

Inter-Agency Guidance

“Working together on Gypsy and Traveller Issues”



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INTRODUCTION

This document has been produced by the Derbyshire Traveller Issues Working Group.

Membership of the group is open to all public authorities and representatives of Gypsy and Traveller organisations in Derbyshire.

The group was formed in response to the need for all agencies to work together to make sure that all services are delivered fairly to Gypsies and Travellers in compliance with the law, government guidance and local authorities' equalities policies. This guidance identifies how we will do this.

Members of the group are committed to working together but also recognise that each partner organisation has its own policies and procedures which will be respected.

Information about the group, how to contact us and details of Gypsy and Traveller accommodation in Derbyshire can be found on page 13.

The terms of reference of the group are:

- To co-ordinate public authorities' activities on Gypsy and Traveller issues
- To develop better links with Gypsies and Travellers, including consultation and feedback
- To share information to develop good practice to ensure that Gypsy and Traveller needs are met
- To work towards mainstreaming Gypsy and Traveller issues
- To assess the need for and promote solutions towards the shortage of appropriate sites and accommodation and support
- To consider health and education as a priority
- To deliver and support training on Gypsy and Traveller issues
- To gather information from other working groups on relevant issues
- To identify and disseminate good practice
- To take responsibility for specific tasks
- To work together to promote community cohesion across Derbyshire
- To support public authorities' Race Equality Schemes

DEFINITION OF GYPSY AND TRAVELLER

'Traveller' is a generic term used to describe groups of people whose lifestyle or culture is rooted in a nomadic way of life.

Gypsies of Romany origin (English, Welsh, Scottish and European Travellers) and Irish Travellers live in Derbyshire, or use many parts of Derbyshire as a traditional stopping place and have done so for hundreds of years. Other Travellers are also found within the county.

Mandla Criteria: Definition of an ethnic group

The Mandla Criteria, drawn up by the House of Lords after the case of Mandla v Lee relating to Sikhs in 1983, is now used as a legal definition of what constitutes an ethnic group. The criteria are as follows:

Essential Criteria:

A long shared history coupled with a conscious sense of distinctness;
A cultural tradition of its own including family and social customs often but not necessarily associated with religious observance.

Relevant Criteria:

A common geographical origin or small number of common ancestors;
A common language not necessarily peculiar to that group;
A common literature, including folklore or oral traditions;
A common religion different from that of neighbouring groups;
The characteristic of being a minority or being oppressed by a dominant group within a large community.

Romany Gypsies

Romany Gypsy people are an indigenous ethnic minority group which originated in India. Their language is Romanes.

Irish Travellers

Irish Travellers are an indigenous nomadic ethnic minority group found in both Ireland and Britain. They have their own language which is Cant or Gammon.

Other groups (not qualifying as ethnic groups under the Mandla criteria):

New Travellers

New Travellers (sometimes referred to as New Age Travellers) are generally former house-dwellers that now travel. They are not a recognised ethnic group. Many New Travellers have been travelling for a number of years and some have children that have only ever known a travelling lifestyle.

There are a number of reasons why people travel. Some New Travellers travel because the alternative for them would be homelessness and/or poverty. People may travel in an attempt to find employment around the country. There are also many New Travellers who have made a conscious decision to attempt to adopt the way of life of traditional Travellers, or to construct such a way of life for themselves.

Show People

Show People or travelling Show People are people who organise and run fairgrounds.

In the UK, workers on the rides (who are usually from the local area) are often mistaken for travelling Show People.

A Show Person would refer to him or herself as a Traveller; however, to outsiders the title 'Show People' is used to differentiate people who organise fairgrounds from other travelling communities.

Language

As with all other ethnic groups, there may be problems with language. Although English is used, experiences of formal education vary and written communication might be inappropriate. Language used by Travellers may reflect Romany or other traditional language cultures.

STATEMENTS OF COMMITMENT

Amber Valley Borough Council, Bolsover District Council, Chesterfield Borough Council, Derby City Council, Derbyshire County Council, Derbyshire Dales District Council, Erewash Borough Council, High Peak Borough Council, North East Derbyshire District Council, South Derbyshire District Council

Each of the District and Borough Councils in Derbyshire provides a range of common services in relation to Gypsies and Travellers. These include dealing with planning enquiries and applications, receiving homeless applications, and managing both authorised Traveller sites and unauthorised encampments.

