



HM Government

Government response to the consultation on powers for dealing with unauthorised development and encampments

A summary of consultation responses and the way forward



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Ministerial Foreword

Since taking up my role, my priority has been to help us build thriving, liveable and resilient places – where people get along. Our communities are at their best as part of a tolerant society, where we live, work and socialise together.

But I am clear that this must be built on shared rights, responsibilities and opportunities. Equality under the law must be at the heart of this. In that respect, the concerns raised by a wide range of groups about the challenges presented to communities by unauthorised encampments and illegal activity must rightly be addressed by government.

Equally, the challenges faced by those living on these sites have been brought into sharp focus. No community should feel excluded and everyone should understand and embrace the benefits and opportunities of a diverse society. Over the last year, we have been collecting evidence into unauthorised developments and encampments.

The responses to our consultation have provided valuable insights into a problem caused by a very small minority of people in communities across our country – but a problem with a large impact on those who live and work nearby.

I am concerned by accounts of noise and anti-social behaviour, abusive and threatening behaviour, the occupation of public and private land, extensive litter and waste, and the costs of cleaning and protecting land. Moreover, I am troubled by a recurrent sense that I get from respondents: that they feel there are groups within our society to whom the law does not apply, and that our justice, planning and policing systems are not fair to those who have to live with the consequences of unauthorised encampments.

This corrodes the sense of fair play that underpins our society, and it's something we are determined to address. We will respond in the interest of residents, to ensure a fair justice and planning system, while also making sure we support the interests and life-chances of travellers and their children, so no one is left behind.

The Home Office, the Ministry of Housing, Communities and Local Government and the Ministry of Justice have worked together to prepare a package of measures to address these issues, including:

- stronger powers for the police to respond to unauthorised encampments;
- practical and financial support for local authorities to deal with unauthorised encampments;
- support for traveller-site provision; and
- support for the travelling community to improve life chances.

We will continue to work together – across government and all our communities – to make sure these powers and resources help deliver the fairness and inclusion we need to diffuse, resolve and heal divisions in the places we call home.

JAMES BROKENSHERE
SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

Executive Summary

This document sets out the Government's proposed measures to address the issues raised in the joint Ministry of Housing, Communities and Local Government, Home Office and Ministry of Justice consultation on the powers to deal with unauthorised development and encampments consultation. There were 2,198 responses to the consultation and the analysis of the responses is set out in this document.

Chapter 1 of this documents sets out the context for the consultation and the case for action. The Government is clear that it is committed to ensuring that all communities are treated fairly. However, it is equally clear that it will not tolerate breaking the law and therefore announces further actions designed to address the problems caused by unauthorised development and encampments.

Chapter 2 of this response set out the action that the Government will take, which includes:

- Stronger powers for the police to respond to unauthorised encampments by amending legislation to permit the police to direct trespassers to suitable authorised sites located in neighbouring local authority areas; increase the period of time in which trespassers directed from land would be unable to return; to lower the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised; to enable the police to remove trespassers from land that forms part of the highway.
- Practical and financial support for local authorities including new good practice guidance and funding for planning enforcement to support local authorities to deal with unauthorised encampments more effectively.
- Supporting traveller site provision through planning policy and the Affordable Homes Programme.
- Support for the travelling community to improve life chances through seeking to address barriers and continue to improve outcomes in terms of education and healthcare

The remaining sections of the document provide an analysis of the consultation responses received on each question, along with the Government's view and proposed way forward.

The Government believes that these steps will give local communities the powers and resources they need to ensure fairness locally and respond to unauthorised development and encampments, while reminding them of their responsibility to the travelling community.

1. The case for action

On 5 April 2018 the Government launched a call for evidence into unauthorised development and encampments. It sought information on the scale of the problem and whether existing powers are working and whether reform is needed. The Government received 2,198 responses, and it is grateful to all those who responded. In addition, it is grateful to Members of Parliament for raising these important issues through debates in the House of Commons and through their correspondence with Ministers.

This document sets out the Government's proposed measures to address the issues raised in the consultation, followed by a full analysis of the consultation responses that have underpinned the development of these proposals.

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

The Government has heard a number of accounts where unauthorised encampments have caused significant distress to local communities and where local authorities have had to deal with a range of issues as a result of such behaviour. Some of these situations are set out below:

Luton

Between 2016 and 2018 there have been 65 encampments on areas of land maintained by Luton Borough Council including the public highway. The costs to the authority in clear up costs, officer time, and legal fees are estimated to be in the region of £130,000 for this period. The travellers would often traverse between two sites, which is having a negative impact on the businesses and community facilities operating from these locations. There have been reports made to the police of anti-social behaviour and intimidation, and each encampment usually results in significant waste being deposited in the area, which the authority has had to clear.

Hampshire County Council

In 2017 there were 212 encampments in Hampshire with a total of 765 caravans overall encamped on County Council, Highways, local authority and private land. These encampments vary in size from one to 12 caravans with a requirement for regular clearance of fly tipping and industrial waste from the sites, the cost of which is borne by the local authority. Encampments are regularly served with a direction under Section 77 of the Criminal Justice and Public Order Act 1994 to vacate. There are numerous occasions where the legal process is initiated and summons papers served, with the site then vacated within 24 hours of the Court date, resulting in wasted costs and officer and Court time.

South Gloucestershire

In the previous two years, South Gloucestershire Council has dealt with approximately 100 unauthorised encampments across its area, varying in scale from one to over 30 trailers

and associated vehicles. The impact on the local community usually focuses on damage to the land in occupation, personal safety and security, fly tipping and human waste, the speed with which the local authority and statutory agencies can respond and secure their removal, and the clean-up operation and restoration of the land.

Croydon

There have been over 200 unauthorised settlements in the last three years. These affect mostly private property land owners in the winter as the family groups settle on firmer ground such as concrete. This evolves into the parks and open spaces in summer months when the weather is good and the ground into the parks is normally dry and firm for easy access. In summer, Croydon Council receives complaints from residents when parks or common land areas are partly or fully taken over by groups of travellers. Sometimes the behaviour of the travelling groups can be very challenging, anti-social or even criminal which elevates the concerns of residents and therefore the complaints level.

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

However, the Government has heard compelling evidence in response to the consultation that stronger powers are needed, to be able to address a broader range of circumstances where unauthorised encampments occur. Under existing powers, while numerous local authorities and police forces are working well together to address these issues, it is clear that this expertise is not shared by all. Perceptions of special treatment mean that local communities lose trust that justice applies equally to all.

While the number of caravans on authorised sites has increased from 14,498 in July 2010 to 19,569 in July 2018, based on MHCLG's Traveller Caravan Count statistics, the Government has also heard evidence in response to the consultation that part of the challenge is a potential lack of authorised land being provided by local authorities for traveller sites and encampments. However, it notes that local authorities have existing duties to ensure that the need for permanent and transit sites are assessed, under section 8 of the Housing Act 1985, and national planning policy in the Planning Policy for Traveller Sites and the National Planning Policy Framework. The Government therefore believes that the existing duties and policies stipulating the need to provide sites for travellers are sufficient, and that it is incumbent on the local authorities to discharge these duties.

Finally, the Government has also heard arguments that England should follow the so-called 'Irish model' for dealing with unauthorised encampments. This approach criminalises trespass in certain circumstances. There is also a statutory requirement for local authorities to provide sites for travellers in Ireland. The consultation responses have been clear that the majority of respondents believe the Government should consider criminalising unauthorised encampments in England. As set out below, the Government will conduct a review into how this can be achieved.

