and that the appropriate agencies are involved.

Is there relevant evidence available (in relation to the camp) which supports the need for choosing use of this type of enforcement action as the most appropriate in the circumstances?

The Service should identify an appropriate witness who will be able to give evidence in support of the decision and provide copies of any photographs, witness statements or other documents such as minutes of case conferences, which might be lodged in court.

Do the households at the camp have accommodation available to them elsewhere, and if not, is there availability at any permanent sites?

The Highland Council's Policy clearly sets out the intention that staff who are liaising with camps provide information and advice as well as support and assistance. Any accommodation needs will have been identified as part of following the procedures. Landowning services are required to reference this type of information in any instructions to Legal Services for using enforcement powers.

Would it be more appropriate to consider other powers or actions – e.g. interdicts or anti-social behaviour orders?

There may be circumstances where convening a multi-agency case conference may help identify alternative enforcement or indeed management mechanisms more appropriate to the circumstances of a complex and difficult case. For example, do particular groups repeatedly return to the same area?

3. Avoiding Legal Challenge

Landowning services should be aware that considerable delays can occur if the unauthorised campers mount a challenge to the action of recovery. Clearly this can impact on the costs, duration, seriousness and community impact of an encampment.

Challenge can also be made against any public body through judicial review on the grounds that decision-making was flawed - which use of this guidance should prevent.

4. Instructing Enforcement Powers for Eviction

Landowning Services should consult with Legal Services on a case by case basis **at the earliest possible** time it appears there may be a need for this type of civil action.

Legal Services should be included in any multi agency case conferences to make sure that all enforcement and/or management mechanisms are given due consideration.

Appendix 5 Road-side Camps – Liaison Recording & Checklist

Form 1 – General information for key contacts. Update as needed following visits.

1.	Date of Notification	
2.	Location	
3.	Land ownership	
4.	Date of visit.	
5.	Number of vehicles.	Number of caravans
6.	Number of adults.	Number of children.
7.	Reason for stay	
8.	Intended length of stay.	
9.	Anticipated date of departure.	
10.	Agreed date of departure (if different)	
11.	Actual date of departure	
12.	Date other Services Notified	

Assessment & Actions

Form 2 – information for sharing with relevant services. Update as needed following visits.

13.	Impact of camp on road safety?
14.	Impact on area's amenity e.g. any public health, refuse or other waste issues?
15.	Impact on: environment; land use; community e.g. preventing use of a lay-by?
16.	In your opinion, is the family Scottish Gypsy Traveller community? Y / N
17.	Any support needs identified? (e.g. Health, Education, Welfare, Vul. Children / Adults)?
18.	Were these met and by who?
19.	Services required (e.g. waste collection)? Were they met?
20.	Any other relevant information (e.g. re. the agreement expectations?)
21.	Nature of Complaints Received? Any Significant Breaches?
22.	Should Enforcement Action be considered & if so why?
23.	Date Legal Action Started
24.	Summary of Lessons Learnt?

Checklist – Information Provided

This is to support consistent, and comprehensive, information and assistance

Date of Visit(s)

Information to be Provided	Discussed? Please tick
Contact Details	Yes / No / Not Relevant
Household Rubbish	Yes / No / Not Relevant
Other Waste (e.g. toilets; trade waste)	Yes / No / Not Relevant
Good Neighbour & Visitor Agreement	Yes / No / Not Relevant
Access to public toilets	Yes / No / Not Relevant
Water access	Yes / No / Not Relevant
Frequency of Liaison Visits	Yes / No / Not Relevant
Any health needs including dentist?: adult	Yes / No / Not Relevant
Any health needs including dentist?: children	Yes / No / Not Relevant
Education	Yes / No / Not Relevant
Accessing Welfare Benefits	Yes / No / Not Relevant
Other Welfare services e.g. CABx	Yes / No / Not Relevant
Fixed Sites - location, cost, availability	Yes / No / Not Relevant
Applying for housing	Yes / No / Not Relevant
Anything else? <i>Any other info. provided / asked for?</i>	
Space for Notes	

Appendix 6 Good Neighbour & Visitor Agreement

Un-Authorised Camping in Highland

We, The Highland Council, respect Gypsy / Travellers' right to a travelling lifestyle, moving and camping across Highland. We work hard to get a good balance between this and the needs of settled communities. We will help to make sure that Gypsy / Travellers are not discriminated against. And will support good relations between different communities.

