

Local Government Association response to Government consultation on strengthening police powers to tackle unauthorised encampments Wednesday 4 March 2020

1. About the Local Government Association (LGA)

1.1 The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

1.2 We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils, so they are able to deliver local solutions to national problems.

2 Key messages

2.1 It is clear that unauthorised encampments are an issue that can cause significant distress and inconvenience to local communities, as well as substantial costs to the statutory authorities trying to resolve the problems caused.¹ However not all councils have experienced issues with unauthorised encampments or have experienced significant problems where they have occurred. To inform this work, there is a need for better data on the number and scale of unauthorised encampments being established.

2.2 Responses to the Government's 2018 consultation on this issue highlighted the sense of unease and intimidation residents feel when an unauthorised encampment occurs, the frustration at not being able to access amenities, public land and business premises, and the waste and cost that is left once the encampment has moved on.² There was a clear call for the Government to take action to improve enforcement against unauthorised encampments, and it is therefore positive that the Government is consulting on proposals to strengthen police powers to tackle unauthorised encampments.

2.3 Although strengthened police powers offer the potential to help tackle unauthorised encampments, in isolation they are unlikely to solve the problems caused by them, since tackling unauthorised encampments requires a multi-agency response and the resources to support this.

2.4 While the LGA in principle welcomes the proposal to strengthen police powers, we believe that effectively tackling unauthorised encampments requires that the powers available to the police are matched by a willingness to use them, and that councils and the police are financially supported to deal with unauthorised encampments.

¹ Luton Council estimated the cost of clean-up costs, officers time and legal fees relating to an unauthorised encampment cost the authority approximately £130,000 over two years.

² <https://www.gov.uk/government/consultations/powers-for-dealing-with-unauthorised-development-and-encampments>

- 2.5 Alongside this, there is a need to consider how the court process might be improved to strengthen the effect of current enforcement powers. The effectiveness of local authorities' enforcement powers can be weakened by the time taken by the courts to respond to requests for action, since by the time a court has decided to act, the encampment may have moved on. It would be helpful to understand how the Government's plans to modernise the courts and tribunals system may help with the unauthorised encampments process.
- 2.6 To support the use of both existing and any new powers, it is also important that Government moves quickly to bring forward the good practice guidance it has committed to produce to support councils to deal with unauthorised encampments, building on the range of best practice work that is already taking place. This should include a focus on developing a collaborative approach involving members of the Gypsy, Roma and Traveller community to help to resolve some unauthorised encampments issues, which should be the first course of action wherever possible.
- 2.7 Any reforms to enforcement powers should also accompany wider measures which help and support local authorities to deal with this important issue. The issue of unauthorised encampments is closely linked to the provision of traveller sites, and there is a need for additional financial investment for local authorities to support traveller site provision. We also urge Government to clarify the definition of traveller in the planning policy for traveller sites, to help provide consistency for local areas.
- 2.8 Finally, we would emphasise that councils are committed to ensuring that their local communities are safe, inclusive and welcoming, and note that the vast majority of travellers are law-abiding citizens and often contribute much to the communities they stay in. It is positive to see the Government's commitment to publish a new national strategy to tackle entrenched inequality and improve the lives of Gypsy, Roma and Traveller communities, and we urge the Government to take forward the strategy work alongside its work to strengthen powers to tackle unauthorised encampments. We will continue to work with the Government on this important issue.

3 Detailed Response

- 3.1 We have set out responses below to the general questions raised by the consultation.

Question 1: *To what extent do you agree or disagree that knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it?*

Our response is outlined in our key messages.

Question 2: *To what extent do you agree or disagree that the act of knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it with vehicles?*

Please refer to our response to question 15.

Question 3: *To what extent do you agree or disagree that the landowner or representatives of the landowner should take reasonable steps to ask persons*

occupying their land to remove themselves and their possessions before occupation of the land can be considered a criminal offence?

We agree that, if occupying land without a landowner's permission is made a criminal offence, reasonable steps should be taken to ask people occupying the land to remove themselves and their possessions before occupation of the land is considered a criminal offence.