These services are statutory functions and often require hard decisions. In undertaking all these responsibilities members of the TIWG are committed to providing fair treatment to all sections of the community. To this end member organisations will ensure that all persons are treated fairly regardless of sex, sexual orientation, marital status, race, colour, nationality, ethnic, or national origin, religion, age, disability or any other grounds. The duty for public authorities to promote race equality under the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, which provide legal protection against discrimination, directly or indirectly, on grounds of colour, race, nationality and ethnic or national origin, is recognised by all members.

Connexions Derbyshire

Connexions Derbyshire is committed to providing:

- Support services to young people including help from personal advisers to plan educational and life goals
- Independent careers information, advice and guidance
- Advice on health, lifestyle, housing, financial support and other personal issues to assist in achieving goals
- Information about and access to personal development opportunities to broaden horizons and develop talents
- Co-ordination of access to specialist advice and services where needed to remove barriers to learning and achievement
- Liaison with schools to promote and assist in making appropriate provision for Traveller children
- Support to ensure continuity of education as young people move between schools
- Monitoring of access, attendance and achievement of Traveller children

- Support at key transition stages – secondary transfer and at the end of Key Stage 4
- Inter-agency work to promote the take up of lifelong learning opportunities post 16
- Support for accreditation schemes through referral and awareness raising
- A ‘voice’ in planning and development of the service through structures designed to involve young people
- Services to schools and colleges including careers education help to individuals
- Advocacy on behalf of young people, particularly in provision of learning and work opportunities.

Derby and Derbyshire Traveller Education:

The local authority has a duty to ensure that school places are available for all children residing, either temporarily or permanently, in the area. This duty extends to Traveller children, who are entitled to equal access to education irrespective of whether they are living or encamped officially or unofficially.

Section 14 of the Education Act 1996 places a duty on local authorities to make sure there are sufficient school places for all pupils to be able to access education appropriate to their age, ability, and aptitude. Local authorities are required to consider their statutory duties with regard to education and social services under the Children Act 1989 when carrying out evictions. The county council continues to have a responsibility to find school places during the time in which the children are living in Derbyshire.

Traveller Children’s Education Advisory and Support Team (TEAST):

Almost all councils with a responsibility for education in England and Wales now have a Traveller Education Service. Additional funding to Local Authorities to support education for Traveller children has been available for over twenty years. Funding is currently through the Vulnerable Children’s Grant within the Standards Fund. Derby and Derbyshire operate a joint Traveller Education Advisory and Support Team (TEAST) that works to support the Local Authority and schools in carrying out statutory responsibilities.

TEAST makes visits to mobile Travellers. If there are no children present, the service has no further professional involvement. Families requesting information on other issues will be given the appropriate contacts.

TEAST promotes on behalf of the local authority:

- Equal Access
- Continuity of education

- Achievement and success

Summary of services to schools:

Advisory support, pupil support, training and use of resources (at no charge) and copies of policy guidelines. Transport from home to school is also funded in some circumstances to promote access and regular attendance particularly where children are highly mobile and resident on unofficial sites. TEAST provides schools with information on educational support and culture to ensure that Traveller children have a positive experience.

As well as providing support for schools TEAST is committed to an inclusive approach to education and to multi-agency working with the following:

- Sure Start
- Connexions
- Early Years Providers
- Social Care Professionals
- Health Professionals
- Community Education Services
- Parent Partnership
- Special Educational Needs (SEN) Support Services
- Other Traveller Education Services
- Derbyshire Gypsy Liaison Group

For further details and an information leaflet about TEAST or for other contacts telephone (or fax) 01332 716806 or e-mail: nigel.groom@derby.gov.uk.

Derbyshire Constabulary

Our vision for the future:

We care about the communities we serve. We listen to them and work in partnership to achieve lasting solutions to problems that concern them.

We are committed to locally-based policing services. We are accessible, reliable and provide a strong visible presence, which reassures people and makes our communities safer.

We uphold the rule of law and by applying it fairly, equitably and with integrity, we maintain public confidence.

We value and support each other. We are all highly skilled and take pride in delivering policing services of the highest quality.

Derbyshire County Council

The Council's policy is to provide services fairly to all sections of the community and to give equal treatment to its employees and service users regardless of their age, disability, HIV status, marital status, race, religion, sex, sexuality, or national origin

The Council recognises that people from ethnic minority groups face discrimination.

The Council recognises its legal duties to promote race equality as set out in the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000, as follows:

- To eliminate unlawful discrimination
- To promote equality of opportunity
- To promote good relations between persons of different racial groups.

The Council also recognises that the promotion of race equality needs to involve making effective arrangements that will help to meet the objective of race equality, including preparing a race equality scheme and monitoring employment procedures and practice.

