**Unauthorised Encampments Consultation Response**

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

We recognise the need to increase current police powers to provide an effective service to members of the public who have been affected negatively by unauthorised encampments. However, we are not supportive of criminalising the act of trespassing when setting up an unauthorised encampment in England and Wales. It is our view that this legislative change will disproportionately affect the Gypsy, Roma and Traveller (GRT) community.

Such a change would introduce a law intended to apply to a specific community and is therefore at risk of being discriminatory. Furthermore, we are acutely aware of the challenges of finding suitable authorised sites for the GRT community to use. This shortage of sites occurs even in Wales, where we have legislation obliging local authorities to provide suitable authorised sites [Housing Act (Wales) 2014]. As such, taking the path of criminalisation when there are limited options available to the GRT community is overly punitive. This is especially so when the intention behind this action is to find a solution for addressing what is ultimately a small minority who act against the interests of the wider community.

We believe that amending the Criminal Justice and Public Order Act 1994 to adapt existing powers offers a better and more proportionate solution to addressing the challenges presented by unauthorised encampments. It is our view that such powers provide police with more options, without criminalising members of the GRT community. However, we would like to stress that these powers should not be used in the first instance, but rather as a final resort. Too often local authorities rely on police to address the issue without taking the initial steps within their own power. Any changes to current legislation need to be accompanied by guidelines specifying to both police and local authorities on how and when they should be used.

Finally, it must be stated that the GRT community are not homogenous and, just as with any community, there is potential for tension or conflict. When directing individuals to authorised sites, it needs to be recognised that there may be additional circumstances that deter them from going to such sites. Therefore, there is need to ensure that local authorities provide enough sites to accommodate members of the GRT community to prevent them from setting up unauthorised encampments when they feel unable or unsafe to use authorised 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

See answer to Q1.

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

See answer to Q1.

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

1. the encampment prevents people entitled to use the land from making use of it;

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

1. 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 answers:

See Q1.

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

N/A

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:

We agree that police should have power to direct to suitable authorised sites. However, as stated Q1, there is need to ensure that the authorised sites are safe for the individuals to use.

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

**Yes** / No

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

**Yes** / No

If yes, what distance should that be?

The conditions for directing individuals from unauthorised encampments should focus more on understanding their needs and circumstances, rather than maximum distance. That is, consideration should be given as to whether the site they are being directed to is at a distance that may affect their employment, health or education.

Q9: Should there be any other conditions that should be considered when directing a trespasser across neighbouring authorities. If so, what should these be?

**Yes** / No

If yes, what should these be?

See Q8.

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 3 months to 12 months?

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

Please explain your answer:

This would provide both police and local authorities greater powers of removal, reduce the amount of times the process of eviction had to be commenced from the start and enable the local authority to return just once to court in order to obtain a possession order.

It would also allow officers to arrest for the offence of returning to the area after being directed to leave (summary offence), without the requirement of further directions to leave being issued if the three months had elapsed.

Within the Gwent area specifically, it would assist us with the serial offenders we encounter within our force area who return on a regular basis to the location from which they have been removed, once the three months have elapsed.

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:

As this power can only be enforced once the landowner (or his agent) has asked those within the unauthorised encampment to leave the land by a particular date or time and they have failed to do so, this amendment would be of assistance to officers.

The concern may be voiced that this would target those in small groups who are innocently stopped. However, because this power can only be used if they have already failed to leave when requested, negates this.

It will also assist in situations where unauthorised encampments split into groups of less than six to avoid enforcement under the current legislation.

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:

As officers can only currently remove unauthorised encampments from land that forms part of the highway under S62 of the 1994 Act, in Gwent, officers are limited if they come across this type of encampment.

Currently officers have to utilise powers under the Highways Act 1980, which do not always fit the circumstances they face.

As such, this amendment would be a useful provision to assist officers in dealing with unauthorised encampments in these locations.

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

We disagree with granting this power as seizing vehicles from GRT community would effectively make them homeless. We also believe that such action would infringe upon the rights of the GRT community to pursue their chosen way of life.

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

1. Anyone whom they suspect to be trespassing on land with the purpose of residing on it;
2. Anyone they arrest for trespassing on land with the purpose of residing on it; or
3. Anyone convicted of trespassing on land with the purpose of residing on it?

We do not believe that police should be granted powers to seize property, including vehicles, from those residing on unauthorised encampments because such action would effectively leave individuals homeless. Further, removing their vehicles would infringe upon their rights to pursue their chosen way of life and create additional demand for local authorities who would be responsible for providing housing.

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

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? 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?

Highly positive impact / Positive impact / **Neither positive nor negative impact** / Negative impact / Highly negative impact

It is our view that amending sections 61 and 62A of the Criminal Justice and Public Order Act 1994 provide the best available solution to address public disorder within the small minority of the GRT community without being overly punitive. If accompanied by agreements between local authorities, increased provision of suitable sites and a focus on the circumstances of individuals when directing them to authorised sites, this option can balance the interests of the wider community without adversely affecting the employment, health and educational needs of the GRT community.

We believe that the GRT community is best placed to inform the government on how amending the Criminal Justice and Public Order Act 1994 will affect their health and educational outcomes.

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? 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?

Highly positive impact / Positive impact / **Neither positive nor negative impact** / Negative impact / Highly negative impact

Should the government choose to pursue this option, it is essential that it is accompanied by a well-resources cross-government strategy that ensures suitable sites are readily available for the GRT community across England and Wales.

We believe that the GRT community is best placed to inform the government on how criminalising unauthorised encampments will affect their health and educational outcomes.

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

No further comments.