

## Managing Unauthorised Encampments of Gypsy/Travellers Policy and Procedure

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## Managing Unauthorised Encampments Of Gypsy/Travellers Policy and Procedure

### 1 INTRODUCTION

- 1.1 These arrangements are intended to guide staff on the requirements as set out in Scottish Government guidance when an unauthorised encampment establishes in the Scottish Borders. Specifically the liaison between the local authority, landowner (if applicable) and Gypsy/Traveller community. There are specific functions depending upon the location of the encampment, private or Scottish Borders Council land.
- 1.2 This is Scottish Borders Council's first Policy and Procedure of this type and reflects the guidance issued by the Scottish Government and builds on existing good practice.

### 2 LEGISLATIVE CONTEXT

- 2.1 Under the Equality Act 2010 it is unlawful to discriminate against people because of protected characteristics such as age, race, religion or belief, disability, sex, marriage, civil partnership, gender reassignment or sexual orientation. The Act also imposes a duty on local authorities to have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation.
  - advance equality of opportunity between persons who share a relevant protected characteristic, and persons who do not share it.
  - foster good relations between persons who share a relevant protected characteristic, and those who do not share it.
- 2.2 The Equality Act makes it unlawful to discriminate against someone because they have a 'protected characteristic'. Race is one of the protected characteristics under the Equality Act. Race discrimination occurs when people are treated unfairly because of one or more of the following:
- Colour
  - Nationality
  - Ethnic origin
  - National origin
- 2.3 Gypsy/Travellers are recognised as an ethnic group under the definition of 'race' in the Act. It is also unlawful to discriminate against Gypsy/Travellers because of any other protected characteristic.
- 2.4 The children of Gypsy/Traveller families are entitled to support as outlined in the Children and Young People (Scotland) Act 2014. In the Scottish Borders The Key Professional is a Health Visitor from birth to starting school and if the child is attending school, the Head Teacher, Depute Head Teacher or member of pastoral staff team.

### **3 BACKGROUND**

- 3.1** Scottish Borders Council, in accordance with equality legislation, recognises that Gypsy/Travellers are a protected group and have a right to their traditional nomadic way of life; in short, are entitled to the same treatment given to the 'settled community'. The term Gypsy/Traveller does not refer to one single homogenous group and is instead made up of many cultures including Scottish, English, Welsh, Irish and Eastern European. For example, it is believed that the Romany Peoples originate from the Indus Valley in India some 1000 years ago, and their languages continue to incorporate some Sanskrit, an ancient language.
- 3.2** Traditionally, Gypsy Travellers lived a nomadic way of life in order to find work and because in many of the places they visited, they were unwelcome. Today, they remain one of the most disadvantaged groups in the UK in terms of health and education access and outcomes; and in many places across Europe today – are villainised and denied their civil rights.
- 3.3** There is a long history of the Gypsy/Travellers community being associated with the Scottish Borders. This goes far back as the 1600's. The St. Boswells Annual Fair is an important date in the Gypsy/Traveller calendar. The Fair has been held on the village green since 1743 and has developed over the years – from trading in sheep and horses to reading palms and making wood carvings. Sadly, the Fair is a shadow of its former self, and so it is important to keep the centuries old tradition alive.
- 3.4** Scottish Borders Council does not have its own Gypsy/Traveller site it does however have pitches at the Tweedside Caravan Park, Innerleithen. This is the only known commercially run, authorised Gypsy/Traveller site in Scotland. The site which is open from April to September each year and has 9 pitches exclusively for use by Gypsy/Travellers. The site offers many facilities including on site management, operational twenty four hours, seven days per week.

### **4 RESPONSIBILITIES**

#### **4.1 Gypsy/Travellers**

- 4.1.1** While staying on an unauthorised site the occupants have the right to:
- Fair treatment by Scottish Borders Council
  - Not to be discriminated against by the 'settled community' or local service providers
  - Access health, welfare and educational services without discrimination
- 4.1.2** While staying on an unauthorised site there is an expectation that occupants will:
- Keep groups to a reasonable size for the area occupied
  - Look after the land and respect nearby neighbours
  - Dispose of rubbish properly in bags or waste bin
  - Use public or own chemical toilets and dispose of waste appropriately
  - No fly-tipping

- Ensure that the encampment does not create a road or road traffic hazard
- Park vehicles safely
- Do not light fires
- Keep animals under control at all times
- Clear up all animal waste
- Comply with trading and selling regulations
- Keep noise levels to a minimum after 10pm.

**4.1.3** Unsuitable locations (likelihood of being moved immediately because of risks to health/safety/environment):

- Areas with known toxic waste/ areas of environmental concern
- A site of scientific/ environmental interest
- On a public road/ verge of a public road
- A site where pollution may damage the local water supply
- In parks, sports or recreation grounds
- In close proximity to railway lines.