Derbyshire Gypsy Liaison Group

Over the years the group has been involved in supporting equal access to education and health care but the main issue of recent years has been and still is the struggle for sites whether these are private or public authority sites. The group liaises and mediates with County and District authorities especially the Planning and Control departments. The group lobbies on a national level for the rights of Gypsy People and aims to:

- Seek to ensure stopping times and prevent evictions
- Take families through the planning application system
- Advise County Council and District Borough Councils on various matters
- Produce specific educational material for Gypsy and Traveller children
- Implement better Police training on a national level though the Moving Forward Project in conjunction with Derbyshire Police
- Send representation to local meetings and national conferences
- Work with Gypsy organizations within Europe to bring about better understanding of Romani Gypsy Culture

The group's aim is to bring about a better understanding and acceptance of the Gypsy and Traveller life.

The Environment Agency

The Environment Agency is the leading public body for protecting and improving the environment in England and Wales. Its vision is for people to enjoy a rich, healthy and diverse environment, now and in the future. Air, land and water are cleaner, wildlife flourishes, resources are used more wisely and everyone enjoys a better quality of life.

The Agency has a major role in regulating environmentally harmful activities. It administers and upholds the laws protecting people and the environment from the effects of pollution incidents and illegal waste operations. In accordance with the Agency's Customer Charter, its staff will behave in a polite, professional way and will respect every individual's rights.

The Agency is committed to sustainable community development, and much of its work is delivered in partnerships - for instance with local businesses and interest groups. Its work complements that of local authorities where illegal waste disposal activity impacts seriously on local amenity or air quality. The Agency takes the lead in dealing with waste posing a pollution or health risk and works closely with other regulatory bodies and the Police to ensure an efficient approach to proportionate regulation.

As well as being a firm, fair regulator, the Agency is available to offer advice and help. Information is available on the Agency's web-site www.environment-agency.gov.uk, and enquiries can be made by telephone on 08708 506506. In the event of a pollution incident or witnessed illegal waste activity, the Agency is available to take the details 24 hours a day on 0800 807060.

NHS Derbyshire

Commitment to Improving Health

In order to improve health and reduce health inequalities, the NHS will:

- Focus on groups and communities whose needs are greatest;
- Ensure equal access to services for equal need – whilst recognising that some may have needs greater than others;
- Recognise ethnicity and diversity within a framework described by current legislation;
- Be specific and understandable to the communities and groups with which we work, whilst based on local people's knowledge and experience;
- Deliver services in the context of a 'Patient and Public-Led NHS', which supports an advocacy role for *all* practitioners to ensure 'real empowerment of people to improve their health' i.e. where services work *with* people to support them with their health needs.

CONTACTS

The following telephone numbers will enable you to contact members of the Traveller Issues Working Group on matters of policy and good practice.

If you wish to discuss an unauthorised camp, please ring the local council or the Police.

Amber Valley Borough Council

Chief Executive's Department, Legal Section
Tel: 01773 841662

Bolsover District Council

Tel: 01246 240000

Chesterfield Borough Council

Tel: 01246 345345

Connexions Derbyshire

Equal Opportunities and Diversity Manager
Tel: 01773

Derby City Council

Housing Strategy and Development Unit
Tel: 01332 255895

Derbyshire Constabulary

Gypsy and Traveller Liaison Officer
Tel: 01773 572088
john.coxhead.524@derbyshire.pnn.police.uk

Derbyshire County Council

Chief Executive's Office, Policy Unit, Tel: 01629 580000 ext 7384
Legal Services (dealing with unauthorised encampments), Tel: 01629 580000 ext 7466
Older People and Vulnerable Adults, Tel: 01629 580000 ext 2002
Early Years & Childcare Service, Joanne Robinson, Tel: 01629 580000 ext 5738

Derbyshire Dales District Council

Tel: 01629 761100

Derbyshire Gypsy Liaison Group

Telephone: 01629 583300

Erewash Borough Council

Policy and Development Team
Tel: 0115 907 2217

NHS Derbyshire

Jane Horton

Amber Valley PCT

Tel: 01773 525099 ext 5110

North East Derbyshire District Council

Tel: 012546 217246

South Derbyshire District Council

Environmental Health Division

Tel: 01283 221000

The Environment Agency

www.environment-agency.gov.uk

Tel: 0800 807060

TRAVELLER SITES IN DERBYSHIRE

Public Traveller Sites in Derbyshire

There are three sites owned by Derbyshire County Council and one privately owned site which works in liaison with the local council. Details of how to contact the sites are set out below. Vacant pitches may be available or it may be necessary to join a waiting list.