2. Further action on unauthorised development and encampments

The Government announces further steps designed to address the problems caused by unauthorised development and encampments. These measures will strengthen police powers and enforcement capabilities for local authorities to tackle illegal activity, reinforce local authorities' existing duties to assess and address the likely permanent and transit site accommodation needs of travellers in their area, and provide further support for the Gypsy and traveller communities.

The Government is clear that it is committed to ensuring that all communities are treated fairly. However, it is equally clear that it will not tolerate breaking the law. The proposals set out in this response will provide strengthened support and clarity both for those dealing with unauthorised encampments, and for those communities living in them.

With the exception of the proposals for policing powers and the reform of courts processes, which cover both England and Wales, the measures detailed below apply to England only.

1. Stronger police powers

The consultation responses signalled clear calls for the Government to take action to improve enforcement against unauthorised encampments. For example, only 9 per cent of respondents stated that the current set of powers were effective and only 4 per cent of respondents stated that new or revised police powers were not needed. Recognising the views of respondents and stakeholders, the Government has identified a set of measures to extend powers available to the police, to enable unauthorised encampments to be tackled more effectively. This includes amending legislation to recognise the introduction of combined authorities, who have powers to collaborate collectively to address unauthorised encampments across council boundaries. These proposals are set out below:

- a. The Government will seek Parliamentary approval to amend section 62A of the Criminal Justice and Public Order Act 1994 to permit the police to direct trespassers to suitable authorised sites located in neighbouring local authority areas. Currently, the police can only direct trespassers to sites within the same local authority area. Extending this power would make it more likely that the police and local authorities could act where a shortage of site capacity exists.
- b. The Government will seek Parliamentary approval to amend sections 61 and 62A of the Criminal Justice and Public Order Act 1994 to increase the period of time in which trespassers directed from land would be unable to return. Currently, the power prohibits a trespasser from returning to the area of land for three months. The Government plan to extend this time period to twelve months. This would provide greater protection to land targeted by the same group of trespassers on a regular basis.

- c. The Government will seek Parliamentary approval to amend section 61 of the Criminal Justice and Public Order Act 1994 to lower the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised. The number is currently six or more. It intends to change this to two or more. This will increase the opportunity for police intervention and make it more difficult for trespassers to split into smaller groups to avoid enforcement.
- d. The Government will seek Parliamentary approval to amend section 61 of the Criminal Justice and Public Order Act 1994 to enable the police to remove trespassers from land that forms part of the highway. The police are currently restricted in dealing with these encampments unless there is a suitable pitch in the same local authority area. This would make it easier for the police to tackle problematic encampments.

To take forward these proposals, the Home Office on behalf of the Government will soon launch a public consultation on the specific nature of the measures, and include proposed changes where required to the Criminal Justice and Public Order Act 1994, ahead of legislation that could be introduced into Parliament.

The consultation responses have also been clear that the majority of respondents believe England should consider criminalising unauthorised encampments, as has been done in the Republic of Ireland. This view has been echoed in the wide-ranging debates in the House, and the Government will conduct a review into how this can be achieved.

2. Support for local authorities

The Government notes that there is an extensive range of powers currently in place, as set out in the 2015 guidance, which allow local authorities to clamp down quickly on unauthorised encampments – and the Government expects authorities, working with the police as necessary, to use these powers to take swift and effective enforcement action.

The consultation responses demonstrated that local authorities generally believe the powers available to them under Section 77 and Section 78 of the Criminal Justice and Public Order Act 1994 are adequate. However, some local authorities may deal with unauthorised encampments less frequently than others, and the Government has heard that it can be difficult to develop expertise and good practice in all areas.

The Government will therefore keep local authorities' powers in this area under review, following the proposals to reform police powers, and where there are deliberate and repeated breaches of planning. In addition, ahead of the Spending Review, we commit to undertaking further work to ensure that measures are in place to address issues around the clean-up costs which can occur following an unauthorised encampment. Ahead of this the Government is providing a comprehensive package of support to enable local authorities to deal with unauthorised encampments under their existing powers in a timely way, for the benefit of the whole community. To support all local authorities in the use of their powers, **we will provide new good practice guidance to support local authorities use of powers to deal with unauthorised encampments.** We want to ensure that local authorities use the powers to full effect and draw on good practice available across the country at county and district level. This can include ways in which public bodies can more effectively work with the police, neighbouring authorities, the travelling and wider communities, for example

on welfare issues and clarifying roles and responsibilities, to move unauthorised encampments on efficiently and successfully.

We will in due course create a power to place this guidance on a statutory footing, in order to ensure that all local authorities are following this advice and using their powers effectively.

Examples of good practice in managing unauthorised encampments

A number of local authorities throughout the UK use particularly notable methods to manage unauthorised encampments. These include:

- South Derbyshire, who have established a Traveller Liaison Group to provide a bridge between the traveller community and enforcement agencies.
- Thames Valley Police and Buckinghamshire County Council have worked together to implement a Memorandum of Understanding to report encampments when they occur and quickly identify who will be taking the lead on enforcement.
- Durham County Council holds Gypsy, Roma and Traveller forums in areas where there are significant numbers of unauthorised encampments; police attend these forums as partners.

We will build on these examples to develop our best practice guidance.

Planning enforcement

This package also includes a commitment to make up to **£1.5m of funding available to local authorities to support planning enforcement through the next round of the Planning Delivery Fund, helping them deal with unauthorised development**. This funding could be used to help a range of enforcement activities, from preparing injunctions, to preparing a new enforcement plan. The Ministry of Housing, Communities and Local Government will publish details of the fund and how to bid shortly.

In addition, to further strengthen local planning authorities' enforcement powers in light of the consultation responses, the Government is minded to extend the period of time that a temporary stopping notice can be in place for, when a suitable parliamentary opportunity arises. In the meantime, we will engage further with local planning authorities and other stakeholders about how far the stopping period can be reasonably extended.

Intentional unauthorised development

The Government introduced a policy in 2015 to make intentional unauthorised development a material consideration in the determination of planning applications and appeals. The Written Ministerial Statement explained that the Government is concerned about the harm that is caused where the development of land has been undertaken in advance of obtaining planning permission. In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place. Such cases can involve local planning authorities having to take expensive and time-consuming enforcement action.

The Government will consult on options for strengthening this policy, as part of ensuring that local authorities have the tools to address the effects of unauthorised development, helping to maintain confidence and fairness in the planning system.

Court processes

The Government has heard how the effectiveness of local authorities' enforcement powers can be weakened by the time taken by the courts to respond to requests for action. By the time the court has decided to act, the encampment may have moved on. The Government is modernising the courts and tribunals system to make it more straightforward, accessible and efficient for all. An ambitious £1 billion programme is underway, which is designed to improve the system between now and 2022.

The timeliness of possession cases in the county court (the court process by which possession of either property or land is regained) has been examined and has indicated that the court process does currently adhere to the guidelines detailed in the Civil Procedure Rules.

However, Her Majesty's Courts and Tribunal Service's reform programme includes a project examining possession which will consider how operational processes can be improved to deliver greater efficiencies and further improve timeliness. Reform will consider increased use of online hearings and whether certain cases can be determined on the papers rather than requiring the parties to attend in person, also reducing the length of the process.

3. Site provision

Transit sites and local authority joint-working

The Government has heard over the last year that law enforcement bodies are able to use their powers more effectively where they can identify an alternative authorised site for an unauthorised encampment to move to. The Government is aware that many unauthorised sites are generated by travellers moving from one location to the other, and therefore more transit sites would help to address the issue where there is inadequate provision.