Question 4: *To what extent do you agree or disagree that a criminal offence can only be committed when the following conditions have been met?*

- a) *the encampment prevents people entitled to use the land from making use of it;*
- b) *the encampment is causing or is likely to cause damage to the land or amenities;*
- c) *those on the encampment have demanded money from the landowner to vacate the land;*
- d) *those on the encampment are involved or are likely to be involved in anti-social behaviour.*

Question 5: *What other conditions not covered in the above should we consider?*

We agree that these are sensible issues to consider in terms of whether a criminal offence has taken place. We do not believe that all of these conditions should have to be met in order for a criminal offence to have taken place; all or any of them in their own right are conditions which could meet the threshold of a criminal offence.

Question 6: *To what extent do you agree or disagree that police should be given the power to direct trespassers to suitable authorised sites in a neighbouring local authority area?*

Please refer to our response to question 9.

Question 7: *Should this be subject to conditions around agreements being in place between local authorities?*

Please refer to our response to question 9.

Question 8: *Should there be a maximum distance that a trespasser can be directed across?*

Please refer to our response to question 9.

Question 9: *Should there be any other conditions that should be considered when directing a trespasser across neighbouring authorities.*

In the Government's 2019 consultation response, both police and local authorities highlighted how a lack of availability of transit sites means that they are unable to use some of their existing powers such as section 62A of the Criminal Justice and Public Order Act 1994 which provides a power to remove trespassers to alternative available sites.

The impact of new and amended powers is likely to be reduced due to a lack of viable alternative options where travellers can relocate. It is vital there is additional central Government funding towards transit-site provision, as well as financial support provided to local authorities and the police to deal with unauthorised encampments.

We agree that the power to direct trespassers to suitable authorised sites in a neighbouring local authority should be subject to the condition that an agreement is in place between the local authorities.

We do not support the introduction of a maximum distance that a trespasser can be directed across; the key factors in applying this power will be the availability of sites and agreements between authorities.

Question 10: *To what extent do you agree or disagree that the period of time in which trespassers directed from land would be unable to return should be increased from three months to twelve months?*

For those communities that have been disrupted by an unauthorised encampment, the ability to extend the period of time in which trespassers are unable to return would undoubtedly be welcome. However, again it must be recognised that moving groups on from unauthorised encampments, particularly over a longer period of time, requires there to be alternative transit-sites provision available.

Question 11: *To what extent do you agree or disagree that the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised should be lowered from six to two vehicles?*

Reducing the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised from six to two would help those communities and authorities that are being disrupted by smaller encampments of up to five vehicles. However, it is again important to note that for this reduction to be effective, police forces must be willing to exercise this power.

Question 12: *To what extent do you agree or disagree that the police should be granted the power to remove trespassers from land that forms part of the highway?*

Question 13: *To what extent do you agree or disagree that the police should be granted the power to seize property, including vehicles, from trespassers who are on land with the purpose of residing on it?*

Question 14: *Should the police be able to seize the property of:*

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

Question 15: *To what extent do you agree or disagree that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation are sufficient measures to tackle the public disorder issues which are associated with unauthorised encampments without the*

requirement for introducing specific powers that criminalise unauthorised encampments?

There are mixed views among the LGA's membership regarding criminalisation, amending the Criminal Justice and Public Order Act, or simply making better use of the existing powers available to statutory authorities.

What is absolutely clear, as we set out in our key messages, is that none of these options will provide an effective solution unless; firstly, the police and local authorities are willing to and appropriately resourced to use their powers, and the court system is able to respond to this; and secondly, resources are available to local authorities to support additional transit-site provision. We welcome the Government's willingness to consider new powers in this area, but urge it to ensure these are complemented by these additional requirements.

Question 16: *Do you expect that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities?*

Question 17: *Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities?*

This is a difficult, sensitive issue, in which there is a need to balance the rights of landowners and local communities with the needs of GRT communities. It is helpful that Government has committed to publishing a new national strategy to tackle entrenched inequality and improve the lives of Gypsy, Roma and Traveller communities. In order to avoid any negative impacts arising from measures to strengthen powers to tackle unauthorised encampments, it is vital that work on the strategy takes place alongside this, as well as the provision of more resources for alternative transit-site provision.

Question 18: *Do you have any other comments to make on the issue of unauthorised encampments not specifically addressed by any of the questions above?*

No.

Contact

Rachel Phelps

Policy Adviser, LGA Safer and Stronger Communities team

Phone: 020 7664 3119

Email: Rachel.Phelps@local.gov.uk

