

Guidance for Local Authorities on Managing Unauthorised Camping by Gypsy/Travellers in Scotland

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GUIDANCE FOR LOCAL AUTHORITIES ON MANAGING UNAUTHORISED CAMPING BY GYPSY/TRAVELLERS IN SCOTLAND

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CHAPTER 1: INTRODUCTION

Introduction

1. The Scottish Government published guidance on managing unauthorised camping by Gypsy/Travellers in 2004. It was reviewed twice, and in 2014 the Government committed to a further review, resulting in this new edition.

2. In preparing this new edition there has been considerable engagement with stakeholders and Gypsy/Travellers across Scotland using a variety of means, including visits, meetings with relevant stakeholders and communities of interest, and discussions with local authorities and others. The guidance that follows reflects what we heard from our discussions with stakeholders, and the good practice that is currently being delivered around Scotland.

3. We expect local authorities to reassess their current approach to unauthorised sites in light of this guidance. We appreciate that some local authorities may only need to make minor changes to the approach they currently adopt, while others may wish to undertake a more full-scale review of how they respond to unauthorised sites. While this guidance is focussed on unauthorised sites by Gypsy/Travellers we recommend that local authorities put in place similar procedures to be followed for unauthorised camping by people who are not Gypsy/Travellers.

Purpose

4. This guidance has been prepared to assist local authorities in Scotland to develop effective policies and strategies for responding to unauthorised sites. In managing unauthorised sites, the Scottish Government believes some basic principles should be followed:

- local authorities should seek to manage unauthorised sites to minimise disruption for all concerned and ensure that any

anti-social behaviour is tackled firmly, regardless of who the perpetrators are.

- the same standards of behaviour should be expected from all members of the community, whether Gypsy/Travellers or the settled community, based on mutual respect and with regard to the rights and responsibilities of all those concerned.

5. As traditional Gypsy/Traveller routes are changing local authorities that currently have few unauthorised sites may find that using the good practice in this guidance will help them plan in advance for future developments.

6. This guidance is not intended to cover situations where a site has been established by Gypsy/Travellers as a permanent home without planning permission (with, for example, construction of concrete pitches, brick walls, provision of utilities, etc.). This guidance does not address issues regarding non-compliance with planning requirements.

Terms

7. The Scottish Government uses the term “Gypsy/Traveller” for people in the Travelling communities, and that term is therefore used throughout this guidance.

8. This guidance uses the term “unauthorised site” to describe a site which has been established by Gypsy/Travellers without planning permission. Such sites will normally be in place for a number of days, but can sometimes be in place for longer.

9. Those outwith the Gypsy/Traveller community are referred to as the ‘settled community’ in this guidance. However it should be noted that some Gypsy/Travellers live permanently in one place (for example on a private site).

CHAPTER 2 : CONTEXT

Gypsy/Traveller Communities

10. Gypsy/Traveller communities have a long and proud history and have made, and continue to make, a significant contribution to Scotland. Unfortunately Gypsy/Travellers also face many challenges and barriers to accessing services, and participating in society, in ways that most people take for granted. The Scottish Government recognises that Gypsy/Traveller communities are among the most disenfranchised and discriminated against in Scotland.

11. In the 2011 census 4,200 people recorded their ethnic group as 'White: Gypsy/Traveller'. The highest number of Gypsy/Travellers was recorded in Perth and Kinross (400 people; 0.3% of the total population of that area), followed by Glasgow, Edinburgh and Fife. 40% of those who recorded their ethnicity as 'White: Gypsy/Traveller' in the 2011 Census were aged under 25 years, compared to 29% of the whole population. It should be noted that bodies such as the Equality and Human Rights Commission believe that the census figures undercount the number of Gypsy/Travellers in Scotland, and the actual figures are higher.

12. Many Gypsy/Travellers will have a location (such as a private site) they live for much of the year. Gypsy/Travellers will generally travel from this location for part of each year, as an expression of their culture and to visit family, friends, or for work.

Types of Unauthorised Sites

13. It is important to understand that Gypsy/Travellers are not a single group but a diverse set of travelling communities with differing identities, cultures, histories, lifestyles and languages. Gypsy/Travellers also have a variety of reasons for travelling and camping. It therefore follows that approaches taken by local authorities, in

order to be effective, will depend on the type of camp they are engaging with.

14. Discussions with local authorities and other stakeholders have highlighted that there are two distinct types of unauthorised site:

- small family groups with around three to five caravans, primarily focussed on visiting family and friends, attending cultural or family events, and sometimes undertaking work;
- larger working parties with many caravans, and industrial equipment, primarily focussed on carrying out business in the locality (e.g. gardening, minor building work, etc.)

15. The second type of unauthorised site has become more frequent since the guidance was first issued in 2004.

Equality Duties

16. Under the Equality Act 2010 (the Equality Act) 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 listed public authorities, including local authorities, to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

17. 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.

18. It is important to note that Gypsy/Travellers are recognised as an ethnic group under the definition of 'race' in the Act.

Gypsy/Travellers continue to be protected against discrimination based on race if they have moved into settled accommodation. It is of course also unlawful to discriminate against Gypsy/Travellers because of any other protected characteristic.

19. The Equality Act also established the public sector equality duty, which applies to all functions of a listed public authority, and covers local authorities. Scottish Ministers have made regulations which set a framework to enable Scottish public authorities to deliver the public sector equality duty more effectively. This framework includes a duty to undertake an equality impact assessment of new or revised policies or practices. (For more information on the Equality Act 2010 please refer to Annex C below).

20. Gypsy/Travellers have the same rights as other minority ethnic groups. This means that it is unlawful to discriminate against Gypsy/Travellers on the basis of their ethnic origin. It does not mean that unacceptable behaviour by a Gypsy/Traveller on an unauthorised site cannot be tackled, in the same way as it would be for anyone else.

Human Rights Framework

21. The Human Rights Act (HRA), together with the Scotland Act, protect the rights that are contained in the European Convention on Human Rights in Scotland's own laws. The HRA means that people can raise human rights issues in Scottish courts. Section 6 of the Act makes it unlawful for public bodies to act incompatibly with the rights contained in the European Convention on Human Rights. It also places a duty on public bodies to comply with human rights in everything they do.

22. Under the Scotland Act 1998, the Scottish Government and Parliament must also observe and implement all of the UK's international human rights obligations, for example, the International Covenant on Economic, Social and Cultural Rights

(ICESCR), which includes the right to adequate and culturally appropriate housing.

Prosecution for Trespass

23. In Scotland the Crown Office and Procurator Fiscal Service (COPFS) is responsible for the prosecution of criminal offences. The Scottish Government does not set prosecution policy. Current guidance in place for prosecutors from COPFS outlines that there is a presumption against prosecuting Gypsy/Travellers for trespass as defined in section 3 of the Trespass (Scotland) Act 1865, where the sole issue in relation to an unauthorised site is unlawful encampment by Gypsy/Travellers.

24. The guidance for prosecutors also outlines that this presumption may be over-ridden by public interest considerations, depending on the circumstances. Circumstances that may give rise to a prosecution being commenced include:

- where a suitable alternative site has been identified and the Gypsy/Travellers have refused to relocate within a reasonable time (taking local circumstances into account).
- where the use or size of a particular site causes a road safety or public health hazard.
- where the same Gypsy/Travellers have been repeatedly moved from the same site only to return.

25. It is important to note that the presumption against prosecution does not apply to any other criminal offences that may be committed on or around unauthorised sites. If a crime is reported to the police, it will be investigated and if there is sufficient evidence a report will be submitted where appropriate to COPFS for consideration.

Targets for number of Sites and Pitches

26. The Scottish Government no longer sets targets for the number of sites or pitches a local authority should provide. That policy was brought to an end following the

recommendations in the final report of the Advisory Committee on Scotland's Travelling People, published in 2000. It has been superseded by the requirements of the Housing (Scotland) Act 2001. This creates a legal requirement for a local authority to prepare a Local Housing Strategy supported by an assessment of accommodation needs in their area, including those of Gypsy/Travellers. The Local Housing Strategy must be submitted to Scottish Government Ministers.

Planning

27. Based on evidence from a housing need and demand assessment (HNDA), the planning authority for an area is required, where need is identified, to plan for the current and future needs of the Gypsy/Traveller community, and involve the community in planning and decision-making which affects them.

Christie Commission

28. The Commission on the Future Delivery of Public Services (commonly referred to as the 'Christie Commission') examined how Scotland's public services could be delivered to secure improved outcomes for communities across the country, in the face of substantial financial challenges.

29. The Christie Commission highlighted the need to ensure that in the current climate of fiscal restraint vulnerable groups and individuals are not left behind. This guidance takes account of the principles set out by the Christie Commission, encouraging different public bodies to work together and to consider approaches that focus on preventative spend by providing facilities at unauthorised sites (e.g. for recycling and waste disposal).