The Government has made clear that local authorities have a duty to assess the housing needs of its area and ensure that appropriate traveller sites are provided for the travelling community, as currently set out in the Planning Policy for Traveller Sites. It is the Government's assessment that the current duties and policies are sufficient in terms of setting out what local authorities must do to provide these sites. **The Government is reminding local authorities of their duties to assess the need for transit sites, in addition to permanent sites, through a Written Ministerial Statement published alongside this document.** This will also remind local authorities that in planning for transit sites, they should work together with neighbouring authorities to ensure that areas of the country are not left without provision, leaving other communities at risk of unauthorised encampments. The Government will also introduce further guidance making clear that the Secretary of State will be prepared to review cases where concerns are raised that there is too high a concentration of authorised traveller sites in one location.

Planning Data

In addition, as part of the Ministry for Housing, Community and Local Government's work to ensure that data available in plans becomes genuinely publicly available to assist community understanding, **the Government will consider making information on permanent and transit sites in plans freely available in open data format so that the authorities have a single clear source of data on the availability of such sites.** This will help establish which local authorities have an up-to-date plan for travellers in place and are meeting national policy requirements. The Government will also consider writing to those authorities that do not have an up-to-date plan for travellers in place, to expedite the requirements of national policy, and highlight examples of good practice.

Affordable Homes Programme

To support the Government's objective to boost housing supply and to build more affordable homes, we have made £9bn available through the Affordable Homes Programme to March 2022 to deliver 250,000 new affordable homes. This will provide a wider range of homes to meet the housing needs of people in different circumstances and different housing markets – building the right homes in the right places.

This includes funding for new traveller pitches. Through partial-grant funding, the Programme will support the building of new pitches by local authorities or registered providers. Funding is available for both transit and permanent pitches, although priority will be given to the latter. Grant funding through the Programme is based on competitive bidding, where value for money and deliverability are used to assess bids and make funding allocations. The Greater London Authority manage this process in London, and Homes England in the rest of the England.

More details on the Shared Ownership and Affordable Homes Programme, including the Homes England prospectus and supplementary information, can be found here: <https://www.gov.uk/government/collections/shared-ownership-and-affordable-homes-programme-2016-to-2021-guidance#qualification>

In terms of wider Government support for the provision of traveller sites, the New Homes Bonus (NHB) provides an incentive for local authorities to encourage housing growth in their areas and rewards net increases in effective housing stock, including the provision of traveller pitches. Authorised traveller sites attract an additional affordable homes premium to reflect their contribution to affordable housing stock.

4. Support for travelling communities

The Government is working hard to create socially and economically stronger, more confident and integrated communities, where people can be involved in the decisions that shape their local area, including how neighbourhood services are provided and facilities are used. The priority is to ensure equality of opportunity for all and promoting and protecting equality and tolerance are the cornerstone of the Government's approach on rights and freedoms in communities.

We have funded a number of projects to benefit Roma communities through the Controlling Migration Fund, which allows local authorities in England to bid for funding to help ease local service pressures linked to recent migration. This funding has, for

example, supported a project in Sheffield focusing on the employment of education workers, sustainable improvements in environmental and housing issues, and English language provision; the largest group to have recently migrated to the targeted area consists of Slovak Roma.

We recognise the need to take steps to address the perceived lack of opportunity for groups with low social mobility, low-wage employment and people experiencing in-work poverty. Government will therefore continue to take action to address the disparity in outcomes for people from different backgrounds, as highlighted by the Race Disparity Audit.

The Government has heard how Gypsy and Roma Traveller communities often face significant social disadvantages, including issues such as maintaining access to education and healthcare. The Government funded six projects across England in 2018 to 2019 to improve outcomes in the areas of educational attainment, health and social integration, and to reduce the community's vulnerability. We will build on the learning to address barriers and continue to improve outcomes.

Education

The Government recognises that while some Gypsy, Roma and Traveller pupils can, and do, perform very well at school, as a group their attainment is particularly low. Evidence indicates that schools can transform this. The education reforms, underpinned by new school accountability measures, aim to increase opportunity and standards for all pupils, regardless of their ethnic background.

Pupil premium funding, worth £2.4billion this year alone, should benefit Gypsy, Roma and Traveller pupils who have high rates of eligibility for this support. Local authorities also have a legal duty to ensure that education is available for all children of compulsory school age that is appropriate to their age, ability, aptitude and any special educational needs. This duty applies irrespective of a child's ethnicity, or whether their parents are occupationally mobile.

In addition, MHCLG are funding pilots to work with Gypsy, Roma, and Traveller young people who are not attending education to see what works in terms of reaching these young people and providing careers information and guidance. Government want to broaden aspirations for the young people and their parents/carers and provide them with a knowledge of all their available options and a careers plan.

More broadly, the government expects schools to take a strong stand against bullying, including that aimed at Gypsy, Roma and Traveller pupils. All schools are legally required to have a behaviour policy with measures to prevent all forms of bullying, have the freedom to develop their own anti-bullying strategies appropriate to their environment, and are held to account by Ofsted. DfE also issues guidance to schools on how to prevent and respond to bullying as part of their overall behaviour policy, this was last updated in July 2017.

In November 2018 DfE published 'Respectful School Communities', a self-review and signposting tool to support schools to develop a whole-school approach which promotes respect and discipline. This can combat bullying, harassment and prejudice of any kind.

With regard to wider awareness within schools, the national curriculum programmes of study for history set the framework for the teaching of the subject in English maintained schools. DfE also commissioned the Historical Association to produce curriculum resources for schools, which are now available. The resources seek to enable children to learn about Gypsy Romany culture as part of more general work on British society, rather than to make it the focus of specific, self-contained studies.

Health

The Gypsy, Roma and Traveller community have poorer health and lower life expectancy than the general population including due to poor living conditions, high rates of homelessness, low educational achievement and social exclusion. Gypsy, Roma and Traveller people also face many barriers to health care including discrimination, economic disadvantage, differences in cultural interpretations, language, and health literacy. As a result, for example, not all members of the community are registered with primary care services and the take up of health screening and other preventative services such as immunisations are low.

This Government supported a number of focused developments to improve the system through the Inclusion Health Programme which ran between 2013-2016, including:

- guidance for services on planning and commissioning inclusive services;
- practical advice and support for local health staff to take account of the often complex needs of vulnerable groups when they are commissioning services; and
- an Inclusion Health training guide.

In order to improve access to GP practices, NHS England has produced guidance for General Practices to clarify the rights of patients and the responsibilities of providers in registering with a GP practice, and to facilitate better understanding about the process of registering with a GP. Practices cannot refuse registration of a person from the Gypsy Roma and Traveller community on the basis that they live on an authorised or unauthorised site, of 'no fixed abode', does not have proof of address or identification, or because of their immigration status.

The Department of Health and Social Care commissioned research to investigate which approaches to community engagement are most likely to be effective at enhancing trust between the Gypsy, Roma and Traveller community and mainstream health services. The study, '*Enhancing Gypsy, Roma and Traveller peoples' trust: using maternity and early years' health services and dental health services as exemplars of mainstream service provision*', was published in September 2018 and can be found here:

<https://discovery.dundee.ac.uk/en/publications/enhancing-gypsy-roma-and-traveller-peoples-trust-using-maternity->

Both NHS England and Clinical Commissioning Groups have a legal duty to have regard to the need to reduce inequalities in both access to services and health outcomes.

The Long-Term Plan for the NHS will set out ambitions for the next 10 years, underpinned by a five-year funding settlement, including how it will close the health inequalities gaps between those who are most and least deprived.

