

Appendix A

The following is prepared on behalf of Teignbridge District Council in response to the Government Consultation on “Strengthening police powers to tackle unauthorised encampments”.

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*

***Please explain your answer:** It is trite law that no person should enter upon another’s land without permission, regardless of intention. Introducing a burden on the landowner of having to prove the intention of the trespasser is impractical unsustainable and wholly unreasonable.*

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:** The question fails to distinguish between private and public land where a degree of tolerance might be had depending on the nature of the publicly owned land. In any event, no thought appears to have been given as to who the enforcing authority might be, or what the prevailing circumstances are.*

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: *In respect of Privately owned land and putting to one side the existing statutory regime, such a proposal is a recipe for confrontation and breaches of the peace. As to Publicly owned land there already exists a statutory regime however unwieldy it might be.*

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

Explain: *The very existence of an encampment will adversely impact on those lawfully entitled to make use of the land making use of it.*

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

Explain: Experience shows that encampments invariably results in such damage to varying degrees.

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

Explain: We have no evidence of such demands although menaces are sometimes present.

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

Explain: *This statement is too sweeping, however complaints relating to anti-social behaviour are often received in respect of such encampments.*

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

Explain: *Please see response to Q18 below*

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: *The police very rarely (if at all) utilise their existing powers. In any event such a proposal would require some form of integrated system and would likely only serve to move a problem rather than resolve it. The Government should concentrate on providing adequate sites throughout the country, rather than put this burden on the local authority.*

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

Yes.

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

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.

Yes.

If yes, what should these be?

Distance to be travelled, availability of authorised sites and any welfare, health and or education needs.

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: *The issue is one of enforcement not time.*

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: *Invariably, the police do not enforce/utilise their existing powers therefore reducing the number of vehicles from six to two is unlikely to have any practical impact. However reducing the number to 3 vehicles could be more suitable as it may help the police to identify those involved.*

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: *see response to Q18.*

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: *Nice idea in theory but in reality unrealistic and unsustainable.*

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

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

Possibly

iii) **Anyone convicted of trespassing on land with the purpose of residing on it?**

In pursuance of a court order - possibly

Please explain your answer: *trespass is a civil wrong actionable in tort.*

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: see response to Q18.

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?

To mitigate / lower any negative impact not only on the traveller community but communities generally, the Government needs to address the reason why there are unauthorised encampments, rather than the consequences of them.

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?

It is difficult to see how criminalising unauthorised encampments in the manner proposed will have a positive impact. Governments and the courts have determined that Travelling is a cultural and traditional way of life for a certain class of people. Against that backdrop it is difficult to understand how these proposals can be justified.

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

It is apparent to us from the consultation and questions that form part of it that those responsible for the same have little if any knowledge or understanding of the fundamental issues relating to the Gypsy and Traveller Community. The questions evidence a failure to distinguish between private and public land and the specific issues faced by the various groups that collectively form the Gypsy and Traveller Community. The consultation documents imply that consideration is being given to potentially criminalising the whole travelling community regardless of circumstances at any given time and to shift the burden of dealing with that community and the consequences of any trespass onto the land owner regardless of their circumstances.

The issues relating to Gypsies and Travellers are of national significance and should be dealt with and legislated for by the Government or a department thereof and not left to local authorities to deal with. This approach would/should allow the country to be better placed to address the myriad of complex social and welfare issues and those relating to law and order as well as paving the way for a properly funded and integrated nationwide regime rather than a collection of disparate standalone district policies that we have now which rarely satisfy or serve the needs or demands of local communities generally or of the Gypsy and Traveller community.