CHAPTER 3: GENERAL APPROACH TO UNAUTHORISED SITES

30. The Scottish Government recognises the right of Gypsy/Travellers to practise a nomadic lifestyle, including travelling and camping across Scotland. However, we also appreciate that local authorities have to balance this right with the needs of the settled community in their area.

31. While the large majority of unauthorised sites do not cause any difficulties, some sites can give rise to friction, for example if they are in inappropriate locations, those living on a site are not behaving in a responsible manner, or because of tension with local settled communities. This section sets out the general approach the Scottish Government considers is appropriate for a local authority in managing unauthorised sites.

Unsuitable locations

32. There are some locations where an unauthorised site will not be acceptable under any circumstances (because of traffic hazards, environmental damage, etc.). These locations should be identified by the local authority for its area, and communicated to everyone involved. These locations could include:

- a site of scientific or environmental interest;
- parks, public open spaces in regular use, sports and recreation grounds;
- a site where pollution could damage water courses/water supply;
- an area with toxic waste, serious ground pollution or other environmental hazard;
- on a public road;
- on the verge of a road (from a road safety perspective), including lay-bys;
- in proximity to a railway line where there may be a danger to individuals.

The above list is not exhaustive. We recommend that local authorities, in developing their own strategies for handling sites, identify those locations in their local authority area which are unsuitable for an unauthorised site.

Behaviour on a site

33. There are some behaviours that the Government expects those living on an unauthorised site to demonstrate. These include:

- looking after the land the site is on;
- showing respect to nearby residents;
- keeping animals under control at all times. This includes acting to minimise the noise from dog barking;
- disposing of litter and other rubbish in an appropriate manner (e.g. no fly-tipping);
- getting rid of animal and human waste hygienically;
- not starting fires without prior written permission from the local authority or landowner;
- minimising the noise from generators to prevent nuisance;
- keeping groups small, and the number of caravans appropriate to the location.

34. Some local authorities have developed a code of conduct (or a good neighbour code) for unauthorised camping that details the standard of behaviour expected of Gypsy/Travellers during their stay. It can also provide information that may be useful to Gypsy/Travellers while they are camping in an unfamiliar area, such as council contact numbers. Annex D includes the Code of Conduct used in East Ayrshire, as an example of good practice.

Behaviour around a site

35. While there are standards of behaviour expected of those living on unauthorised sites, there are also clear expectations for the behaviour from members of the settled

community around sites. Any incidents of anti-social behaviour directed at Gypsy/Travellers living on unauthorised sites should be reported to the police.

36. Hate crime is any criminal offence committed against an individual or property that is motivated by a person's hatred of someone because of his or her actual or perceived race, religion, transgender identity, sexual orientation or disability, and this includes a crime directed at someone because they are a Gypsy/Traveller. A hate crime can be reported directly to the Police, or through a network of third party reporting centres¹.

37. In its management of unauthorised sites the local authority should be clear with the local settled community that anti-social behaviour directed at those on an unauthorised site will not be tolerated. Gypsy/Travellers living on unauthorised sites can be the victims of crime, and we expect that any crimes committed against those living on an unauthorised site are investigated and handled by the police in line with their normal procedures.

Welfare needs

38. The Gypsy/Traveller community experiences poor outcomes in relation to health, education, and in other areas. Several agencies will potentially have an interest in the wellbeing of Gypsy/Travellers on an unauthorised site, including those dealing with housing, education, health, and social work. Local authorities should have arrangements in place to ensure that all the relevant services within the authority work effectively together, and are clear on their respective roles, in relation to meeting the needs of Gypsy/Travellers living on an unauthorised site. Local authorities should also have in place arrangements with relevant external bodies (such as the NHS) as necessary to ensure the welfare needs of

those living on an unauthorised site are being met.

Communication

39. It is important when responding to an unauthorised site that a local authority ensures there is regular, clear, communication with Gypsy/Travellers living on the site, the local settled community, and relevant elected representatives. It is often best if that is carried out by a specific officer with the relevant experience and knowledge, generally the local authority's Gypsy/Traveller Liaison Officer. It is worth noting that literacy levels vary in Gypsy/Traveller communities, so verbal communication will be an important part of any communication plan.

40. In 2015 Planning Aid for Scotland (PAS) was funded by Scottish Government to increase awareness and knowledge of the Scottish planning system and engagement between Gypsy/Travellers, planning professionals, elected members and community councillors. This has resulted in the publication of five guides on Gypsy/Travellers and the Scottish planning system, which can provide useful information on Gypsy/Traveller culture for elected members, community councillors, and others. The guides are available online at: <http://www.pas.org.uk/news/recognition-of-unique-gypsytraveller-culture/>. These guides were produced independently of the Scottish Government, and represent the views of PAS.

¹ Available online at:

<http://www.scotland.police.uk/contact-us/hate-crime-and-third-party-reporting/>.

CHAPTER 4:

LOCAL AUTHORITY HANDLING OF AN UNAUTHORISED SITE

41. Unauthorised camping is more frequent in some areas than in others, but all local authorities should be prepared to manage such sites if they occur in their area. Each local authority will already have in place its own procedures and policies for handling unauthorised sites. However we have set out in this chapter a suggested process for responding to an unauthorised site, which can be used as a template, or as a point of reference to assist local authorities with considering their own practice.

42. All procedures for responding to unauthorised sites will need to reflect local circumstances, and the way each authority finds works best in their own situation. The Scottish Government appreciate that local authorities have to address and balance the needs of all members of the community, whether from the Gypsy/Traveller or settled communities.

43. As noted above there are two broad types of site: smaller family groups, and larger working parties. We recommend that local authorities consider in advance how they will respond and manage these two different types of sites. This may involve having similar, but different, procedures for each type of site.

44. This chapter also covers some of the other issues that relate to unauthorised sites, such as large gatherings, waste disposal, and regional co-ordination.

Initial site visit

45. We recommend local authority officials endeavour to visit an unauthorised site within two working days of becoming aware of it. In most local authority areas there is a designated Gypsy Traveller Liaison Officer (GTLO) and we suggest it is the GTLO who makes first contact for the local authority with the Gypsy/Travellers on an unauthorised site. Whichever official makes the initial site visit it

is important that they have the appropriate experience, training, and skills to carry out such a visit effectively.

46. The main aim of the first visit will be to establish a working relationship with the group with a view to successfully managing the unauthorised site, and to gather information about the site's location, the nature and size of the Gypsy/Traveller group, and their needs and future intentions. If the local authority has a code of conduct for those living on an unauthorised site this can also be highlighted and discussed as part of the initial visit. We suggest it would be useful for a local authority to gather relevant information including:

- the number of caravans and other vehicles;
- reason for stay;
- any health, education or welfare requirements;
- the condition of the site;
- plans that those on the site have for their future movement, including how long they plan to stay on the site.

We also suggest that those living on the site are given the details for a single named point of contact in the local authority, who they can approach with any queries.

Decision on response to unauthorised site

47. Once a first visit has been carried out, and information collected, a local authority can make an initial decision on how to manage the site.

48. Decisions taken about managing an unauthorised site must take account of various factors. Evidence of any nuisance or damage being caused by the unauthorised site should be weighed against the needs of the Gypsy/Travellers on the site, particularly any health and welfare needs that have been identified. All decisions should be based on the evidence available and in light of the specific circumstances of each site.

49. If a local authority decides to manage an unauthorised site for a period of time that decision should be kept under review.

Regular visits should be made to ensure the welfare needs of the families are being met, and to assess whether those on the site are behaving in line with the guidelines in paragraphs 32, 33, and 68 of this guidance. If the local authority has a code of conduct for those living on unauthorised sites it should make the Gypsy/Travellers aware of the code, and its requirements. Many of the unauthorised sites managed using this approach will move on voluntarily at an agreed date, with minimal disruption for all concerned.

50. If the local authority decides to manage the site it should consider providing bags and bins for recycling and disposal of waste, and assess the need for portable toilet facilities. The GTLO should also contact the appropriate services (such as education and environmental health) to inform them of the site and provide any relevant information.

51. We recommend that local authorities provide Gypsy/ Travellers on an unauthorised site with a single named point of contact who they can approach, normally as part of the initial site visit. This will usually be the GTLO, where the local authority has one in place. Annex B of this guidance provides a list of contact numbers for each local authority in relation to unauthorised sites.

52. If a site is on local authority land it may want to consider taking legal action to reclaim possession of the land in the circumstances below. This list is not exhaustive, and local authorities will need to take their own legal advice on any action. The relevant circumstances are:

- the unauthorised site is in an unsuitable location (see para 32);
- there is an intolerable or statutory nuisance to the general public by reason of the size, location, nature or duration of a site;
- the site is preventing the use of the location for another purpose;

- a suitable alternative stopping place has been identified, and Gypsy/Travellers have refused to relocate.