3. Overview of consultation responses

There were 2198 responses to the joint Ministry of Housing, Communities & Local Government, Home Office and Ministry of Justice consultation on the powers to deal with unauthorised development and encampments. Not all respondents answered every question. All responses have been analysed and given full consideration in the preparation of a proposed package of reform. We are grateful to everyone who took the time to respond. The table below provides a breakdown of the general consultation responses by type of respondent.

<i>Type of consultation respondent</i>	
Personal view	996
Local authority ¹	121
Neighbourhood planning body, parish or town council	73
Private sector organisation ²	28
Interest group or voluntary organisation ³	46
Other	56
Anonymous	878
Total	2198

This document provides a summary of the consultation responses received and sets out areas the Government has proposed as needing reform in response to points raised in the consultation. Where the Government has not made changes, the reasons are explained.

The Government has had regard to its responsibilities under the Equality Act 2010 during consideration of the consultation responses.

¹ Including National Parks, Broads Authority, the Greater London Authority and London Boroughs.

² Including house builders, housing associations, businesses and consultants.

³ Including trade associations and charitable organisations.

4. Unauthorised development and encampments

Question 1

What evidence is there of unauthorised development and encampments in your community, and what issues does this raise for the local community?

Question 1 response

There were 2080 responses to this open question.

The majority of respondents stated that there were unauthorised encampments in their local areas, although only organisations with direct involvement in the management of unauthorised encampments (i.e. local authorities and the police) provided evidence. Responses focused on the mess associated with unauthorised encampments, including fly-tipping, and highlighted the sense of unease and intimidation residents felt when an unauthorised encampment occurs, as well as the frustration at not being able to access amenities. Local authorities noted that costs related to eviction and clean-up can be very high; this is also true of private landowners, who were obliged to clean their land when travellers had moved on.

As the Equality and Human Rights Committee emphasised, these comments will disproportionately refer to problematic encampments: we have heard of unauthorised encampments that cause no problems, and are often not felt by the local community. Those with unproblematic unauthorised encampments may have been less motivated to respond.

Government response

The Government welcomes the wide range of responses to this question. This adds to other accounts the Government has heard of unauthorised encampments causing significant distress to local communities and where local authorities have had to deal with a range of issues as a result of such behaviour. However, we also recognise that consultations of this nature may disproportionately generate responses from those who have been negatively affected. Answers to this question have informed our responses on powers, planning and guidance below.

5. Powers for dealing with unauthorised encampments

Question 2

We would like to invite evidence of unauthorised encampments which have occurred in the last 2 years, as follows:

- a. the number of instances where trespassers have occupied land without authorisation, including the location and scale of the encampment.
- b. whether the land in a) required cleaning or repair once the encampment had left, and if so, what was the cost?
- c. how was each unauthorised encampment encouraged to leave, how long did it take, and was the local authority was able to move them on; or did the police become involved?

Question 2 response

There were 1445 responses to this question

The majority of responses did not set out clear evidence, but stated that the majority of unauthorised encampments to which responses refer resulted in cleaning costs (incurred by local authorities or private landowners), and were occasionally accompanied by a rise in crime and antisocial behaviour. There were some responses that highlighted instances where encampments caused no problems, and when travellers cleaned up after themselves, at no cost to the council.

Local authorities generally provided more robust data on the number and scale of encampments, ranging from low numbers to over 150 in larger local authorities. Most authorities used Sections 77 and 78 of the Criminal Justice and Public Order Act 1994 (CJPOA 1994) to evict, with some involvement from the police. The duration ranges from several days to several weeks, in more complex cases.

Government response

Answers to this question have informed our responses on powers, planning and guidance below.

6. Streamlining the powers under which local authorities can direct unauthorised campers to leave land

Question 3

Do you think that the existing powers made available to local authorities to remove unauthorised campers from land are effective?

Question 3 response

There were 1530 responses to this question.

Around half of local authorities felt that existing powers were appropriate but required further streamlining to be effective. Approximately one third of local authorities felt existing powers were not effective and needed to be strengthened. Where local authorities called for stronger powers, they usually asked for the power to evict trespassers themselves without recourse to the courts, the power to impound vehicles and the ability to demand that trespassers identify themselves. Parish councils commented that they often feel powerless in not having any of the powers of local authorities, whilst private landowners felt they often incurred substantial bailiff and clean-up costs.

Traveller representatives and equality bodies overwhelmingly felt that current powers were adequate, when coupled with adequate site provision. They warned against strengthening powers in a disproportionate way, which could risk being discriminatory.

Of all respondents, over half felt existing powers were not effective. Members of the wider public generally called for fairness in the way the law is applied: many want to see travellers directed to appropriate stopping places (e.g. transit sites), for which they pay rent throughout the duration of their stay. There was a strong sense that travellers were treated less harshly for offences than settled populations.

Government response

See the combined response under Question 5 below.

Question 4

Do you think local authorities could improve their use of existing powers?

Question 4 response

There were 1492 responses to this question.

Many local authorities felt that the use of existing powers could be improved. There were examples of where existing powers had been applied effectively - Nottingham City Council's seven day a week frontline service for the issuing of Possession Order notices for unauthorised encampments; county-wide units, such as the Essex Traveller Unit, where communication between different agencies, prompt response and good relations with the courts, police and travelling groups means unauthorised encampments can be

addressed promptly; negotiated stopping in Leeds. Budgetary constraints often meant that local authorities were unable to provide the transit sites and enforcement capability they needed. Court times were seen to vary widely, from 3-4 days to the date of a hearing, to several weeks.

The police commented on the success of good collaboration between the local authority and the police such as Northamptonshire, and of cost-effective policies, such as the use of negotiated stopping in Leeds. They acknowledged that enforcement was very difficult in the absence of authorised stopping places.

Businesses, private landowners and members of the public raised the issue of fairness in the perceived lack of response to unauthorised encampments. Many members of the public did not understand why local authorities did not evict faster, and complained about the police not wanting to get involved. There were calls for instant eviction, recovery of clean-up and eviction costs, and seizure of vehicles.

Traveller representatives and equality bodies pointed to the need for a more collaborative approach that involved members of the community to resolve unauthorised encampments with lower costs.

Government response

See the combined response under Question 5 below.

Question 5

What other powers may help local authorities deal with unauthorised encampments?

Question 5 response

There were 1445 responses to this open question.

Some local authorities called for the ability to demand that individuals in an unauthorised encampment identify themselves – this was particularly problematic for local authorities, as was the fact that some vehicles are not registered or have their number plates removed or replaced. They called for the ability to seize vehicles to recover costs for clean-up and enforcement, and also asked for the ability to remove trespassers themselves without applying to the courts, provided adequate welfare checks have been carried out.

Businesses, private landowners and members of the public believed that the owner's responsibility to evict should be removed, and those occupying land without the owner's consent should have the responsibility to prove that they have permission to do so, to allow immediate eviction. There was a call for powers to allow vehicles to be seized by the landowner and to require the land to be returned to the same condition in which it had been found.

Many members of the public called for stronger penalties for trespass, the criminalisation of intentional trespass, on-the-spot fines, increased police presence and greater funding from government to protect sites. There was also a call for better provision of permanent and transit sites, with some supporting the reintroduction of the duty to provide sites. Site provision was also proposed as a solution that can bring in income, for example the provision of local authority sites to rent in Sandwell.

Government response (Questions 3-5)

The Government recognises that local authorities consider the powers available to them broadly to be effective. We do not therefore intend to increase local authorities' powers under the Criminal Justice and Public Order Act 1994, at this time. We will however keep local authorities' powers under review.