Foston, near Sudbury

A long-stay site, for 16 trailers, owned by Derbyshire County Council and managed by South Derbyshire District Council.

For enquiries please contact the housing department of South Derbyshire District Council, telephone 01283 221000.

Lullington Crossroads, near Swadlincote

A short-stay site, for eight trailers, owned by Derbyshire County Council and managed by South Derbyshire District Council.

For enquiries please contact the environmental health division of South Derbyshire District Council, telephone 01283 221000.

Corbriggs, Winsick, near Chesterfield

A long-stay site, for 16 trailers, owned by Derbyshire County Council. The site is run by a leaseholder under a joint management agreement with Derbyshire County Council and Derbyshire Gypsy Liaison Group.

For enquiries please contact Derbyshire Gypsy Liaison Group on 01629 583300.

Blackbridge Caravan Site, Pleasley near Shirebrook

This is a short-stay site for 28 trailers, which is privately owned, but liaises with Bolsover District Council to support mobile Travellers seeking accommodation.

For enquiries about pitches on the site, please ring the warden, Barry Daley 07774953958 or Samantha Bentley, Bolsover District Council 01246 242315.

UNAUTHORISED ENCAMPMENTS

The Law

A local authority which has an interest in the relevant land may bring action in the County Court under the Civil Procedure Rules or the Magistrate's Court under the Criminal Justice and Public Order Act 1994.

The civil procedure is also available to owners of land, where travellers are on their land without the owner's consent.

The responsibility for starting legal action to regain possession of the land or highway rests with the following:

- Public lands (e.g. parks, some car parks, some industrial land) - local authority, which is the landowner.
- Public Highway - County Council or Highways Agency
- Private land - It is recommended that private landowners should seek independent legal advice when there are unauthorised encampments on their land. Private landowners should be aware that, where they permit encampments on their land, there will be a need for planning permission for the use of the land where it exceeds permitted development. The District Council is the relevant authority to advise on planning issues

The Human Rights Act 1998

This Act is described as "An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights."

Wherever the Human Rights Act 1998 (which in essence requires any public body to carry out its functions so as to accord with the Convention) applies to a situation which involves an unauthorised encampment, the relevant public authority when dealing with the encampment must comply with the Act.

In considering action to recover land, local authorities may need to take a balanced approach and also ensure that they have given consideration to the health, education and housing needs of the Travellers.

Proportionality will be considered to ensure that there is a balance between the needs of the settled community and the Travellers.

The Race Relations Act 1975 and the Race Relations (Amendment) Act 2000

Under the Race Relations Act, it is unlawful to discriminate against anyone on the grounds of race, colour, nationality (including citizenship), or ethnic or national origin. All racial groups, including Gypsies and Travellers, are protected from discrimination.

The Race Relations (Amendment) Act 2000 placed both a general and specific duty on public authorities bound by the Act. Under the general duty the requirement is to:

- eliminate unlawful racial discrimination
- promote equality of opportunity
- promote good relations between persons of different racial groups.

The specific duty under the Act requires public authorities to produce and publish a Race Equality Scheme to show how they intend to meet the requirements under the general duty.

Other Equalities Legislation

More recently, legislation has come into force covering age, gender, disability, religious belief and sexual orientation. Many public authorities are producing a corporate equality plan outlining what they plan to do to ensure equality, diversity and equity in employment and service delivery.

Statutory Responsibilities

Local authorities have statutory duties in so far as provision of education, housing and social services is concerned. Gypsies and Travellers, like the settled community, have a right to access health provision. Health Services have a Duty of Care towards Gypsies and Travellers. The priorities when visiting an encampment are to assess the health needs of Gypsies and Travellers and to provide access to such services as are appropriate and are required.

Confidentiality

In dealing with unauthorised encampments, all personal information will be treated as confidential between agencies, in line with normal working practices and procedures.

However, it must be remembered that occasionally the public interest and the statutory duties of agencies can override the duty of confidentiality.

In the operation of this guidance information may be shared between responsible authorities in line with the principles of the Derbyshire Partnership Forum Information Sharing Protocol. In addition, information communicated to public authorities may be disclosed to the public under the Freedom of Information Act 2000.

At no time should agencies, employees or members of the Gypsy and Traveller community be offered anonymity for information they wish to share with the agency, where this cannot be provided in law.

Principles to be followed

Set out below are the general principles to be followed in response to unauthorised Gypsy and Traveller encampments. These have been agreed by member authorities of the Derbyshire Traveller Issues Working Group.

These agencies recognise that everyone in the community has rights and their dignity should be respected. As part of the community, Gypsies and Travellers should be treated with the same respect as the settled community.