53. If a code of conduct has been issued to Gypsy/Travellers on local authority owned land any breaches of the code should be brought to the attention of the Gypsy/Travellers, with a warning that if the breach is not remedied, action to repossess the land will be considered.

Unauthorised sites on private land

54. If the unauthorised site is on private land we recommend an initial visit to the site by the GTLO, or another officer of the local authority. Following this visit we recommend that the local authority then:

- identifies the support needs of the Gypsy/Travellers on the site, and informs the relevant agencies;
- provides appropriate advice to the landowner regarding legal options and awareness of Gypsy/Traveller culture;
- advises the Gypsy/Travellers on the site of the frequency of any future visits the GTLO will make to the site.

55. The local authority may also wish to make regular visits to the site, in discussion with the landowner, to assess the condition of the site and the needs of Gypsy/Travellers living on the site.

Events and other large gatherings by Gypsy/Travellers

56. Large gatherings of Gypsy/Travellers can also occur, and take place for many different reasons. Sometimes these events are on land that is a temporary authorised site, and take place in the same location each year. Such large gatherings will be for a particular purpose, and for a specific period of time (such as 3 days). We recommend that the local authority makes arrangements with the Gypsy/Traveller organising the gathering in advance to plan the event, and discuss any requirements and issues that may arise from

hosting such an event, as would be expected by any person organising a large event.

57. This advance planning helps to ensure that facilities such as skips and portable toilets can be provided. It will also allow the local authority to liaise with local police and to ensure that a suitable traffic management strategy is put in place to accommodate an unusually large volume of traffic. The local authority should also inform the local settled community that an event is taking place.

Waste Disposal

58. Accumulation of rubbish and waste can be a common problem associated with unauthorised sites. This can be unsightly, hazardous, and costly to clean up. Prevention of waste and action to remove it should both be part of a local authority's policy for managing unauthorised sites.

59. Fly-tipped materials should not be present on unauthorised sites. Section 33 of the Environmental Protection Act 1990 (EPA) makes it illegal to keep, treat or deposit waste on land without a waste management licence to do so. Section 89 of the EPA places a duty on local authorities to keep their land and roads clear of litter and refuse. It is up to local authorities to decide how they go about fulfilling their duties and what resources they use, providing that they take account of the guidance within the *Code of Practice on Litter and Refuse*².

60. We recommend that where local authorities arrange regular collection of material from unauthorised sites they also provide recycling facilities. The use of skips or wheelie bins might be appropriate in some locations. These could be cost effective ways of reducing the need to spend money on cleaning up sites – particularly as the build-up of refuse can sometimes act as a magnet for others to fly tip at or near unauthorised sites.

61. Private land owners are responsible for the removal of waste from their land. However, Section 179 of the Town and

Country Planning (Scotland) Act 1997 enables a local planning authority to require the owner and occupier of land to take specific steps to remedy the land's condition, if they consider that it adversely affects the local area.

62. Guidance produced by the Scottish Flytipping Forum (*Flytipping in Scotland: A Guide to Prevention and Enforcement*) for local authority and SEPA waste enforcement officers recognises that the owners of flytipped land are the victims of crime. It encourages local authorities and/or SEPA to investigate flytipping on public and private land and to offer assistance. This may be in the form of advice to prevent the problem in the future or help to uplift or dispose of waste if local circumstances allow.

63. Section 59 of the Environmental Protection Act 1990 provides local authorities with powers to require the removal of unlawfully deposited waste.

Regional Co-ordination

64. Management of unauthorised sites should not be seen as purely a local issue, as Gypsy/Travellers will move across local authority boundaries as they travel. Local authorities should therefore consider ways to facilitate cross boundary co-operation. Such co-operation should look not only at sharing information but also at closer working on responses to unauthorised sites, particularly in areas that have traditional Gypsy/Traveller routes. This might involve partnership working and sharing of local knowledge, expertise and the costs associated with any new approaches to managing unauthorised sites.

Transit Sites and Designated Locations

65. It is for a local authority to decide if they wish to establish a transit site in their area, to assist Gypsy/Travellers with short stays in their area. If a local authority is considering such a move we would encourage it to engage with Gypsy/Travellers to establish if such a site would be used. Such a transit site

² Available on the Scottish Government website.

would be an authorised site established by a local authority for use for short stays.

66. Another approach that has been adopted is to identify particular locations that can be used for unauthorised sites. These are not sites with facilities, but areas of land that the local authority has determined as being suitable for use by Gypsy/Travellers wishing to set up an unauthorised site. Local authorities may want to consider if such an approach would be appropriate in their area.

CHAPTER 5: ROLES AND RESPONSIBILITIES

67. This chapter sets out the key roles and responsibilities for those involved with unauthorised sites.

Gypsy/Travellers

68. When living on an unauthorised site, or choosing the location for one, there are responsibilities that we expect Gypsy/Travellers to meet. These are:

- not setting up an unauthorised site on locations that are unsuitable. This can be because of traffic hazards, public health risks, or environmental damage. (Please see paragraph 32 for a list of the locations that are unsuitable);
- treating the land that they are occupying with respect. (Please see paragraph 33 for further details);
- co-operating with the local authority when arriving in an area by considering making first contact, thereby helping the local authority to assess and meet their needs.

The Local Authority

69. The management of unauthorised Gypsy/Travellers sites on public land is a matter for the local authority in whose area the unauthorised camp is established. This includes:

- decisions on the management of a site;
- making an initial assessment of needs and informing relevant agencies (e.g. education, health);
- considering the safety and security of those living on an unauthorised site;
- communicating with the Gypsy/Travellers living on the site, and the settled community around a site;
- any consideration of legal action to reclaim the land the unauthorised site is on.

70. If the unauthorised site is on private land the local authority retains responsibility for monitoring the camp; making agencies aware of any needs; and liaising with the landowner. However, it will be for the landowner to decide what legal action, if any, to take to reclaim the land.

Police Scotland

71. The role of the Police in or around an unauthorised site is to ensure that public order and wider community safety issues are addressed and, at the same time, to work with local authorities and other agencies to meet the needs of all communities.

72. The police will investigate any allegations of criminal offences and anti-social behaviour on or around a site in line with their normal procedures. That includes both offences those living on a site are alleged to have committed, and offences committed against Gypsy/Travellers living on a site.

73. If the police are requested to do so they will support local authority officers, landowners or their representatives by visiting unauthorised sites with them whilst they serve eviction notices, or similar. This is to ensure there are no public order issues. The police will not play any active part in the service of any papers or the eviction process itself unless instructed by the court or where a crime is being committed.

Crown Office & Procurator Fiscal Service (COPFS)

74. COPFS are responsible for taking decisions on prosecution, based on the evidence available and the individual circumstances of the case. That includes decisions to prosecute for alleged offences committed on or around an unauthorised site.

Scottish Government

75. The Scottish Government's role is to set a general approach to management of unauthorised sites by local authorities, a role which this guidance helps to fulfil. The Scottish Government is not directly involved in the management of unauthorised sites.

ANNEX A: TWO EXAMPLE CASE STUDIES

If the family only remained for three days there would be no need for a 7-day review meeting.

These case studies set out two scenarios involving unauthorised sites, and how the local authority might respond. These are fictional and do not reflect any specific unauthorised site but are based on events that have occurred on unauthorised sites in the past.

Case Study 1: Small family group

This is a site with three caravans and accompanying cars.

Those living on the sites are one extended family, comprising a couple in their fifties (one of whom is in need of a dentist), two men in their twenties (who are their sons) together with their wives, and 5 teenagers and children, ranging in age from 4 to 13. There are also two dogs on the site.

The group is on its way to a family wedding, and plans to stop for three days. The site is on local authority land in a rural location.

Possible local authority action

Initial visit by local authority GTLO. During this visit unauthorised site code of conduct and other relevant information would be provided, along with health contacts in area. The families would be asked if they have any medical or dental concerns. Any educational requirements would be considered, but what would be offered depends on the time of year and length of stay. The families would be advised regarding their conduct whilst in the area – no littering or fly tipping, keeping dogs under control, etc.

All information from above visit would be shared with partner agencies, taking account of Data Protection requirements and good practice. If dental care is urgent the family member would be referred to a local dental practice. Request local authority waste disposal team visit for waste collection.

Case Study 2: Larger working group

This is a site with six caravans, four transit vans, six cars, two quad bikes, and a generator.

Those living on the site are one extended family of three brothers together with their wives and children. There are also several male workers (who are not family members) travelling as part of the group.

The group is travelling for economic reasons, and has no plans to move while there is work in the area. They have moved location within the same local authority area three times. Quad bikes are being used and have caused significant damage to the grass on the site, and there are also reports of anti-social behaviour on and around the site.