**4.2 Police Scotland**

**4.2.1** Police Scotland has a positive obligation to promote equality and good relations when carrying out its functions in regards to unauthorised Gypsy/Traveller encampments. There is a legal responsibility to work with Scottish Borders Council and other partners to ensure Gypsies/Travellers do not suffer discrimination because of their way of life. Police Scotland encourages a multi- agency approach when dealing with unauthorised encampments.

**4.2.2** The role of Police Scotland is to:

- deal effectively with any criminal matters arising
- to ensure that public order and wider community safety issues are addressed, and at the same time, work with Scottish Borders Council and partners to meet the needs of all the communities.

**4.3 Scottish Borders Council**

**4.3.1.** As there are no authorised sites in the Scottish Borders other than the commercially managed Innerleithen Site, Scottish Borders Council recognises that Gypsy/Travellers are restricted as to where they can legally encamp in the region.

**4.3.2** Responsibility of Scottish Borders Council:

- To seek a balance between the needs of the 'settled community' and needs of Gypsy/Travellers
- To protect the local environment from abuse (i.e. litter, fly tipping)
- To evict individuals who do not fulfil their responsibilities in relation to staying on unauthorised sites.

**4.3.3** When unauthorised sites emerge Scottish Borders Council will follow the 'good neighbour code' which means that:

- Provide information on waste disposal and other public services to assist transit through the Scottish Borders

- Respond to any issues that may arise or be experienced.

- 4.3.4** In addition, Scottish Borders Council's Gypsy/Traveller Liaison Officer will:
- Visit the site on a regular basis and make contact with the occupants
  - Ask about welfare, education and health needs
  - Verbally inform the occupants of the Council's responsibilities outlined in section 4.3 of this policy
  - Verbally inform the occupants of their own responsibilities outlined in section 4.1 of this policy
  - If required/requested provide in writing the Council's responsibilities outlined in section 4.3 of this policy
  - If required/requested provide in writing the occupants own responsibilities outlined in section 4.1 of this policy
  - Provide information on waste collection and the process in place locally for dealing with trade waste
  - Check how long the site has and intends to be occupied
  - Highlight any concerns that local people may have and discuss what action can be taken to resolve these concerns
  - Listen to the concerns of the site occupants, and take action to resolve them where possible
  - Check if there are any animal welfare concerns.

- 4.3.5** In the absence of the Liaison Officer there will still be a requirement to provide domestic refuse collection. This will apply whether on Council, Common Good, or private land. Gypsy/Travellers will be advised that collection only applies to domestic waste properly bagged and deposited by the public road as indicated when the bags are provided.

One of the Neighbourhood Area Managers (see appendix 2) should be alerted to the presence of an unauthorised encampment.

- 4.3.6** Before any member of Scottish Borders Council staff attends at an unauthorised encampment they must first confirm that the other contacts at Appendix 2 have been alerted. This will have been coordinated from within the Safer Communities Team. The Gypsy/Traveller Liaison Officer will attend once Police Scotland have made contact with the encampment.

#### **4.4 Elected Members**

- 4.4.1** Councillors have a particular role in support of eliminating discrimination, advancing equality of opportunity and fostering good community relations.

- 4.4.2** Members are accountable to the electorate when considering issues of concern. Decisions must be taken on the strength of available information while taking account of the views of others. In doing so this will ensure that guidance and legislation is adhered to in a dignified and respectful way so that the rights of all parties are recognised.

#### **4.5 NHS Borders**

- 4.5.1** The Scottish Borders is serviced by 26 GP surgeries, the Borders General Hospital and community hospitals. Access to health advice can also be directed NHS 24 (telephone 111) or the website [www.nhs24.scot](http://www.nhs24.scot).

#### **4.6 Privately Owned Land (non SBC land)**

**4.6.1** As a statutory body the Council can only carry out actions for which there exists a duty or power to do so. There is no statutory basis for the Council taking action to remove Gypsy/Travellers from land not owned by Scottish Border Council. Any Court action to eject Gypsy/Travellers requires to be initiated by those parties who hold title to the ground in question.

**4.6.2** The Gypsy/Traveller Liaison Officer will maintain contact with the Land Owner for the duration of the encampment being occupied.

#### **4.7 Common Good ground**

**4.7.1** Common Good ground is held in title by Trustees as opposed to the Local Authority. Scottish Borders Council could initiate Court action on behalf of the Common Good Committee when agreement has been reached with Committee members. Any steps taken prior to this would follow the procedure for Scottish Borders Council owned ground.

### **5 GOVERNANCE**

**5.1** The Gypsy/Traveller Policy Development Group (the Group) will:

- Ensure that all Policies and Procedures in relation to Gypsy Travellers in the Scottish Borders are developed and monitored correctly and in line with national legislation and guidance
- Act as an interdisciplinary reference group to develop the Scottish Borders approach to Gypsy/Travellers whether the provision of service or application of the legal process
- Be a conduit for Elected members to raise policy issues relating to the Council's approach to Gypsy/Travellers.

