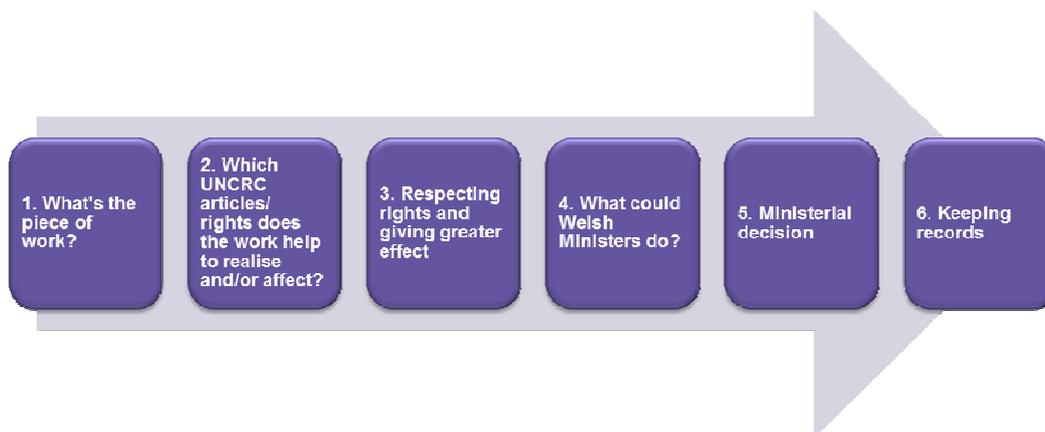


Children's Rights – Six steps to 'Due Regard'

Please complete this form and we will keep it for your records. You may be asked to provide this document at a later stage to evidence that you have had due regard to children's rights when developing a policy or legislation. You may send your completed document here: Childrenandyoungpeoplesrights@wales.gsi.gov.uk



1. Does the work relate to legislation/policy?

This revised guidance has been provided to advice local authorities on how to resolve incidents of unauthorised encampments. The Welsh Government believes that adopting this approach may improve outcomes for Gypsies and Travellers, settled residents and local authorities.

2. Which UNCRC articles/rights does the work help to realise and/or affect? (use the impact assessment to help you [here](#)).

Article 1	Everyone under 18 years of age has all the rights in this Convention.	Related (this article defines the age range of the convention)
Article 2	The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.	The policy will positively impact on Gypsies and Travellers who are occupying unauthorised sites as part of their traditional way of life.

Article 3	All organisations concerned with children should work towards what is best for each child.	This policy promotes the effective assessment of welfare needs, including those of children specifically. It also underlines the importance of each encampment being assessed on a case-by-case basis to ensure that the circumstance of every young person is considered.
Article 5	Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.	This guidance aims to facilitate the traditional Gypsy and Traveller way of life. The individual circumstances of each family should be assessed separately to ensure that authorities make a balanced decision to tolerate or take possession of an encampment.
Article 6	All children have the right of life. Governments should ensure that children survive and develop healthily.	Welfare assessments will assess the risks to children and young people from both eviction and toleration. Local authority decision-making must seek to ensure the health and wellbeing of children.

Article 8	Governments should respect children's right to a name, a nationality and family ties.	This guidance recognises that some Gypsies and Travellers will have a cultural aversion to bricks and mortar housing. Without appropriate sites for these individuals, unauthorised camping is likely to occur. In these circumstances, children's rights to family ties may be affected by regular evictions.
Article 12	Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.	Local authorities should ensure that young people are able to contribute to the welfare assessment. This includes answering questions but also giving their opinions about whether they want to stay
Article 13	Children have the right to get and to share information as long as the information is not damaging to them or to others.	Encampment occupiers, including young people, must be informed of the authority's decision to tolerate or take possession in good time

Article 15	Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.	Children and young people who wish to continue the traditional way of life will assemble on unauthorised encampments. Though these encampments are in contravention of planning law, the gathering of individuals in itself is not a reason to evict an encampment. Instead possession action should relate to genuine concerns caused by the encampment.
Article 16	Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.	<p>The policy will seek to ensure that encampments are only removed when necessary. This will limit interference with the home and family life. Where required local authorities should provide alternative authorised sites to reduce incidence of unauthorised camping.</p> <p>Furthermore, the guidance makes clear that the Data Protection Act applies to all information taken from the encampment. This may include identifiable photographs. Where unauthorised camping occurs, local authorities should consider provision of services such as running water, refuse collection and toilets to assist parents in the upbringing of children. If welfare assessments identify an urgent need for these services, it would be reasonable for the local authority to provide them.</p>
Article 18	Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.	