Possible local authority action

The local authority GTLO would make the initial visit to the site. As part of this any welfare needs of those on the site would be noted, including any educational needs. During this visit unauthorised site code of conduct and other relevant information would be provided. As the site involves a working party a local authority could choose to note the names of any businesses, so the local authority knew which businesses were operating from the site.

Appropriate agencies would be made aware of the site and the needs of residents. This would be for the local authority to decide, but might include internal services such as education and environmental health, and external bodies such as the NHS. The GTLO would discuss the issue with the Quad bikes and advise those living on the site that the damage is not acceptable. Photographs could be taken of the damage if appropriate, and the information passed to Police Scotland. The police should also be informed of the reports of anti-social behaviour, for them to investigate in line with their normal procedures.

The local authority would consider how best to manage the site. This could include consideration of:

- the local authority continuing on-going management of the site;
- asking those on the site to move to another location identified by the local authority;
- recording any issues around the site raised by the local settled community, such as noise from the generator etc.;
- if there are reports of offences being committed on or around a site (by Gypsy/Travellers or the settled community) Police Scotland should investigate these in line with their normal procedures;
- commencing court action to reclaim possession of the location, if those on the site refuse to move to another location, on the basis that the site is causing damage to the land it is on.

GTLO, Police Scotland, Environmental Health and other agencies and bodies as necessary would do regular joint visits to the site while it is there to assess the site and meet those living on it, and discuss action that can be taken to alleviate any issues.

ANNEX B: LOCAL AUTHORITY CONTACT NUMBERS

Below is a list of contact numbers for those who lead on managing unauthorised sites in their area (often the Gypsy Traveller Liaison Officer). Gypsy/Travellers on an unauthorised site can use these numbers to make initial contact with a local authority, if they wish.

Aberdeen City Council - **01224 522000**
Aberdeenshire Council - **03456 08 12 08**
Angus Council - **03452 777 778**
Argyll & Bute Council - **01546 605522**
City of Edinburgh Council - **0131 200 2000**
Clackmannanshire Council - **01259 450000**
Comhairle nan Eilean Siar - **01851 600 501**
Dumfries & Galloway Council - **030 33 33 3000**
Dundee City Council - **01382 434000**
East Ayrshire Council - **01563 576000**
East Dunbartonshire Council - **0300 123 4510**
East Lothian Council - **01620 827827**
East Renfrewshire Council - **0141 577 3001**
Falkirk Council - **01324 506070**
Fife Council - **03451 55 00 00**
Glasgow City Council - **0141 287 2000**
Highland Council - **01349 886606**
Inverclyde Council - **01475 717171**
Midlothian Council - **0131 270 7500**
Moray Council - **01343 543451**
North Ayrshire Council - **01294 310000**
North Lanarkshire Council - **01698 403200**
Orkney Islands Council – **01856873535**
Perth & Kinross Council - **01738 476 476**
Renfrewshire Council - **0300 300 0300**
Scottish Border Council - **0300 100 1800**
Shetland Islands Council - **01595 693535**
South Ayrshire Council - **0300 123 0900**
South Lanarkshire Council - **0303 123 1015**
Stirling Council - **01786 404040**
West Dunbartonshire Council - **01389 737000**
West Lothian Council - **01506 280000**

ANNEX C: SUMMARY OF LEGAL PROVISIONS RELEVANT TO UNAUTHORISED SITES

1. There are various civil and criminal law provisions which have the potential to be relevant to unauthorised sites, and issues that may occur around such sites. This Annex sets out some of the parts of the law that can be relevant to managing unauthorised sites and issues that may occur on or around such sites, arising from the law in Scotland, British and UK-wide legislation, and European obligations. This Annex is not intended to be comprehensive, and local authorities should seek their own legal advice. It also does not cover international obligations that may also be relevant to the management of unauthorised sites and Gypsy/Travellers living on them.

2. Preventing and detecting criminal offences is a matter for the police. The police can deal with any criminal activity where they have powers to do so.

3. In Scotland COPFS are the independent prosecution authority. Decisions to prosecute or not prosecute a case reported by the police will be based upon the evidence available and an assessment of the sufficiency of that evidence in law and whether the public interest merits a prosecution.

THE LAW IN SCOTLAND

Trespass (Scotland) Act 1865 and Roads (Scotland) Act 1984

4. Section 3 of the Trespass (Scotland) Act 1865 states:

“Every person who lodges in any premises, or occupies or camps on any land, being private property, without the consent and permission of the owner or legal occupier of such premises or land, and every person who encamps or lights a fire on or near any road or enclosed or cultivated land, or in or near any plantation, without the consent and permission of the owner

or legal occupier of such road, land, or plantation shall be guilty of an offence punishable as herein-after provided.”

5. Section 100 of the Roads (Scotland) Act 1984 states that:

“A person who, without lawful authority or reasonable excuse, by lighting a fire within, or by permitting a fire for which he is responsible to spread to within, 30 metres of a road, damages the road or endangers traffic on it, commits an offence.”

6. Section 129 of the same Act states that a “person who, in a road, pitches a tent or camps commits an offence”. Under section 151 a ‘road’ means “subject to subsection (3), any way (other than a waterway) over which there is a public right of passage (by whatever means and whether subject to a toll or not) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes; and any reference to a road includes a part thereof”.

Anti-Social Behaviour Act 2004

7. The 2004 Act includes a range of measures to deal with anti-social behaviour such as antisocial behaviour orders. These powers, contained in Section 21, can be used to disperse groups for a range of antisocial and environmental offences. They may be relevant in relation to unauthorised sites as they could be used to protect both Gypsy/Travellers on a site and local settled people.

8. Anti-social behaviour orders (ASBOs) are preventative orders to protect persons affected by anti-social behaviour from further acts or conduct which causes or is likely to cause alarm or distress. Breach of an ASBO is a criminal offence. The offence for breach of an ASBO is contained in section 9 of the 2004 Act.

9. Tools to deal with anti-social behaviour should be considered in the context of local antisocial behaviour strategies. Local

authorities and the police, in consultation with others, are required under Part 1 of the 2004 Act to prepare strategies to deal with anti-social behaviour in the local authority's area. These strategies will set out an assessment of the nature and extent of anti-social behaviour in the area and services to prevent and deal with the problems. Section 140 of the 2004 Act provides that persons discharging a function by virtue of the 2004 Act must do so in a way that encourages equal opportunities.

UK AND BRITISH WIDE LEGISLATION

Sections 61 and 62 of the Criminal Justice and Public Order Act 1994

10. This Act deals with trespass and the removal of vehicles. Section 61 deals with police powers to remove trespassers on land and section 62 provides supplementary powers of seizure and imposes criminal sanctions.³

11. It is important to note that sections 61 and 62 apply to situations in which two or more "trespassers" are involved. Section 61 allows the police to direct trespassers to leave the land and to remove vehicles or property on the land where the senior police officer present at the scene has a reasonable belief that:

(a) two or more persons are present with the intention of staying there for a period of time, and

(b) reasonable steps have been taken by, or on behalf of, the occupier to ask them to leave.

12. In addition, the senior police officer must have a reasonable belief that either (a) the group have caused damage to the land or property, or threatened, abused or insulted the occupier or representatives of the occupier or, (b) the group have six or more vehicles between them on the land.

13. The practical application and meaning of section 61(1) has been tested in the Scottish courts. The court in **Neizer v Rhodes** 1995 S.C.C.R 799 said that;

"The whole structure of s.61(1) depends upon what the senior police officer present at the scene reasonably believes to be the case. The purpose of the section is to enable action to be taken on his direction rather than by resorting to the process of ejection under the civil procedure at the instance of the owner or occupier."

As set out above it is a matter of judgement for the senior police officer present at the relevant time.

14. These provisions could be relevant to the issue of unauthorised sites by Gypsy/Travellers, where there has been disruption and where the criteria set out above have been satisfied. However, it is clear that this legislation will not be suitable to deal with every unauthorised site situation.

15. In addition, it should be noted that the statutes deal with "trespassers" and do not specifically mention Gypsy/Travellers. Furthermore, it is not confined to the issue of unauthorised sites specifically. It is important to be aware that this legislation could potentially be applied in a wide variety of circumstances.

Equality Act 2010

16. The Equality Act 2010 (the 2010 Act) makes it unlawful to discriminate against people because of a range of protected characteristics (see paragraphs 16 to 20 in the guidance, above). The Act covers direct discrimination, indirect discrimination, harassment and victimisation. More information about what these terms mean and how the legislation works can be found in the Equality and Human Rights Commission's statutory Codes of Practice⁴.

³Note that Sections 62 A-E of the 1994 Act, inserted by the Anti-social behaviour Act 2003, do not extend to Scotland.

⁴ EHRC Codes of Practice:
<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice#h4>.