We ask everyone in the Highlands to act responsibly and respectfully. This leaflet sets out what is expected of people visiting and camping here. And also, how we will help.

We ask and expect visitors to:

- ✓ Respect, and help to look after, the land that the camp is on
- ✓ Show respect to others who live nearby - including their peace of mind (for example, don't act in ways that might annoy or alarm others)
- ✓ Work positively with us.

- ✓ Leave no mess. And get rid of your household rubbish helpfully. Use the local recycling centres. Or make it easy for our bin men to collect your rubbish bags (e.g. leave them at the road side).
- ✓ Get rid of your animal and human waste safely and responsibly (e.g. nappies)
- ✓ Not 'fly-tip' – get rid of commercial waste at landfill sites or recycling centres

- ✓ Take responsibility for your own actions – be aware of dangers
- ✓ Prevent 'out-of-control' fires by being careful
- ✓ Keep pets quiet and under control.

- ✓ Keep groups small – avoid having too many vehicles in one place
- ✓ Keep noise down - for example, from your generators. This stops nuisance.
- ✓ Respect the rights, and way of life, of others who use the land
- ✓ If possible, let us know when you arrive to camp (if you don't have the landowner's permission already). This will help us provide services you may need.

- ✓ Leave the area clean - and as you found it.

The Highland Council will give you:

- ✓ Advice about, and help with, accessing services (such as health or education).
- ✓ Advice on how to have good relations with nearby communities & the land-owner.
- ✓ Help to get rid of your household waste responsibly.
- ✓ Advice on where you can get rid of your trade (commercial) waste.
- ✓ Advice on accommodation – and sites with services set up for Gypsy Travellers
- ✓ Information on how we will manage any issues. (*Our Gypsy / Traveller Camps Policy also sets this out We can give you a copy. Just ask. Or see: www.highland.gov.uk*)

We will be a 'go-between' e.g. between your camp and others who live nearby. To do this, we will:

- ✓ Regularly visit and make contact with you
- ✓ Tell you about concerns. And work with you to find ways to make things better
- ✓ Respect confidentiality. We and our partners will only share information appropriately and in line with our Policy. We will not share personal data.

Waste Disposal – Remember, you need to fill out a [Household Waste Declaration Form](#) if you're taking a van or trailer to one of our recycling centres. You can do this on-line on the Council's website. We can give you a form. Or get one at a Council Service Point.

If you do not respect these wishes, you will be asked to move on. We will make you aware of any issues. We will ask you to put things right. If you don't, it may be necessary for the land-owner to take legal action.

Advice on Stopping Places

If you want to stop, find somewhere less likely to lead to problems. Some places are **never** suitable. You will be asked to move on, no matter what the stopping reasons are.

For example: :

- Parks / public open spaces which are used regularly by others
- Places where you, or others, are in danger of death or injury. For example, from car accidents; toxic waste; near railway lines; lay-bys next to fast roads
- Places where the land is particularly at risk of harm. For example, protected sites; where public water supply is at risk

Other places are not suitable because they might lead to difficulties. For example:

- Parking Areas
- Close to housing
- On footpaths
- On land which is for sale
- In places considered to be 'National Scenic Areas'

Other things might make a location unsuitable. We will give a clear reason for this. Remember, it's up to the land-owner. They decide to let you stay on - or, to take legal action to evict you.

Useful Contacts

- The Highland Council - **01349 886606** (ask for the Gypsy/ Traveller Liaison Contact)
- THC Website (for information and online requests): www.highland.gov.uk
- NHS 24 – **111**
- Police Scotland - **101**
- Citizens Advice - **0808 800 9060** Or visit the local CAB (Citizens Advice Bureaux)
- General advice is available on the Scottish Gov. website: www.mygov.scot

If you need this information differently (e.g. verbal recording, call and ask.