However, we acknowledge that certain localities have to deal with unauthorised encampments more than others. While there are many examples of local authorities enforcing existing powers effectively, it is clear that some areas require further support. The Government is taking forward a package of measures in response to these issues, including guidance for local authorities and support for planning enforcement, as set out in chapter 2.

7. Aggravated trespass

Question 6

Do you consider that the current powers for police to direct trespassers to leave land are effective?

Question 6 response

There were 1259 responses to this question.

About 48% of respondents felt that current police powers were ineffective, and a significant number of respondents (including 34% of local authority respondents) suggested that the police were ineffectively using the powers currently available to them or were reluctant to use them. There was a degree of recognition that current powers can only be used effectively if specific criteria are met, such as the number of vehicles or the availability of authorised sites, and that there was a lack of policing resources to tackle unauthorised encampments. Responses also highlighted that even where trespassers are moved on from unauthorised sites, the length of time take to move them on is unacceptable.

The national police response set out that current legislation is sufficient and allows the police to provide a proportionate response to encampments based on the behaviour of the trespassers or where the impact of an encampment on others is deemed unacceptable.

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

Government response

The Government is aware of the challenges many local authorities and law enforcement bodies in different locations across the country face when tackling unauthorised encampments. Unauthorised traveller encampments can cause significant distress to settled communities and reinforce a negative image of travellers, the vast majority of whom are law abiding citizens. The Government is clear that tackling unauthorised encampments effectively requires a multi-agency response, including the use of relevant police powers where appropriate.

The Government recognises respondents' concerns over the perceived lack of action by the police in some circumstances when dealing with unauthorised encampments. However, it is worth noting though that the decision to remove travellers from a site is an independent decision to be made by the police with each case considered and addressed based on the circumstances.

Question 7

Would any new or revised powers that enable police to direct trespassers to leave land make it easier to deal with unauthorised encampments?

Question 7 response

There were 1226 responses to this question.

About 51% of respondents thought that new or revised powers would make it easier for the police to deal with unauthorised encampments. It was suggested that revised powers were required to speed up evictions, and that the current three-month period during which a trespasser is prohibited from returning to a location once directed from the site by the police should be increased. Further additional police powers recommended by some respondents include powers to seize vehicles for a variety of offences, as well as to direct trespassers to leave unauthorised encampments on land forming part of the highway.

A number of responses highlighted the potential for changes to the Criminal Justice and Public Order Act. These included the suggestion that existing thresholds for when Section 61 of the Act can be used by the police should be lowered or include additional criteria such as anti-social behaviour of individuals, making it simpler for the police to be able to direct them to leave a specific site. It was also suggested that Section 62A of the Act could be amended to allow the police the ability to direct trespassers and their vehicles to suitable available sites in neighbouring local authority areas.

These views were echoed in the national police response, which set out that there is some potential for examining current legislation, specifically around highway land and whether travellers could be moved to authorised pitches in adjacent local authority areas, thus enabling greater use of Section 62A powers. The police also suggested that the impact that new or amended powers may have to act as a deterrent for unauthorised encampments is likely to be reduced due to a lack of viable alternative options where travellers can relocate.

Although the majority of respondents favoured the revision of powers or the creation of new ones, some respondents suggested that better use and understanding of existing powers would be sufficient to tackle the problem, without the need to revise powers, and that the police were not using their existing powers effectively. Traveller groups responded that there is no need for further police powers, and that they consider that cooperation between the parties would resolve issues and lead to mutual agreement on a way forward. They felt this would help to develop and strengthen good relations between the groups.

A concern was also expressed that if new or revised powers were introduced, they could have the potential to disproportionately affect the human rights and welfare needs of the traveller community in locations where inadequate or insufficient authorised pitches are available. Respondents suggested that when the police exercise their powers to remove unauthorised encampments, this should be done with a full awareness of the occupiers' welfare needs, human rights, and, where applicable, their entitlement to protection under the Equality Act 2010.

Government response

The result of the consultation is clear that a narrow majority of respondents want to see police officers given broader powers to deal with trespassers and calls for the Government to take action. The Government acknowledges these views and will launch a public consultation into measures to extend powers available to the police, set out in chapter 2.

Question 8

Do you consider that the Government should consider criminalising unauthorised encampments, in addition to the offence of aggravated trespass? If so, how should a new offence differ, and what actions and circumstances should it apply to?

Question 8 response

There were 1226 responses to this question.

Overall, 52% of respondents supported criminalising encampments. It was generally viewed by these respondents that this would act as a deterrent to future encampments and allow the police to enforce removal of trespassers in a timelier fashion. Advantages were seen in financial terms in both the cost of evicting trespassers and clean-up costs, and it was suggested that criminalisation could prevent other alleged criminal and anti-social behaviour that some see being related to unauthorised encampments.

Some local authorities who supported the consideration of criminalising encampments thought that the consequences and impact of an encampment should be the trigger for powers to be invoked, rather than the encampment itself. However, the national police response was that no new criminal trespass offence is required. The police response also suggests that the introduction of such legislation could have a significant impact on police resources.

Some respondents felt that criminalising encampments would be a disproportionate response and that current powers are sufficient to address this issue. It was suggested that criminalisation could possibly raise unrealistic expectations of enforcement and prosecution of any such legislation. This was supported by a suggestion that existing offences are rarely brought before courts, and therefore it would be important to understand what is wrong with current legislation and establish why a new offence would make any significant difference. It was suggested that before new powers were introduced to criminalise encampments, more research was needed into the causes of unauthorised encampments, and greater clarity was required on the implementation of any powers, for example, who would be criminalised at the encampments and how would the evidence be presented in court.

The social consequences of criminalisation were highlighted, with some respondents stating that consideration needs to be given to compatibility with human rights and equality legislation, and the potential for unintended consequences for the traveller community and their way of life. Reference was made to Irish legislation and that it has not resolved issues with unauthorised encampments but resulted in a significant increase in recorded numbers of Irish travellers who are homeless and has caused significant and dangerous overcrowding on official sites.

Government response

A narrow majority of respondents believe we should consider criminalising unauthorised encampments, as has been done in the Republic of Ireland. The Home Office will therefore conduct a review into how we can achieve this.

8. Use of injunctions to protect land

Question 9

What barriers are there to the greater use of injunctions by local authorities, where appropriate, and how might they be overcome?

Question 9 response

There were 1250 responses to this open question.

The majority of respondents had no view on this issue, or were unable to say what barriers there were. The majority of those that did give views were local authorities, with cost cited as the main reason, with the suggestion that a successor to the now-defunct Planning Enforcement Fund established in 2015-2016 could help. The evidential burden on authorities was cited frequently, both in terms of the high number of incursions necessary to justify an application, and the need to identify a named respondent in the application. Delays in getting court hearings were cited, along with the lack of an out of hours court. Other issues included enforcement and recovery of costs, lack of an out of hours' court, and the need for a committal hearing.

In terms of possible reform to the injunction process, there was a suggestion that they be available against persons unknown (unnamed individuals) and that the power be given to a magistrate to issue a temporary injunction was put forward.

Government response

The Government is mindful that the consultation responses indicate that some of the barriers to greater use of injunctions are cost and the need to justify applications. Injunctions are an equitable remedy and the Court will need to be persuaded of the need and grounds for the application to ensure that its use is fair. These applications are often made without the knowledge of the defendant therefore the Court requires sufficient information to make an initial order and will set a return date at which the defendant will have the opportunity to present their case.

The Court already has wide discretion when granting an injunction to include persons unknown. However, it will need to be persuaded of the need and that the remedy is fair. Injunctions recently granted have also covered large areas of land and included persons unknown. In response to concerns raised about an out of hours service, this already exists in the High Court (and county court) to consider urgent business. Officials will examine the guidance available to assist claimants with the process and clarify the level of information required.