17. Section 149 of the 2010 Act sets out the public sector equality duty. This puts a duty on listed public authorities (including local authorities) to have due regard to three specified matters when exercising their functions. The three matters are:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
- advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

18. Scottish Ministers have made regulations to enable the better performance of the public sector equality duty by Scottish public authorities. These include, amongst others, a requirement to publish a set of equality outcomes; to report on how the duty is being integrated into the authority's functions; to gather, use and publish employee diversity information; and a duty to undertake equality impact assessment of new or revised policies or practices.

Crime and Disorder Legislation

19. There is also legislation which offers protection from racially motivated crimes. In Scotland protection against racially aggravated harassment is afforded under Section 33 of the Crime and Disorder Act 1998 which introduced the offences under section 50A of the Criminal Law (Consolidation)(Scotland) Act 1995. Section 96 of the 1998 Act also creates an aggravation for any offence which is racially motivated. The Public Order Act 1986, Part 4, also applies to Scotland. It creates a number of offences which involve racial hatred such as use of words or behaviour or display of written materials intended to stir up racial hatred, and possession of inflammatory material.

Environment Protection Act 1990

20. Flytipping is the illegal dumping of waste – from a bin bag of household waste to large quantities of domestic, commercial or construction waste - onto land which is not covered by a licence to accept waste.

21. Such unauthorised depositing of waste is an offence under Section 33 of the Environmental Protection Act 1990 (EPA). Section 59 of the EPA provides powers to SEPA and local authorities to require the removal of the waste or to remove it themselves and recover the costs.

Litter is waste in the wrong place and Section 87 of the EPA makes it an offence to throw down, drop or otherwise deposit litter and leave it. This largely applies to publicly-owned land which is open to the air and accessible to the public.

British Transport Commission Act 1949

22. Section 55(1) of the British Transport Commission Act 1949 makes it an offence to trespass upon any railway line, sidings, tunnel, embankment or cutting, or on lands in dangerous proximity to lines or electrical apparatus associated with the operation of the railway. It states:

“55(1) any person, who shall trespass upon any of the lines of railway or sidings or in any tunnel or upon any railway embankment cutting or similar work now or hereafter belonging or leased to or worked by any of the Boards or who shall trespass upon any other lands of any of the Boards in dangerous proximity to any such lines of railway or other works or to any electrical apparatus used for or in connection with the working of the railway shall be guilty of an offence.”

EUROPEAN OBLIGATIONS

European Convention on Human Rights

23. The rights and protections afforded by the articles of the European Convention on Human Rights (ECHR) (and latterly the Human Rights Act 1998) should be enjoyed by all, without discrimination on the grounds of “sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.” In particular, Article 8 states that “everyone has the right to respect for his private and family life, his home and his correspondence.” ECHR issues in relation to the existing legislation have been considered in a number of cases.⁵

24. The Human Rights Act 1998 created a statutory requirement to read all legislation (past and present) in accordance with the provisions of the European Convention. In relation to public bodies, Section 6(1) states that “it is unlawful for a public authority to act in a way which is incompatible with a Convention right.”

Council Directive 2004/434/EC (the Race Directive)

25. Council Directive 2000/43/EC (the Race Directive) is due to be implemented in member states by 19th July 2003⁶. The Directive has regard to the Treaty establishing the European Community, in particular Article 13 (as amended by the Treaty of Nice), which states that:

“Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the

European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

⁵ R (Fuller) v Chief Constable of Dorset Police, The Secretary of State for the Home Department [2003] Q.B. 480; Chapman v The United Kingdom 2001 (Application no. 27238/95); Varey v The United Kingdom 1998 (Application no. 26662/95); Buckley v The United Kingdom 1994 (Application no. 20348/92).

⁶ Implemented in the UK by the Race Relations Act 1976 (Amendment) Regulations 2003

ANNEX D: EXAMPLES OF GOOD PRACTICE

During the development of this guidance we found several examples of good practice in managing unauthorised sites. To assist local authorities in learning from one another we have gathered some useful resources together in this annex, which local authorities may wish to review and adapt for use in their own area. For any queries relating to this material please contact the local authority concerned.

- Flow Chart for Managing Unauthorised Sites (from the City of Edinburgh Council)
- Action sheet for completion at an Unauthorised Site (from the City of Edinburgh Council)
- Code of Conduct for Unauthorised Gypsy/Traveller Sites (from East Ayrshire Council)
- Gypsy Traveller Co-operation Policy (from Fife Council)
- Unauthorised Sites operating Guidance (from Fife Council)
- Good neighbourhood Code (from Scottish Borders Council)
- St Boswell's Fair - a large gathering (from Scottish Borders Council)

Material available online:

Angus Council

Managing Unauthorised Encampments of Gypsies/Travellers
Policy and Procedure

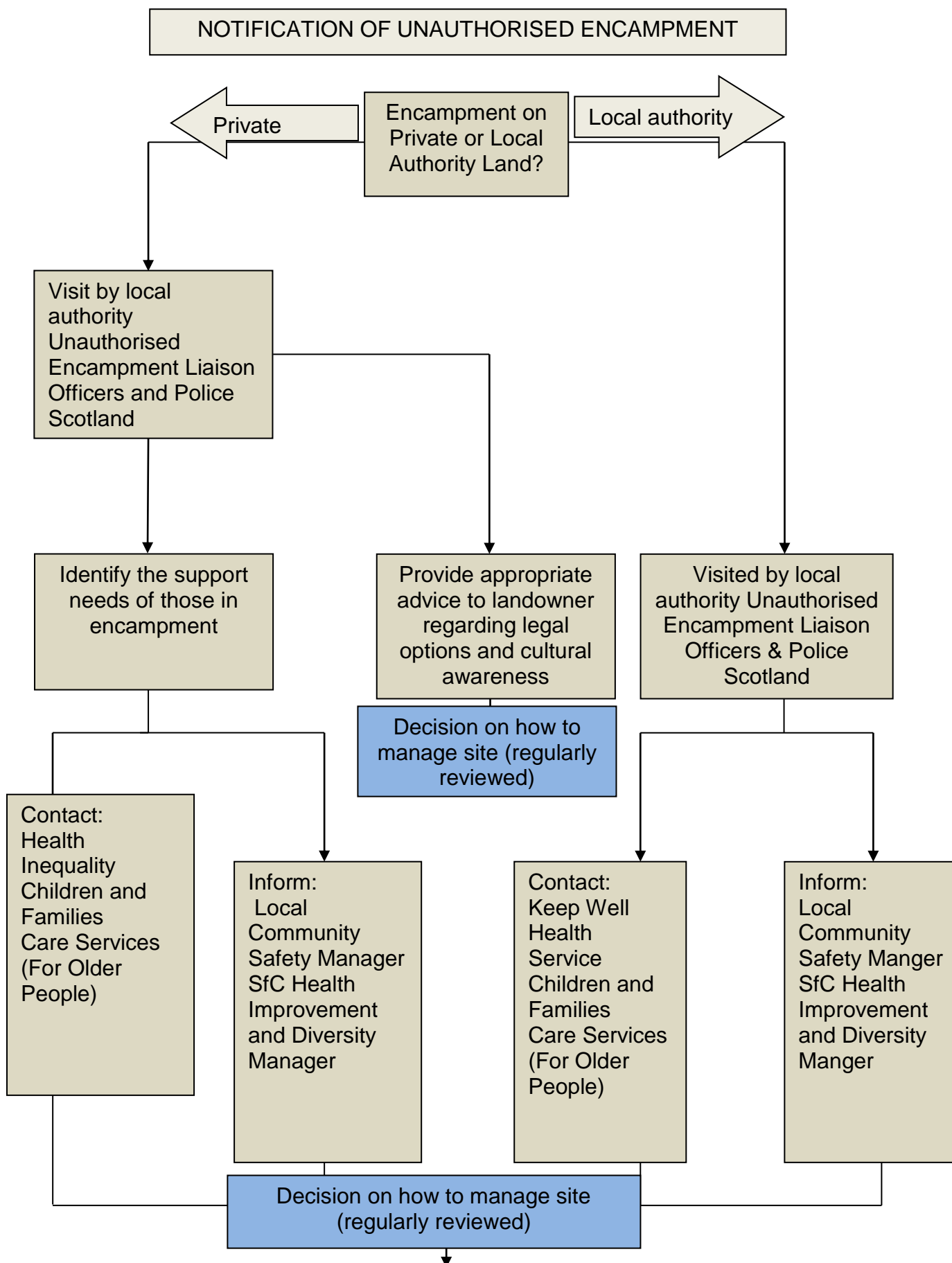
[http://www.angus.gov.uk/downloads/file/1685/managing_unauthorised_encampments_of_gypsies_travellers - policy and procedure final draft - august 2015](http://www.angus.gov.uk/downloads/file/1685/managing_unauthorised_encampments_of_gypsies_travellers_-_policy_and_procedure_final_draft_-_august_2015)

Stirling Council

Gypsy/Travellers: Guidelines for Unauthorised Encampments

[http://www.stirling.gov.uk/_documents/temporary-uploads/housing- and -customer-service/guidelines on unauthorised encampment.pdf](http://www.stirling.gov.uk/_documents/temporary-uploads/housing-_and_-_customer-service/guidelines_on_unauthorised_encampment.pdf)

CITY OF EDINBURGH COUNCIL - FLOW CHART FOR MANAGEMENT OF UNAUTHORISED SITES



CITY OF EDINBURGH COUNCIL - ACTION SHEET FOR UNAUTHORISED SITES

Location (including Risk Assessment of suitability of use)	Local Authority or Private Land	Date of Arrival	Vehicles (including details of increase/ decrease in size of site)	Occupant Details	Support Needs Identified (Health, Child Welfare, Vulnerable Adults) Where these met and by who?	Details of services provided by NHO (waste collections/water etc.)