Article 19 Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

The guidance requires the undertaking of welfare assessments by local authorities to ensure that children can be properly cared for on the encampment. Furthermore, the decision-making process must consider the effect of any action on the welfare of children.

Article 24 Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Authorities must ensure that encampment occupiers are assessed for any health issues and are able to receive the appropriate care. Families with recent births must also be given time before any possible possession action. The guidance clearly makes these points.

Article 27 Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

The guidance urges local authorities to provide water, sanitation and waste disposal facilities to encampments.

Article 27 Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

The local authority's decision-making process must take account of the expected standard of living that will be experienced by children if evicted, whilst on the site, or in alternative realistic accommodation. The guidance provides a template for undertaking welfare assessments and advice about consideration of children's rights.

Children in settled communities should benefit from proper consideration of unsafe or inappropriate encampments in their area.

Article 28 Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

The guidance also makes clear that local authorities should assess the educational needs of encampment occupiers.

Article 30	Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.	This guidance seeks to balance the cultural customs of Gypsies and Travellers and the enforcement of planning law and impact on others. The Welsh Government seeks to ensure that Gypsies and Travellers are able to live on mobile home sites where this is their preference. In doing so, families can share and teach their customs to children. The guidance makes clear that encampments should not be evicted unless necessary.
Article 31	All children have a right to relax and play, and to join in a wide range of activities.	This guidance should support children and young people to be able to access more play and leisure facilities in areas where sites are tolerated, rather than evicted.

This guidance will have an overwhelmingly beneficial impact on the children affected. Children living on unauthorised encampments should have their circumstances carefully considered, whilst children from the settled community should be protected from unsafe or inappropriate encampments in their area. The above rights, enshrined in the United Nations Convention on the Rights of the Child (UNCRC), are likely to be realised in part as a result of this guidance being adhered to by public authorities.

This guidance should help public authorities to assess the best interests of child occupants, which should be a key factor in deciding how to proceed.

The undertaking of welfare assessments, in collaboration with Gypsies and Travellers including children, is a crucial part of the process under which public authorities can demonstrate that their actions are compliant with human rights legislation. This can also be used to show that children’s rights are being considered.

3. Does your policy/legislation advice breach any of the children and young people’s rights?

If the guidance is followed effectively by local authorities, no breaches of the UNCRC have

been identified from the proposed changes.

4. If so what could Welsh Ministers do?

5. What was the Ministerial Decision?

6. Keeping records –

John Davies
Gypsy & Traveller Legislation and Consultation Manager
Fairer Futures
29/11/2013

Equality Impact Assessment (EIA) Template – Part 1

Policy title:	Managing Unauthorised Camping Guidance 2013
Name of official:	John Davies
Department:	Fairer Futures Division Local Government & Communities
Date:	29th November 2013
Signature:	

1. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

This guidance has been produced primarily for local authorities on how to respond to instances of Gypsy and Traveller unauthorised encampments. As a result, this policy is particularly relevant to Romani Gypsies and Irish Travellers, who have race as a protected characteristic. This guidance is a revision of a document of the same name produced by the Welsh Government and Home Office in 2005.

This document will be available online and all affected stakeholders (including public bodies, Gypsy and Traveller advocacy groups and legal representatives) will be notified upon publication. Officials will also include the published guidance as an agenda item at the Welsh Government-convened All-Wales Gypsy and Traveller Accommodation Forum.

However, those living on local authority Gypsy and Traveller sites are not likely to be those occupying the affected encampments in future. Therefore, the Welsh Government visited three unauthorised encampments across Wales during the consultation process but not authorised sites.

2. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?

The revised guidance is non-statutory and does not impose any new requirements on local authorities. However, it has been considered necessary to update the guidance, which was originally issued in 2005. Since that time, policies and legislation has developed enough to require a revised guidance document. The guidance will also present a more up-to-date picture of the issue in Wales and offer suggested templates to help local authorities that encounter these encampments.

The Welsh Government conducts a biannual data collection process, known as the Caravan Count. This count gives a picture of the number of Gypsy or Traveller caravans on authorised and unauthorised sites in January and July. The most recent count, July 2013, suggested that 17% of all Gypsy or Traveller caravans (169 caravans) were stationed on unauthorised encampments. Encampments can have

significant impacts on occupiers and other local residents in terms of health, education, finance, community cohesion, environment and other areas.