As set out in chapter 2, the Government will make funding available to local authorities to support planning enforcement through the next round of the Planning Delivery Fund, helping them deal with unauthorised development. The Government will publish details of the fund and how to bid shortly.

9. Joint-working between local authorities, communities and the police

Question 10

Do you have any suggestions or examples of how local authorities, the police, the courts and communities can work together more successfully to improve community relations and address issues raised by unauthorised encampments?

Question 10 response

There were 1272 responses to this open question.

Many respondents felt that better communication was key to a speedier resolution to unauthorised encampments. A considerable number of respondents also called for better transit site provision, instant removal and 24h enforcement, the introduction of harsh punishments (spot fines, seizure of vehicles), the installation of preventative measures (bollards, fences) and better enforcement of existing legislation, for example through greater police presence.

Predominantly, local authorities commented on the importance of good communication across agencies, and the importance of having specialist officers ready to deal with unauthorised encampments. Other organisations, such as businesses, sports clubs and NGOs, supported this view and emphasised the need for a clear plan of action, that involves all agencies (including local traveller organisations), which is streamlined and can be implemented swiftly. Best practice guidance, transit sites to which travellers are directed and a specific taskforce to deal with unauthorised encampments were also suggested.

Private landowners and members of the public favoured more enforcement, and the adoption of a more enforcement-led approach by the authorities. Some comments focused on the need to ensure treatment of all communities is fair, and suggested that travellers should be required to use authorised sites and to pay rent. Views from the public conveyed frustration due to the perception that different rules apply to another section of the community, including the granting of retrospective planning applications. Many offered balanced views, showing tolerance for different ways of life, but commented that criminal behaviours should not be tolerated.

Government response

The Government recognises the importance of local authorities, the police, the courts and communities working together to improve community relations and address issues raised by unauthorised encampments. These responses have also informed our response to Questions 17 and 18 on guidance.

10. Court Processes

Question 11

Are there ways in which court processes might be modified in a proportionate way to ensure unauthorised encampments can be addressed more quickly?

Question 11 response

There were 1205 responses to this question.

The majority of responses suggested that the process should be faster. Applications being determined on the papers, and better use of e-working and digital technology were also suggested as solutions to delays. An out of hours' process was recommended, despite it being available already in the County and High Courts. Weekend court closures and weekend days not counting towards service time scales were also cited as problems.

Government response

The Government recognises that there are concerns about perceived delays with court processes. It has welcomed that respondents see digitisation and new ways of working as providing solutions in some instances. The Government is in the process of modernising the courts and tribunals system to make it more straightforward, accessible and efficient for all. An ambitious £1billion reform programme is underway, which is designed to improve the system between now and 2022.

The timeliness of possession cases in the county courts (the court process by which possession of either property or land is regained) has been examined and has indicated that the process is generally effective, timely and adheres to the guidance set out in the Civil Procedure Rules.

However, Her Majesty's Courts and Tribunal Service's (HMCTS) reform programme includes a project examining possession which will consider how operational processes can be improved to deliver greater efficiencies and further improve timeliness.

11. Interim possession orders

Question 12

In your view, what would the advantages and disadvantages be of extending the IPO process to open land?

Question 12 response

There were 998 responses to this question.

Most respondents to this question were local authorities, who suggested that it may be an advantage to extend the IPO process to open land as it was seen as a speedy process, although it was also raised that the issue of enforcement would be difficult given police resources. Some noted that the current criminal sanctions can achieve the same outcomes. Police bodies were opposed on the basis of resource issues - as were the Equality Commission and The General Council of the Bar, who highlighted the lengthy court process, and the need for police resources as well as the fact that this procedure could in effect criminalise people for making a temporary stop, exacerbated by the lack of authorised stopping places.

Government response

Few respondents understood the IPO process especially the need to return to court for a final order. Therefore, there appears to be no evidence that extending IPOs to land would necessarily provide the solution required and in the short term, may result in shifting the problem from one area to the next. The Government is also mindful when considering its response, that consideration must also be given to traveller's rights under Articles 8 and 14 of the ECHR and under the Equality Act.

12. Powers for dealing with unauthorised development

Question 13

Are you aware of any specific barriers which prevent the effective use of current planning enforcement powers?

Question 13 response

There were 1037 responses to this question.

Process delays, particularly for appeals, and a lack of resources (both in local authorities and the Planning Inspectorate) were the issues most commonly cited by local authorities as potentially preventing effective use of enforcement powers. It was not only local authority respondents who raised this issue, however: it was also highlighted by the Royal Town Planning Institute, the Country Land and Business Association, the National Association of Local Councils and by a significant number of individual members of the public. Several of those who pointed to a lack of resources in the Planning Inspectorate stated that this contributes to delays in processing appeals, which in turn acts as a disincentive to local authorities taking enforcement action.

Other issues raised included difficulties gathering sufficient evidence to pursue enforcement action; the suggestion that penalties are not strong enough to provide an effective deterrent; and concerns about satisfying human rights obligations. The Equality and Human Rights Commission were concerned that an applicant's right to have their planning application, and if necessary any appeal, determined fairly should not be seen as a 'barrier'.

Traveller groups felt that current powers are sufficient, and that the focus should be on the provision of sites. As noted above, among the responses from the wider public, many raised resourcing in local authorities as an issue that could hinder effective enforcement. However, a significant number also suggested that local authorities may lack the necessary will to act, and that a change of mindset and a more proactive, forceful approach was required. Some respondents felt that there was a perception that local authorities do not act out of fear of legal challenge or of being accused of acting discriminatorily, and that travellers have different rights to the settled community.

Government response

See the combined response under Question 14 below.

Question 14

If you are aware of any specific barriers to effective enforcement, are there any resourcing or administrative arrangements that can help overcome them?

Question 14 response

There were 860 responses to this open question.

The most common proposal for overcoming barriers to enforcement was to increase local authority resources – for planning enforcement officers, for legal support and out of hours services. More resources, more Inspectors and administrative improvements in the Planning Inspectorate was another recurring proposal. Increasing police resources was also flagged. The Royal Town Planning Institute noted that local authorities should have an up-to-date enforcement plan. A number of suggestions for improving the enforcement appeals process were also received (see response to Question 16).

Government response (Questions 13-14)

The Government believes the range of current planning enforcement powers available to local authorities, if used effectively, to be sufficient to deal with unauthorised development and reducing the risk of it occurring, and no new statutory planning enforcement powers are required. However, we recognise that resourcing, training and skills are a particular concern in relation to planning enforcement. The Planning Delivery Fund has in the past been used to support skills and capacity issues within local authorities' planning departments. As announced in chapter 2, the Government will make funding available to local authorities to support planning enforcement through the next round of the Planning Delivery Fund, helping them deal with unauthorised development. The Government will publish details of the fund and how to bid shortly.

We also recognise the concerns expressed about the time it takes for appeals to be processed, and the impact that delays can have on the effectiveness of enforcement action. A key priority of the Planning Inspectorate is to improve timeliness in dealing with planning appeals. To support this ambition the Inspectorate has recently recruited additional planning inspectors.

Question 15

Are you aware of any specific barriers which prevent the effective use of temporary stop notices? If so, do you have a view on how these barriers can be overcome?

Question 15 response

There were 863 responses to this question.