Nature of Complaints received	Legal Action Date of Commencement	How far the action went from serving notice to quit to eviction	Date Site Vacated	Summary of Lessons Learnt

CODE OF CONDUCT – EAST AYRSHIRE COUNCIL

CODE OF CONDUCT FOR UNAUTHORISED GYPSY/TRAVELLER ENCAMPMENTS

East Ayrshire Council respects and recognises that Gypsy/ Travellers have a right to maintain their way of life and there should be no acts of discrimination shown as a result of their lifestyle.

However, the Council is also responsible for ensuring the balance of needs and wishes between Gypsy/Travellers and the settled communities.

Gypsy/Traveller communities have a responsibility and duty to treat the land that they are occupying with respect.

In some instances the Council may grant a period of stay on Council land. When such a stay is permitted, Gypsy/ Travellers are effectively guests of both the Council and the local community and, as such, the standard of behaviour expected is the same as that for society in general, while observing in full the terms of this Code of Conduct.

The Code of Conduct will be issued to all residents on unauthorised encampments on Council and private land.

THE CODE OF CONDUCT STATES THAT:

- The site should not be overcrowded.
- Vehicles and caravans should not create a road hazard.
- The site should be kept clean.
- Litter or rubbish should not be dumped. This includes domestic and trade waste such as scrap metal, tree loppings, tyres, and rubble.
- The burning of rubbish that emits toxic fumes or causes any form of nuisance to passers by or neighbours is not permitted.
- Fires should not be started.
- Human waste, babies' nappies etc should be disposed of accordingly and appropriately.
- Pets must be kept under control and all mess should be disposed of in an appropriate manner.
- Generators should not be used between 10pm-7am within the vicinity of residential properties.
- The use of threatening/intimidatory behaviour towards Council employees, other agencies, local residents or members of the public will not be tolerated.
- All residents on site should be aware that any criminal activity will always be reported to the Police.

Waste disposal and recycling facilities are located at:

- Western Road, Kilmarnock, KA3 1LL
- Skares Road, Garlaff, near Cumnock, KA18 2RB

If Gypsy/Travellers breach the Code of Conduct, or camp on an unsuitable location, East Ayrshire Council may take enforcement action, including seeking eviction from that location. Gypsy/Travellers who are evicted will be unable to return to the encampment for a 4 week period.

If the encampment is on private land, the Council may be able to assist with support and guidance

with regard to legislation and recognised good practice. Ultimately, the course of action taken will be for the landlord to decide and that may include raising an action for eviction.

LOCATIONS THAT WILL BE DEEMED UNSUITABLE FOR ENCAMPMENT

Locations that will be deemed unsuitable for encampment will depend upon their particular attributes, circumstances and location. However, a non-exhaustive list of examples of locations deemed unsuitable is listed below:

- Parks, public open spaces in regular use, sports and recreation ground.
- Public car parks.
- Industrial estates, retail or business parks (including sites under development).
- A site where pollution from vehicles or dumping could damage ground water or watercourses.
- A site of special scientific interest where an encampment endangers a sensitive environment or wildlife.
- A public highway or designated highway land.
- A location where there is, or is likely to be a significant risk of harm to the health and safety of the occupants (e.g. an area with toxic waste or any other serious ground pollution, or on the verge of busy roads where traffic could pose a danger to children).

USEFUL TELEPHONE NUMBERS

Team Manager Housing Options
Housing and Community Services
East Ayrshire Council
01563 554567

Regulatory Services Manager
Environmental Health Services
East Ayrshire Council
01563 576913

Equality & Diversity Officer
Policy, Planning and Performance
East Ayrshire Council
01563 576244

Advocacy Project Kilmarnock
01563 574442

Citizens Advice Bureau Kilmarnock
01563 544744

Crosshouse Hospital
01563 521133

DWP Kilmarnock
01563 578500

NHS 24
08454 242424

Police Scotland Kilmarnock
01563 505000

Samaritans Kilmarnock
01563 531313

Social Work Balmoral Road Kilmarnock
01563 503301

Turning Point Kilmarnock
01563 574257

Womens Aid Kilmarnock
01563 536001

**Fife Gypsy Travellers Co-operation Policy (revised
March 2015)**

1.0 Aim

The aim of the Policy is to provide a framework of co-operation with Gypsy Travellers in Fife, clearly identifying their rights and responsibilities, and that of the Business & Settled Communities.

2.0 Objectives

The main objectives of the Policy are:-

- To agree the respective rights and responsibilities of the Council and Gypsy Travellers.
- To agree proper consultation mechanisms based on the full participation between Council Services, Fife Constabulary, other Partners in the Public and Voluntary Sectors and Gypsy Travellers.
- To manage unauthorised encampments in the context of the provision of permanent and Seasonal Sites provision for Gypsy Travellers.
- In light of the most recent experience with larger groups of Gypsy Travellers in Fife, to ensure that the Council manages unauthorised encampments fairly and robustly in accordance with the agreed guidance
- To ensure that the interaction between the settled and business communities and the Gypsy Traveller Community is managed proactively through effective partnership working involving all of the agencies and services involved

3.1 Principles

This Policy recognises:

3.2 Gypsy Travellers Rights

- The right to roam as central to the Gypsy Traveller culture
- The right of Gypsy Travellers to live a life free from prejudice and discrimination
- The right for Gypsy Travellers to be fully involved/consulted in the development of services provided for them
- Protect the rights of children to obtain settled & temporary accommodation, education and health

3.3 Gypsy Travellers Responsibilities

- To respect the provisions of the law in Scotland, particularly in relation to

access to land, respect the integrity of security gates, fences etc, to prevent unauthorised access to publicly or privately owned land in Fife

- The responsibilities of Gypsy Travellers to respect the interests of the Settled and Business communities
- The responsibility to work co-operatively with the Council and other public and voluntary organisations, and to move to alternatives to an unauthorised encampment when requested to do so by the Travelling Persons Site Manager. Alternative suitable provision will include vacant permanent pitches, and seasonal site pitches.
- The responsibility to respect the Council's overarching responsibility to consider the interests of all communities in Fife.

4.1 Background to Policy Requirement and Development

- 4.2 The requirement to produce a Co-operation Policy arises from the advice from the Scottish Government to all Local Authorities in Scotland that they agree procedures with Police Scotland to deal with unauthorised encampments of Gypsy Travellers. The scope of the Fife Policy Statement also encapsulates Gypsy Traveller services provision and development.
- 4.3 The development of the Policy is the responsibility of the Council working in partnership with other key partners including Police Scotland, Education & Children Services, and NHS Fife.

5.1 Unauthorised Encampments

- 5.2 The Council and Gypsy Travellers recognise that the existence of unauthorised encampments has the potential to give rise to significant complaints, not just from the general public but also from the business community.
- 5.3 Fife Council will initiate proceedings for eviction of unauthorised encampments where an encampment:-

- 5.3.1 Creates a hazard to road safety, contrary to Fife Council's Transportation Development Guidelines; to the ability of the Fife Fire and Rescue Service to discharge its responsibilities or otherwise creates a health or safety hazard; or
- 5.3.2 Creates an intolerable nuisance by reason of its size, location, nature or duration; or
- 5.3.3 Creates an intolerable impact on employment land, use of habitation on adjoining or nearby property; or interferes with the effective operation or management of that property; or
- 5.3.4 Causes or is likely to cause damage to the Council's land or property or prejudice to its employees; or prejudices or is likely to prejudice the use of land for its intended purpose(s) or by legitimate tenants or occupants; or
- 5.3.5 is too large for its location or is causing unacceptable impact on its environment; or
- 5.3.6 Would, for some other reason, be detrimental to the interests of the public if allowed to remain for an extended period."

- 5.4 The decision whether to allow an unauthorised site to remain will be a balance between the needs, rights and wishes of the Travellers and those of the settled community; and whether there is any impact on the environment. Corroborative evidence on the level of nuisance and/or impact(s) which are occurring and which cannot be effectively controlled will be required before action is taken. Each case

will be assessed on its own merits based on site location and local circumstances. The health, social, education and housing needs of Gypsy Travellers will be taken into consideration when a decision is reached. Information gathered will determine the appropriate action to be taken and the duration of stay (if applicable).