**5.2** The Group will meet every 16 weeks or as deemed necessary.

**5.3** Membership of the group will consist of services such as:

- Police Scotland
- Scottish Fire and Rescue Service
- NHS Borders
- Scottish Borders Council with representatives from the following business areas: Anti-Social Behaviour, Communications, Emergency Planning, Equality and Diversity, Education, Estates, Gypsy/Traveller Liaison Officer, Homelessness, Legal, Neighbourhoods, Policy and Regulatory Services.

### **6 CONSULTATION AND COMMUNICATION**

**6.1** This Policy and Procedure will be available internally to staff via the intranet and employee pages. Externally a web page has been designed for the intranet site.

**6.2** This information will be promoted both internally and externally so that staff and members of the community are aware of what they can expect should an unauthorised Gypsy Traveller encampment establish within the Scottish Borders.

- 6.3 On request information can be made available in a range of different formats.

## **7 MONITORING AND REVIEW**

- 7.1 Director Social Work and Practice has overall responsibility to ensure this Policy is implemented and adhered to. The Group Manager - Safer Communities & Homelessness is responsible for monitoring the application and implementation of this Policy.
- 7.2 This Policy and Procedure will be reviewed every two years or sooner to take account of guidance or legislative changes from Scottish Government.

## **8 EVICTION CONSIDERATIONS FOR UNAUTHORISED ENCAMPMENTS ON SCOTTISH BORDERS COUNCIL'S OWNED LAND**

- 8.1 Whilst Civil action is an option in respect of unauthorised encampments within Common Good ground and Scottish Borders Council's owned ground, it should be seen as a last resort.
- 8.2 In respect of private land the responsibility to initiate legal action rest with the landowner.
- 8.3 A number of stages are required before eviction can be considered. Failure to consistently adhere to the responsibilities as set out in Section 4 may provide the basis of this course of action.
- 8.4 It should be noted that contact will have been made with the encampment to ascertain if either they or their families require access to services. It should also create an opportunity to establish how long they propose to stay, a reiteration of their responsibilities and offer of appropriate assistance. Information will be provided as to the location of the authorised site in Innerleithen.
- 8.5 Unless the location of the encampment poses an immediate obstruction/danger to the wellbeing of the Gypsy/Travellers and other members of the public, court action should not be the priority at this stage.
- 8.6 The Gypsy/Traveller Liaison Officer will continue to monitor and visit the encampment enabling a view to be taken on the appropriateness of initiating an eviction process. The underpinning principals will be based upon necessity, proportionality and legality of any action being considered.

## **9 CONSIDERATIONS AROUND THE MANAGEMENT OF UNAUTHORISED ENCAMPMENTS WITHIN THE SCOTTISH BORDERS**

- 9.1 It is anticipated that unauthorised encampments will be notified to the Gypsy Traveller Liaison Officer either directly, via the Scottish Borders Council's Contact Centre or from Police Scotland.
- 9.2 Prior to attending at any encampment a check will be made to establish the ownership of the land. Police Scotland should be consulted to ensure they are aware of the presence of the encampment. This will ensure a coordinated response to any considerations relating to the presence of the encampment.

- 9.3** The support provided by the Gypsy/Traveller Liaison Officer is similar irrespective of whether the land is private or Scottish Borders Council's owned. The main difference is the responsibility around eviction, on private land this is entirely a decision for the landowner, Scottish Borders Council have no further legal jurisdiction
- 9.4** In the absence of any information that would prevent attendance at the site the Gypsy/Traveller Liaison Officer will, within 24 hours of the encampment establishing or the first working day following a weekend attend at the site.
- 9.5** Having attended at the site and making contact with the occupants the Gypsy/Traveller Liaison Officer will decide on how to interact with the occupants of the site and maintain regular clear communication.
- 9.6** The Gypsy/Traveller Liaison Officer will assess the suitability of the site, offer access to services and encourage the use of the designated site at Innerleithen. During interaction the intentions of the Gypsy/Travellers should be established. Appendix 1 provides further details.
- 9.7** Prior to and following this initial visit the Gypsy/Traveller Liaison Officer will alert the services set out in Appendix 2 together with any other relevant stakeholders.
- 9.8** Regular liaison contact will be made with the encampment during the period that the site is occupied. If evidence of behaviour that may constitute grounds for an eviction begin to emerge the Gypsy/Travellers should be made aware of the consequences of their actions.
- 9.9** Legal Services will be consulted on the sufficiency of evidence and consider whether or not to proceed. When a decision to proceed is made this will be endorsed by the relevant service Director.

**Appendix 1**

**Scottish Borders Council Community Safety Policy Officer  
(including the Gypsy Traveller Liaison function)  
Flow Chart for Management of Unauthorised Gypsy / Traveller Encampments**