Local authorities who responded to the consultation generally thought temporary stop notices were useful and effective. Nevertheless, some barriers to their use were highlighted. These included the compensation risk, the duration of the notices, and the lack of deterrent provided by the penalties available for non-compliance. Possible solutions proposed by local authorities included introducing harsher penalties for non-compliance and the ability to extend the stopping period. The Royal Town Planning Institute suggested that better training and awareness was needed for local authorities to be able to issue temporary stop notices on unauthorised caravans. A small number of respondents indicated that human rights legislation acted as a barrier.

Government response

The Government welcomes the responses received. Temporary stop notices require that a specified activity which constitutes a breach of planning control should stop immediately. They are a powerful tool which allow local authorities to act swiftly to tackle unauthorised development. Unlike a stop notice, a temporary stop notice can be served in advance of an enforcement notice and its effect is immediate. It is already an offence to contravene a

notice and a person found guilty is liable on conviction to an unlimited fine. This penalty is considered to provide a strong deterrent against non-compliance. The 28 day period which temporary stop notices are effective for is set out in primary legislation (section 171E of the Town and Country Planning Act 1990.) We are minded to extend this temporary stopping period when a suitable parliamentary opportunity arises. In the meantime, we will engage further with local planning authorities and other stakeholders about how far the stopping period can be reasonably extended given this enforcement mechanism is designed to be a temporary measure.

13. Improving the efficiency of enforcement notice appeals

Question 16

How do you think the existing enforcement notice appeals process can be improved or streamlined?

Question 16 response

There were 961 responses to this open question.

A number of proposals for improving or streamlining the enforcement notice appeal process were put forward by respondents. The proposals most frequently cited was to increase PINS resources and/or give greater priority to enforcement appeals. Some respondents noted that the harm caused by enforcement appeal delays is heightened because the effects of a breach of planning control persist during the course of the appeal. The Royal Town Planning Institute pointed out that performance on enforcement appeals was particularly poor. Several respondents suggested introducing specific time limits for the appeal process or for key milestones (e.g. validating appeals or issuing start date letters). Another proposal was to make more extensive use of written representations rather than inquiries or hearings. It was suggested that certain types of enforcement appeal could be expedited. However, some respondents, including the General Council of the Bar of England and Wales and the Royal Town Planning Institute, pointed out that any proposals would need to apply universally rather than applying only to particular types of case.

The Equality and Human Rights Commission want to see an increase in resources available to PINS, and caution that streamlining the process may prevent appellants being able to prepare/present case – particularly when there are issues with travellers and rates of literacy.

Traveller groups stated streamlining is not necessary and could cause discrimination and further strain relations between the settled and travelling community. It was proposed that the focus should be on providing sites. Some of the responses from the wider public suggest the process should be quicker and a higher priority, with out of hours service; that there should be no right of appeal for unauthorised development, and many commented in support of further criminalising trespass.

Government response

As noted in the response to Questions 13 and 14, we recognise the concerns expressed about the time it takes for appeals to be processed, and the impact that delays can have on the effectiveness of enforcement action. The Planning Inspectorate has recently recruitment additional planning inspectors.

14. Government Guidance

Question 17

How can Government make existing guidance more effective in informing and changing behaviour?

Question 17 response

There were 939 responses to this open question.

Many respondents suggested that guidance should be clearer. It was also commonly considered that guidance should be backed up with robust enforcement and better communication across agencies. Many felt the approach to tackling the issue was not uniform throughout the country, with some areas taking action faster and more effectively than others.

Organisational responses across all sectors predominantly called for improved guidance that provides clear indication of the action the organisation is expected to take. The use of case studies and explanations as to what action to take and when to involve the police would be particularly beneficial. It was felt that current guidance simply lists existing powers with little advice to apply in real-case scenarios. Separately, it was felt that the definition of 'traveller' in the Planning Policy for Traveller Sites could be better explained. Better communication between different communities, underpinned by better education and awareness is also seen as beneficial in the future. Some local authorities consider the Government could help promote integration and understanding of other cultures.

Some members of the public felt that guidance is inherently ineffective, and that further legislation and enforcement is needed. Some also asked that the provision of transit sites is made a statutory requirement to ensure police powers are used fully. Travelling communities called for guidance to be developed in collaboration with them.

Government response

The Government recognises that the 2015 *Dealing with Unauthorised Developments and Encampments* guidance provides a list of powers available to local authorities, the police and others, but offers little practical advice on how to react to an unauthorised encampment.

To enable local authorities to learn from those managing unauthorised encampments effectively, we will provide new good practice guidance to support local authorities' use of already existing powers to deal with unauthorised encampments. We want to ensure that local authorities use the powers available to full effect and draw on good practice available across the country at county and district level. We will use case studies and examples from effective local areas to bring clarity and promote consistency. We will also seek to include ways in which public bodies can more effectively work with the travelling and wider communities on welfare issues, and roles and responsibilities to move unauthorised encampments on efficiently and successfully. In developing this guidance, we will ensure that the voice of the travelling community is heard.

Question 18

If future guidance was issued as statutory guidance, would this help in taking action against unauthorised development and encampments?

Question 18 response

There were 959 responses to this question.

Local authorities did not have a common view. Many commented that their approach to unauthorised encampments was as swift as it can be, meaning additional statutory guidance would not add much; indeed, some felt that placing guidance on a statutory footing could remove local authority flexibility, which is essential in ensuring each encampment is dealt with on its own merit. The police also emphasised the need for discretion to be retained. However, other local authorities felt that statutory guidance could be effective in increasing consistency of practice across the country, due to the additional 'weight' of statutory status.

Other organisations broadly welcomed the proposal, arguing it could ensure fairness in the way unauthorised encampments would be addressed, both for travellers and settled populations.

Government response

It is important that we ensure that guidance, whether statutory or non-statutory, causes behaviour changes, increases consistency, and drives better outcomes for both the travelling and settled communities. For this reason, we will initially publish non-statutory guidance, which we will develop in consultation with local authorities and the travelling community. Once published, we will support this with a national forum for local authorities to share best practice and enable Government to promulgate the key messages within the guidance.

We will in due course create a power to place this guidance on a statutory footing.

15. Planning and traveller site provision

Question 19

Are there any specific barriers to the provision of more authorised permanent and transit sites? If so, is there any action that the Government could take to help overcome those barriers?

Question 19 response

There were 1030 responses to this question.

Local authority responses highlighted that barriers include opposition from local people, and spatial barriers including a lack of suitable, deliverable, developable land; value and affordability of land; landowners unwilling for sites to become pitches; competing land uses including other forms of residential development and infrastructure; green belt; lack of interest by housing associations in delivering sites; difficulty finding sites in constrained urban areas; and the existing lack of permanent sites means transit sites are used permanently.

The most frequent suggestion from local authorities for overcoming these barriers was the need for additional resources. Comments included that funding was needed to purchase sites; the need for associated infrastructure; and that the Government should reintroduce a specific funding pot for accommodation for travellers.

The next most reported action was for legislative and policy change, and guidance. Issues raised included reinstatement of the duty to provide permanent and transit sites, with sufficient funding; the need to revise the Planning Policy for Traveller Sites and its definition of travellers; ensuring traveller provision is covered in local plans; policy reform to make it easier to approve temporary sites. A range of new and improved guidance was requested, relating to need assessments for sites, expertise on traveller accommodation and how pitches can be integrated with neighbouring land uses, and co-operation with other authorities.

Traveller representatives also commented that the biggest barrier to site provision is local opposition, including opposition from council members and MPs. In addition is the under-resourcing of local authorities, under-estimation of need, and lack of up-to-date local plans with traveller site provision. Other barriers identified included competing land uses, developers unwilling to provide sites, and land prices.