6.1 Seasonal Sites

- 6.2 The Council intends to supplement the static provision in Fife, both public and private, with a number of seasonal sites. The Council intends to establish these sites for the Travelling Season in 2015 (March – October), in full consultation with Local Members and Community interests. Unauthorised encampments outwith permanent sites pending the completion of the seasonal sites will not be permitted if the strict terms of the criteria set out in paragraph 5.2 of the Council's policy are breached.
- 6.3 The Council will operate the seasonal sites on a pilot basis for one season with an evaluation report back to the Council's Executive Committee in December 2015.
- 6.4 The seasonal sites will have the following amenities:
- Hard standing area to agreed area extent to accommodate up to 30 caravans and associated vehicles
 - Water supply either via a standpipe supply or by water bowser provision
 - The removal of trade waste at an agreed charge (Duty of Care Regulations)
 - Provision of portaloos
 - Provision of black bags for domestic waste or 240 litre wheeled containers, one for each designated seasonal pitch

Location of Seasonal Sites

- 6.5 Seasonal sites may be located on nominated areas at the periphery of business parks where Gypsy Travellers have tended to set up unauthorised encampments.

Definition of a Seasonal Site

- 6.6 A seasonal site will be a piece of land in the Council ownership or private ownership to be expressly used as a short-term usage (up to 4-6 weeks) by Gypsy Travellers. The site rules and occupancy conditions will be managed in co-operation with Gypsy Travellers by the Council's Travelling Persons Site Managers.

Management of Seasonal Sites

- 6.7 The management of seasonal sites will be the responsibility of the Housing Service's Travelling Persons Managers in liaison with key Council Services, Police Scotland, Health agencies, voluntary agencies, and in consultation with Gypsy Travellers.
- 6.8 It is the responsibility of Gypsy Travellers to use the designated sites and to use them in a responsible manner, particularly in maintaining the cleanliness of the sites, and to respond appropriately to the waste disposal agreement on each site. Gypsy Travellers who do not respect the site or other residents on the site (e.g.

cause anti-social behaviour, dumping of waste/rubbish), will be required to leave the site.

- 6.9 Gypsy Travellers seeking to set-up alternative unauthorised encampments will be advised to move to the designated sites. The Council will seek to move Gypsy Travellers on if the voluntary arrangement is not met.

Charging

- 6.10 The Council will charge all reasonable costs for the provision of services to the seasonal sites in the form of a Service Charge levied on site users. Gypsy Travellers using seasonal sites will be required to pay the appropriate charge. Failure of Gypsy Travellers to do so will result in their requirement to move from the site.

7.1 Service Provision to Gypsy Travellers

- 7.2 The Council confirms that best practice in the provision of Gypsy Travellers services is based on the direct participation of Gypsy Travellers. The Co-operation Policy will lead to a review of all services currently provided by Public and Voluntary Agencies in Fife to ensure that they meet current and anticipated needs, and that Gypsy Travellers are involved in their review. Fife Council Executive Committee will play a key role in the review and recommending changes to services to meet the needs and gaps that are identified.
- 7.3 This Policy recognises that the needs and aspirations of a nomadic group, and hence the services that are required, may differ from those of the settled community.
- 7.4 The external Regulation of Service provision to Gypsy Travellers in Fife will be the responsibility of the Scottish Housing Regulator.
- 7.5 The basis for all services to Gypsy Travellers is that they are provided equally and fairly for all citizens in Fife.

8.0 Policy Monitoring and Review

The Co-operation Policy will regularly be monitored and reviewed by the Fife Council Executive Committee with the direct participation of Gypsy Travellers. The Housing & Communities will receive an annual statement in March for scrutiny purposes.

Updated March 2015

FIFE COUNCIL – UNAUTHORISED SITES OPERATING GUIDANCE

GYPSY TRAVELLERS AND UNAUTHORISED ENCAMPMENTS

Guidance

1. Public concerns or complaints about unauthorised encampments should be raised through the Contact Centre.
2. Contact centre will notify the designated Gypsy Traveller Site Manager and the Site Manager in the area.
3. The Site Managers are responsible for managing unauthorised encampments and notifying Elected Members, Police Scotland, and local Community Councils about the situation.
4. Gypsy Traveller Site Manager will alert other Fife Council Services as required, services are aware of their responsibilities within the context of a multi-service response.
5. The Gypsy Travellers will be approached within 48 hours of notification of the encampment. The designated site manager will establish:-

- The safety of the position of the encampment
- The number of families on the site including the number of vehicles and caravans
- Health, education, housing, and welfare needs of the families
- The intended length of stay of the Gypsy Travellers
- The reason for being in Fife
- The travelling pattern of the individuals/group
- Where they intend to go
- The ownership of the site

6. The Officer(s) will:-

Provide information to the Gypsy Travellers on:-

- (a) The Council's Co-operation Policy
- (b) Details of alternative sites (permanent and seasonal if available)

Provide an Application for Housing or Travelling Pitch if requested

Make a referral for any assistance required from health, education or any welfare needs

7. The Officer(s) will evaluate the individual circumstances and take action to:-

- (a) Recommend removal of the Gypsy Traveller(s). This should be done within a 1-5 day period based on the assessment of the site.
- (b) Short stay. This would be for a 5-15 day period, again depending upon the circumstances of the individual travelling group.
- (c) A temporary stay for a period of 5-28 days.

8. In cases where removal is required, the Designated Officer will notify relevant services and negotiate removal with approved solicitors.

In all circumstances, consideration needs to be given to the provision of education, health, environmental protection and waste collection.

The approach reflects the need to determine the circumstances in which an encampment might be allowed for a period; establish the level of nuisance and whether it can be effectively controlled; and establish service support where necessary.

9. An essential part of the guidance is monitoring every situation which arises to ensure the effectiveness of the policy. The designated Officer should make regular visits to the unauthorised encampment to ensure there is no breach of the Co-operation Policy; and that the service support offered is sufficient to meet the Gypsy Travellers' needs. Contact should also be made with the complainant to advise them of the steps taken by the Council and monitor their concerns.
10. Statistical information should be collated. This would allow the level and type of complaints to be monitored; the travel patterns of Gypsy Travellers; the effectiveness of the policy in discouraging the use of unauthorised sites; and the success in encouraging use of the Council's permanent, seasonal and traditional sites.

Monitoring and gathering of statistical information will be recorded and reported to the Housing Team Manager. This will provide a basis for future reviews of the policy to ensure its continued effectiveness in consultation with all relevant parties.

23rd March 2015

SCOTTISH BORDERS COUNCIL – LARGE GATHERING EVENT LEAFLET

(Please note that St Boswells Fair is a large gathering that is an authorised site for a temporary period of time).

The aim of this leaflet is to ensure that everyone involved with the Fair enjoys it and helps improve it in the future. George Higgs the Chairman of our Borders Equality Forum will be attending and asking you to advise him on how the Council can improve the Fair, and indeed, how you can access our services in the future.

George's contact details are in the "Useful Contact" section of this leaflet.

Comments/Feedback:-

You can get this document on tape, in large print, and various other formats by contacting us at the address below. In addition, contact the address below for information on language translations, additional copies, or to arrange for an officer to meet with you to explain any areas of the publication that you would like clarified.

Contact:
Jacqueline Whitelaw,
Scottish Borders Council, Council Headquarters,
Newtown St. Boswells, TD6 0SA
Tel: 0300 100 1800 Fax No: 01835 825071

Useful Contact Numbers

Scottish Borders Council (all services)

