

## Strengthening police powers to tackle unauthorised encampments

### **Criminalising unlawful 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*

Given that the consultation document itself recognises that the vast majority of travelling communities reside on authorised traveller sites, and only a very small minority on unauthorised sites, I would question whether this would be the right and proportionate response to the issue.

There is nothing in the consultation to suggest any engagement with travelling communities to better understand why the minority feel compelled to establish unauthorised encampments and options that may influence or deter this.

I would also be concerned that this step is simply looking to shift the burden of responsibility in responding to unlawful encampments from local authorities to the police, rather than holding local authorities to account for the proper implementation of their current responsibilities eg the provision of suitable temporary transit sites

**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*

*As per Question 1, above.*

**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*

I believe that there is an argument for this in order to provide greater clarity in terms of the law, as those committing the offence would be unable to argue that they were unaware that they did not have permission to reside on the land from the landowner, if

the landowner had taken reasonable steps to ask them to leave.

However, I can also appreciate that landowners and/or their representatives (if available) may not be willing to confront and challenge individuals in such circumstances and would not advocate any measures which may cause situations to escalate or individuals to be put at risk.

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

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

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

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

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

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

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

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

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

*Please explain your answer*

I have already queried whether criminalising this issue would be a fair, proportionate and effective response. If a criminal offence were to be introduced then it would be appropriate to ensure that certain conditions are met and the powers used appropriately as a result.

Further discussion would be required to properly consider what these conditions should be.

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

*As per Q4, above.*

#### **Criminal Justice and Public Order Act 1994**

**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*

I think that this would go a long way to helping resolve existing issues, and more so than the creation of criminal offences and the associated impact of these on the individuals concerned and the agencies tasked with responding.

In my area it is apparent that in the now Dorset Council area there have been significantly less issues relating to unlawful encampments where temporary transit site provision is in place, compared to the now Bournemouth, Poole & Christchurch Council area where no such sites exist.

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

Yes. All local authorities are meant to ensure suitable authorised site provision within their areas and not enough has been done to ensure their compliance with this requirement. Local authorities that have complied should not be penalised through their neighbours' failure to act.

I would therefore advocate the establishment of a mandatory local authority charging process for local authorities to charge their neighbours for the use of their sites and to incentivise the setting up of authorised sites in council areas that still do not have adequate provision.

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

*Yes / No*

If yes, what distance should that be?

This should probably be limited to direction to a neighbouring local authority only but should also take into account other factors – see Q9, below.

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

*Yes / No*

If yes, what should these be?

- The potential impact on any children or young people in education, employment or training
- The potential impact on anyone else in employment if they are moved away from the area in which they are working
- Any implications on the health or medical treatment of any individuals concerned

**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*

I feel that this would very much depend on the final outcomes agreed and implemented following the consultation. If criminal offences are introduced then I would question why anyone convicted of trespass would be allowed to return to that site again under any circumstances.

Otherwise, a period of at least 12 months would probably be appropriate to try and help break the often annual cycle of individuals returning to the same sites to set up unlawful encampments.

**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*

I can see that such a reduction could potentially enable forces to use their powers more frequently. However, if two vehicles simply could constitute a car and a caravan, in order to not criminalise individuals who may be residing on land on a very short-term basis, it would be necessary to prove that the vehicles were intended to be parked on the land for a sufficient duration of time.

**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*

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

However, this should be applied fairly and proportionately against the actual level of risk and inconvenience being presented.

Also, if areas of highway present a regular and persistent issue in terms of trespass then there should be some responsibility placed on the relevant highways authorities to implement preventative measures rather than solely relying on police enforcement as the solution.

**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*

The police should have this power, but it should be used with caution and only in extreme circumstances.

I would have concerns that the seizure of property such as vehicles could be counterproductive, and result in individuals who may reside in these vehicles (e.g. caravans) being rendered effectively homeless. Not only would this impact adversely on the individuals concerned but would also create a greater burden for the police in terms of storing the seized property, and also local authorities in terms of rehousing people whose property has been seized.

I therefore believe that seizure of property should only be used as a last resort.

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

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

*Please explain your answer*

See Q13, above.

**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*

As stated earlier, I am concerned that the proposals are disproportionate to the numbers of individuals involved in establishing unlawful encampments.

I believe that the proposed amendments are overly reliant on a police enforcement approach rather than a wider understanding of the causes behind unlawful encampments and an effective partnership preventative approach.

I am also concerned that the proposals as a whole appear to be shifting the responsibility of dealing with unlawful encampments from land owners and local authorities onto the police. This reliance on enforcement will clearly have an impact on police resources whilst doing little to tackle the root causes of unlawful encampments. It will also de-incentivise land owners/local authorities from taking preventative measures to protect their land, engaging with traveller communities, providing adequate transit sites etc.

A more strategic approach and response to the issue is required rather than seeing police enforcement as the answer.

### **Impacts on the Gypsy, Roma and Traveller Communities**

**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?

I think that any proposals around unlawful encampments and any positive or negative impacts on Gypsy, Roma and Traveller communities would have to be considered within a wider strategy for improving outcomes and tackling inequalities for those communities.

I would also like to see what discussions have been held with those communities and their views on the potential impact of such measures.

**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 seems that the proposals are predominantly geared towards pleasing the vocal minority within more 'fixed' communities affected by unlawful encampments rather than addressing the underlying causes leading to encampments being established in the first place.

There does appear to me to be a significant risk of using enforcement measures to simply trap Gypsy and Traveller people in the criminal justice system, creating a further strain on policing and other public services, and ultimately disappointing the expectations of the public.

As stated earlier, there needs to be a strategic approach to tackling this issue as part of wider measures affecting Gypsy, Roma and Traveller outcomes and inequalities. Any such strategy must include a commitment on behalf of government to lead on increasing the current provision of authorised transit sites. This would decrease the likelihood of unauthorised sites being established in the first instance and mean that the proposed legislation discussed above would only need to be used in exceptional circumstances.

Whilst Ireland is quoted within the consultation as including criminal trespass within a wider successful legislative framework, I would contend that the requirements for local authorities in Ireland to prepare traveller accommodation are more effective in the very low numbers of unlawful encampments established there. I would therefore prefer to see statutory responsibilities placed on all local authorities to ensure the adequate provision of authorised sites. Local authorities could perhaps be incentivised as a way of ensuring that this happens.

Again, as referenced above, it is the Gypsy, Roma and Traveller people themselves that would be best placed to describe the impact that the proposed amendments would have with regard to their health or educational outcomes. Any change in the law must be used both as an opportunity to make our communities safer, and tackle the inequalities faced by the Gypsy Roma Traveller community.

#### **Other Comments**

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

Police forces, local authorities and other relevant agencies must be supported with the appropriate funding and resources to effectively support the effective implementation of any changes.

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

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