In terms of actions, the most common suggestion from traveller representatives was for changes to the planning framework to clarify how travellers would satisfy the Planning Policy for Traveller Sites definition, for more local authorities to work together, and for central government to be more prescriptive on the need for local plans to address the issue. Some responses cited the need to change the wider perception of travellers, with public awareness and education programmes needed to dispel prejudice and discrimination.

Responses from the wider public continued the theme that local opposition is the biggest barrier to site provision, along with reports of anti-social and criminal behaviour by

travellers. A wider range of barriers were cited including high land values and competing land needs; the perceived need for traveller sites to be located away from other residential uses; and other constraints such as Green Belt land. Also identified was the failure of local authorities to provide sites, including the reluctance of councillors to grant planning permission; a lack of experience in running sites; and preference by authorities to not provide sites and instead continue to deal with unauthorised encampments.

Proposed solutions included the re-introduction of the statutory duty to provide sites, including on brownfield land, and greater use of CPO. A number of responses highlighted the link between providing more sites and addressing the issue of unauthorised encampments. Private sector respondents also highlighted that the biggest barrier to site provision was local opposition. In terms of taking action, the most frequent point raised was the need for provision of more sites, and the re-introduction of the duty to provide sites, as well as the need for better understanding of travellers' requirements.

Government response

In relation to the definition of travellers within the Planning Policy for Traveller Sites, the revised National Planning Policy Framework confirms the longstanding Government policy that travellers that do not meet the definition should have their housing needs assessed under the Framework, as previously clarified in the Written Ministerial Statement of 22 July 2015.

The Government recognises the need for transit sites to be available in order for the powers of local authorities and the police to be fully utilised in responding to unauthorised encampments. In a Written Ministerial Statement published alongside this document, the Government has reminded local authorities of the importance of planning for transit sites as part of their assessment of need and provision of traveller sites in their local plan, as well as joint-working between local authorities, under the policy requirements of the Planning Policy for Traveller Sites.

As part of the Ministry for Housing, Community and Local Government's work to ensure that data available in plans becomes genuinely publicly available to assist community understanding, the Government will consider making information on permanent and temporary sites in plans freely available in open data format so that the authorities have a single clear source of data on the availability of such sites. This will help establish which local authorities have an up-to-date plan for travellers in place and are meeting national policy requirements. The Government will also consider writing to those authorities that do not have an up-to-date plan for travellers in place, to expedite the requirements of national policy, and highlight examples of good practice.

The Government response to the National Planning Policy Framework confirmed that we would consider whether any changes may be required to the Planning Policy for Traveller Sites, in addition to considering responses to this consultation. We will therefore make a number of technical changes to the Planning Policy for Traveller Sites to bring it up to date with the revised Framework, as well as finalising the 2016 draft guidance on assessing housing need including for those residing in caravans.

16. Impacts on the travelling community

Question 20

What impact would extending local authority, police or land owner powers have on children and families and other groups with protected characteristics that public authorities must, in the exercise of its functions, have due regard to under their Public Sector Equality Duty?

Question 20 response

There were 963 responses to this open question.

In general, it was felt that the extension of powers could have a potentially detrimental impact on Gypsy, Roma and Traveller groups as the ethnic groups most affected by the change. However, adequate counter-measures, like adequate site provision and appropriate welfare checks, were felt to be ways to mitigate risks.

Traveller organisations highlighted the risk of an extension of powers inadvertently criminalising an otherwise acceptable way of life. Local authorities emphasised the need for adequate welfare checks to be carried out before any eviction, and that the provision of authorised stopping places would mitigate negative impacts and would allow greater local authority oversight.

The strengthening of powers was also perceived as encouraging the use of authorised sites, thus improving community relations and furthering integration.

Many members of the public felt the impact would be positive in the long term, even if negative in the short term, and that extended powers would dissuade people from choosing a traveling lifestyle, to the benefit of children. The need to balance the right to travel with the best interests of the child came across strongly. Some commented that the strengthening of powers would facilitate integration, and help protect the vulnerable in the travelling community who feel threatened by some of the anti-social behaviour that occurs on some unauthorised encampments.

Government response

The range of measures set out in this document, including reminding local authorities of their duty to ensure that appropriate sites are assessed and provided for the travelling community, good practice guidance to local authorities on dealing with unauthorised encampments, and Government's continued work to support Gypsy, Roma, and Traveller groups in communities, education and health, seek to mitigate any negative impacts of proposals to strengthen powers. These proposals may result in positive impacts on groups with protected characteristics, including greater provision of traveller sites, better understanding of the needs of the travelling community, improved community relations and increased social and health outcomes.

Question 21

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

Question 21 response

There were 969 responses to this question.

The majority of respondents felt that extending powers would have an impact on travelling communities, although the extent to which this impact would be felt, or the nature of the impact would vary from group to group.

Organisational responses emphasised the need for appropriate safeguards to be put in place to ensure that children and vulnerable adults are protected and are able to access adequate provision. A school headteacher commented that the strengthening of powers would have a negative impact on travelling children, and that schools need to appoint local sympathetic staff to liaise with travellers, and ensure traveller pupils are taken out of achievement stats reported by schools to make it easier for schools to admit them.

Traveller groups and equality bodies have emphasised the very significant risk of appearing to criminalise a way of life, thus pushing a vulnerable community that is poorly integrated even more towards the margins of society.

Some members of the public felt the strengthening of powers would have no impact, while some felt the impact would be positive, as it would promote more 'settled' lives. Others felt the impact would be negative, particularly given the historical way of life of travellers and the way the strengthening of powers would jeopardise it. The strengthening of powers, particularly in the absence of adequate site provision, could increase the feeling of alienation these communities feel, making them even more reluctant to engage with the authorities. The impact on communities could be detrimental, compounding existing poor outcomes in health and education and increasing depression and isolation.

Government response

The Government has considered the importance of health and educational outcomes Gypsy, Roma and Traveller communities within the context of the proposed measures on unauthorised encampments, and will keep these under review. The proposals to encourage increased site provision through the planning system and advice to local authorities on joint-working would seek to mitigate any adverse impacts and aim to foster good relations. We are aware of evidence from the Race Disparity Audit showing that Gypsy, Roma and Traveller communities often face significant social disadvantages, including issues such as maintaining access to education and healthcare.

The Government has funded six projects across England in 2018 to 2019 to improve outcomes in the areas of educational attainment, health and social integration, and to reduce the community's vulnerability. In addition to this, we have funded a number of projects to benefit Roma communities through the Controlling Migration Fund, which

allows local authorities in England to bid for funding to help ease local service pressures linked to recent migration.

With regards to improvements to Gypsy, Roma and Traveller experience of the healthcare system, the Government's Inclusion Health programme – now closed - published a number of resources from 2013 to 2016 on key issues affecting Gypsy, Roma and Traveller people. These included guidance for services on planning and commissioning inclusive services and a report on the impact of insecure accommodation and the living environment on Gypsy, Roma and Travellers' health. In addition to this NHS England has published guidance for General Practices to clarify the rights of patients and responsibilities of providers. The NHS Long Term Plan, published on 7 January, outlines NHS ambitions to reduce health inequalities in the next 10 years.

Question 22

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

Question 22 response

There were 933 responses to this open question.

The main issues raised in response were the need for the law to apply equally to everyone in society, and for public authorities to do more to enforce the law equally, including planning enforcement. There were calls for stronger powers to respond to unauthorised encampments, as well as the need to ensure that more is done to provide traveller sites. A number of responses reported the impact that unauthorised encampments have had on the settled community.

Government response

The Government agrees with these important points, which have informed the package of measures set out in chapter 2.