When a relevant authority seeks to gain re-possession of land, it should - if possible - make contact with Derbyshire Gypsy Liaison Group so that there are lines of communication and to explore any opportunity for negotiation and discussion which may lead to solutions before evictions take place.

Where a report about an unauthorised encampment on public land reaches a public authority, this authority will find out which authority is the key authority with power to recover possession.

The key authority will then consult other relevant agencies concerning the authorised encampment as appears appropriate, for example the NHS. The existence of a camp and awareness of it by any agency will not necessarily lead to eviction.

The key authority will liaise with the NHS and the relevant departments at Derbyshire County Council or Derby City Council which deal with the education of children (where any persons under the age of 16 are believed to be present) to find out if there any urgent needs to be considered before any further action is taken. If any potential social care needs are identified by either health or educational staff they should inform the relevant department dealing with social care issues at either council. The relevant department will then, if necessary, arrange visits to offer any advice or guidance.

The key authority will contact the relevant housing authority to inform them of the unauthorised encampment and to ask whether it is dealing with any relevant requests relating to accommodation needs.

As part of responding to an unauthorised encampment, visiting officers will identify needs and how they are being addressed and state how many days will be needed to address these needs. The key authority should delay, wherever possible, further action until informed that stated needs have been addressed.

Police and their powers

Before invoking their powers to evict the Police will ensure visits have been made by the appropriate services unless immediate action is required e.g. in serious incidents or to prevent a serious incident. Derbyshire Police recognise the constitutional freedom of individuals to follow their traditional or chosen lifestyle. Police Powers under section 61 and Section 62A of the Criminal Justice and Public Order Act 1994 will not be used as a matter of routine. Each case will be looked at on its merits having regard to the safety of the settled community and taking into consideration any aggravating factors of crime or disorder. The Police will follow guidance within their own standing orders.

Anti Social Behaviour

Where Gypsies or Travellers are engaging in anti social behaviour causing alarm, distress or harassment to others the Local Authority can apply for Anti Social Behaviour Orders (ASBOs) under the Crime and Disorder Act 1998. A Local Authority will complete a thorough investigation in consultation with other partnership agencies in order to determine if this is the appropriate action.

ASBOs are used to prohibit perpetrators from continuing to do specified anti-social acts or entering defined locations, in order to protect the public in those areas. Gypsies and Travellers will be treated as everyone else residing in the area and an ASBO would only be sought if their actions constitute anti social behaviour, not because their choice of lifestyle caused someone annoyance.

ASBOs are civil remedies and are made in civil proceedings. They can be issued as a stand-alone application or on conviction of a criminal offence. An order lasts for a minimum of two years, but can in some circumstances run indefinitely.

ASBOs often include a prohibition that states it operates in the whole of England and Wales. This means that the order “follows” the perpetrator wherever they may reside.

Breaching the terms of an ASBO without reasonable excuse is a criminal offence and usually prosecuted by the Crown Prosecution Service. Breach of an ASBO can result in a fine of up to £5000 and up to 5 years imprisonment for an adult, 2 years for a juvenile.

Regaining possession of local authority land

Where there is an unauthorised encampment on local authority land or on the highway, the local authority with an interest in the land may bring action in the County Court under the Civil Procedure Rules or the Magistrate’s Court under the Criminal Justice and Public Order Act 1994.

This legal process allows for the serving of notices to the unauthorised occupiers, who may wish to challenge the action.

At all stages of the process, the local authority should, where Gypsies or Travellers are on site - and where it is practical - give a verbal message to them as well as a written notice.

Where the local authority is taking any action under the Civil Procedure Rules or in the Magistrate’s Court, the procedural steps outlined above should ensure that the local authority does not unwittingly act outside statutory or humanitarian considerations but exercises its discretionary powers in accordance with established public law principles.

Consideration may be given to delaying legal proceedings if a date can be agreed for the Gypsies or Travellers to move.

In this case consideration may be given to the provision of basic amenities, i.e. water supply, mobile toilets and refuse collection. This would only be the case when all concerned are fully aware of what is expected of them and that this would be a

temporary measure. The provision of these amenities would mean less disturbance and nuisance to the settled community while an unauthorised encampment remains. It may also prevent the extra strain sometimes placed on local services and the provision of refuse collection would also go some way to recovery of the land once the Travellers have moved on. Considerations of efficiency should be taken into account, where costs of providing these amenities would reduce the overall cost of the eviction process.

Each case will be looked at on its own merits and a decision will be reached having regard to the needs of the Gypsies or Travellers and the settled community, and issues of efficiency.

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