Office hours 0300 100 1800
Out of hours 01896 752111

Hospital

Borders General Hospital 01896 826000

NHS 24

111

Borders Emergency Dental Service

0845 300 0930

Borders Equality Forum

07762403531

Police Scotland

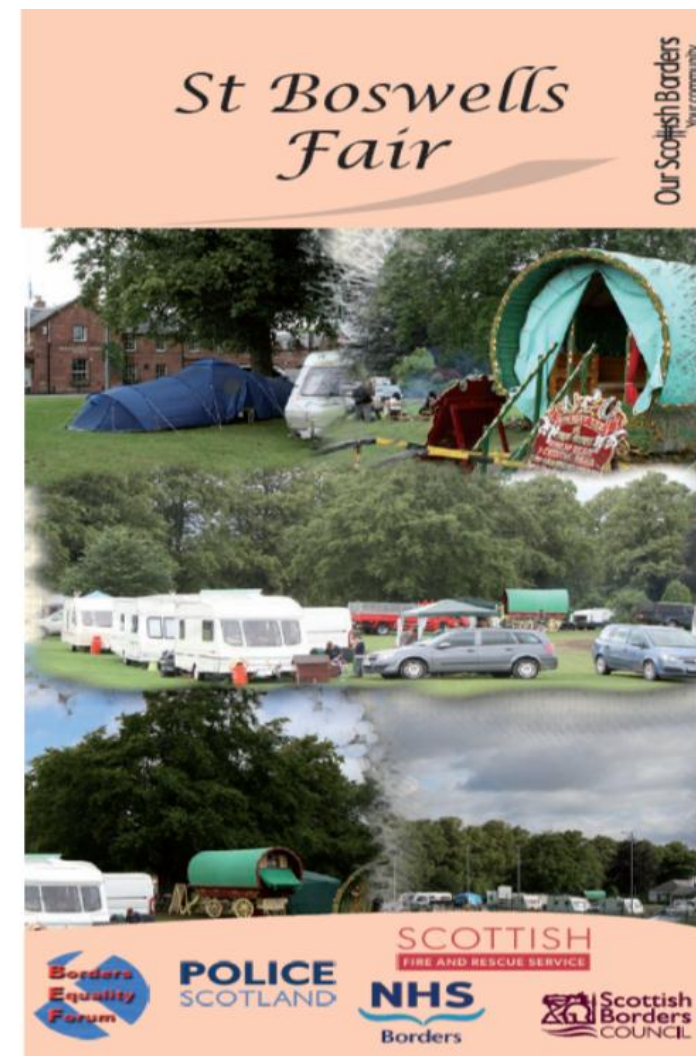
101 / 999

Scottish Fire and Rescue Service

General Enquiries 01835824728

Emergency 999

Front Cover Photograph - George Higgs
Designed by Scottish Borders Council Graphic Design Section.
Printed in the Scottish Borders
May 2016



Scottish Borders Council, in conjunction with NHS Borders and Police Scotland, take the opportunity of welcoming you, once again, to St. Boswells in the Scottish Borders and trust that you will enjoy your Annual Fair.

We are pleased to be supporting this event, which dates back to the 1600s and has been held on The Green since 1743. The Fair has changed significantly since its original format as a sheep fair lasting seven days, through to the early 1900s where up to 1000 horses could be offered for sale at the event, through to its current format.

This Fair, traditionally held on July 18th – the Saint's Day of Boisil in the Gregorian calendar is a wonderful tradition to uphold and a significant event in Borders life. We hope that once again it will be a great success and enjoyed by all.



Kirk Yetholm Gypsy Palace 1945

To ensure that we all enjoy the Fair we ask that:

- Areas shown and marked on the site plan are kept clear at all times to allow access to the emergency services, if required
- You take full advantage of the skips and portaloos marked on the site plan
- You take full advantage of the public convenience, situated at the bus stop in St Boswells.
- You keep any driving on the green to a minimum or, where absolutely necessary, keep speed to a minimum and always drive in accordance with the law
- You treat open fires with respect
- You respect the rights of neighbours by keeping noise levels to a minimum particularly after 10pm in the evening.

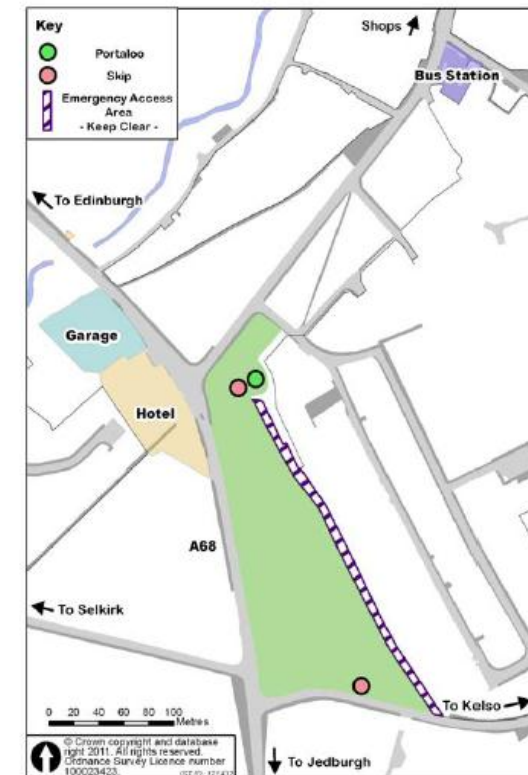
Hate Crime

Hate Crime is any criminal offence that is motivated by a person's hatred of someone because of his or her actual or perceived race, religion, transgender identity, sexual orientation or disability.

You can report a Hate Crime as follows:

- By Telephoning 999 (emergency) or 101 (non-emergency)
- In person at any Police office
- In person at third party reporting centres including:
 - Council Contact Centres in most towns
 - Victim Support Galashiels
 - Tweedside Caravan Park, Innerleithen
 - Via the Police Scotland Website

Site Plan



Scottish Borders Council will provide, as usual the following services -

- Portaloos
- Skips
- Access for Emergency Services (Fire Brigade, Ambulance and Police)

The site plan indicates where these services are located.

SCOTTISH BORDERS COUNCIL - UNAUTHORISED SITE GUIDE

The aim of this leaflet is for Scottish Borders Council NHS Borders, Police Scotland the the Scottish Fire and Rescue Service, to foster their relationship with the gypsies and travelling people.

Comments/Feedback

If you have any comments on the leaflet please send these to:
Douglas Scott,
Scottish Borders Council, Council
Headquarters,
Newtown St. Boswells
Melrose

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Douglas Scott, Scottish Borders Council,
Council Headquarters, Newtown St. Boswells,
TD6 0SA Tel: 0300 100 1800 Fax No: 01835 825059

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Borders General Hospital 01896 826000

NHS 24 111

**Borders Emergency
Dental Service** 0845 300 0930

Borders Equality Forum 07762403531
Chairman - George Higgs

Police Scotland 101/999
(emergency)

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- In person at any Police office
- In person at third party reporting centres including:
 - Council Contact Centres in most towns
 - Victim Support Galashiels
 - Tweedside Caravan Park, Innerleithen
 - Via the Police Scotland Website



Photographs - George Higgs
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Printed in the Scottish Borders November 2010

A Guide for Gypsy/ Travelling People
Staying on Unauthorised
Sites in the Scottish Borders

Our Scottish Borders
Your community

Scottish Borders Council, together with NHS Borders, Scottish Fire and Rescue Service, Lothian and Borders Police and other Scottish Borders Community Planning Partners want to continue to improve their relationships with the Gypsy/Travelling community.

We are aware that Gypsy/Travellers camp for short periods at one place and are restricted as to where they can legally encamp. We are keen to promote a fair balance between the needs of the local settled community and Gypsies/Travellers.

This leaflet sets out how we manage unauthorised camping on sites and what this will mean for you and your family.

The Good Neighbour Code

We will:

- Provide information on waste disposal and other public services to assist your transit through the Scottish Borders
- Respond to any issues you may have or experience.



The Chair of the Borders Equality Forum will:

- Visit the site on a regular basis and make contact with you
- Ask you about your welfare, education and health needs
- Provide information on waste collection and the process in place for dealing with trade waste
- Check how long you have been at the site and plan to be there
- Inform you of concerns that local people have raised and discuss with you what action you can take to resolve these concerns
- Check if there are any animal welfare concerns.

We expect you to:

- Keep groups to a reasonable size for the area occupied
- Look after the land you park on and respect nearby neighbours
- Keep animals tied up or under control at all times
- Dispose of all rubbish properly in the bags or waste bins provided
- Use toilets
- Ensure that there is no road or road traffic hazards
- Not have fires
- Clear up all animal and human waste
- Comply with trading and selling regulations.

Non Compliance with Good Neighbour Code

If the Good Neighbourhood Code is not followed then you will be told to move at once and the Council and its partners will consider if any more action should be taken. Compliance does not prevent private landowners taking action to move you on.



ANNEX E: STAKEHOLDER ENGAGEMENT

The following organisations assisted with the development of this guidance, by providing their views and knowledge, hosting visits, commenting on draft versions, or providing materials.

Aberdeen City Council
Aberdeenshire Council
Angus Council
Argyll & Bute Council
Article 12
Association of Local Authority Chief Housing Officers
Convention of Scottish Local Authorities
Crown Office and Procurator Fiscal Service
Dundee City Council
East Ayrshire Council
East Lothian Council
City of Edinburgh Council
Equality and Human Rights Commission
Falkirk Council
Fife Council
Glasgow City Council
Gypsy/Traveller community members
Highland Council
Minority Ethnic Carers of Older People Project (MECOPP)
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
PAS
Perth and Kinross Council
Police Scotland
Scottish Borders Council
Scottish Council Equality Network
Scottish Enterprise
Scottish Human Rights Commission
Scottish Land & Estates
Scottish Traveller Education Programme
Shetland Islands Council
Society of Chief Officers of Transportation in Scotland
South Lanarkshire Council
Stirling Council
Transport Scotland
Travellers Site Managers Association Scotland
West Dunbartonshire Council



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