The Welsh Government committed to revising this guidance in its *Travelling to a Better Future: Gypsy and Traveller Framework for Action* published in 2011.

Impact

5.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

The proposed Guidance is non-statutory and, therefore, does not impose additional requirements on local authorities. However, we believe that the revised guidance, with greater clarity, universal templates for assessments, updated legislation and good practice, should have the following impacts.

Age	Positive	Negative	None	Reasons for your decision (including evidence) / How might it impact?
Younger people <i>(Children and young people, up to 18)</i>	√			The revised Guidance makes specific reference to the rights of Children and Young People and encourages local authorities to consider children's educational needs when deciding on a course of action. If local authorities utilise the welfare assessment template correctly it should lead to an increased focus on children's rights and better outcomes for children in general.
People 18-50	√			The guidance focuses on the importance of balancing the harm of eviction versus the harm

				of toleration. Greater focus on this balance may lead to circumstances when encampments are tolerated, when previously they may not have been. This should help all ages.
Older people (50+)	√			Welfare assessment template proposes that the numbers of older people are captured separately. This should assist local authorities to consider their decision-making and age-appropriate services provided.

5.2 Because they are disabled?

Impairment	Positive	Negative	None	Reason for your decision (including evidence) / How might it impact?
Visual impairment			√	
Hearing impairment			√	
Physically disabled	√			Where a welfare assessment identified people who are physically disabled, they may be a material reason for tolerating an encampment. A tolerated stay may

				benefit a family who may be struggling to enable the disabled occupier whilst maintaining the travelling lifestyle.
Learning disability			√	
Mental health problem	√			Where a welfare assessment identifies mental health issues, they may be a material factor in deciding whether to tolerate an encampment. A tolerated stay may safeguard the mental health of some occupiers.
Other impairments issues	√			Welfare assessment template to capture medical issues and any continuity of care needed. This may be factored into local authority decision-making process.

5.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None	Reason for your decision (including evidence)/ How might it impact?
Male			√	The guidance will apply equally to all Gypsies and Travellers but not

				any specific gender.
Female			√	As above

5.4 Because they are transgender?

Transgender	Positive	Negative	None	Reason for your decision (including evidence) / How might it impact?
			√	There is no evidence to suggest this guidance would have any impact on transgender Gypsies or Travellers

5.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None	Reason for your decision (including evidence)/ How might it impact?
Marriage			√	There is no evidence that this revision will have any disproportionate impact on married Gypsies or Travellers.
Civil			√	As above.

Partnership				
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5.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None	Reason for your decision (including evidence) / How might it impact?
Pregnancy	√			Welfare assessment template will make it clear that heavily pregnant mothers should not be evicted if it can be avoided.
Maternity (the period after birth)	√			Welfare assessment template will capture data such as recent births. This may be factored into local authority decision-making about whether an encampment will be evicted.

5.7 Because of their race?

Race	Positive	Negative	None	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g.			√	This guidance refers specifically to Gypsy and Traveller occupiers of unauthorised

Asian, Black,				encampments.
National Origin (e.g. Welsh, English)			√	As above
Asylum Seeker and Refugees			√	As above
Gypsies and Travellers	√			Gypsies and Travellers should benefit from greater clarity and the use of universal templates for assessments across Wales.
Migrants			√	These changes refer specifically to indigenous Gypsies and Travellers rather than migrants.
Others			√	As above

5.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists,			√	These changes do not benefit any particular religion or belief system

Hindus, Others (please specify)				
Belief e.g. Humanists			√	As above
Non-belief			√	As above

5.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None	Reason for your decision (including evidence)/ How might it impact?
Gay men			√	These changes apply to all Gypsy and Traveller occupiers, regardless of sexual orientation
Lesbians			√	As above
Bi-sexual			√	As above

5. 10 Do you think that this policy will have a positive or negative impact on people's human rights and freedoms? *Please refer to point 1.4 of the EIA Guidance for further information about Human Rights.*

Human Rights	Positive	Negative	None	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions	√			<p>The revised guidance clearly sets out the obligations of local authorities under various Human Rights instruments.</p> <p>Unauthorised camping often relates directly to Article 8 of the European Convention on Human Rights / Human Rights Act.</p>

6.0 Building on the evidence you have gathered, can you identify (a) any potential opportunities to advance / promote equality and (b) whether there is a positive or negative impact on fostering good relations?

- (a) This guidance proposes approaches that will balance the rights of Gypsy and Traveller occupiers following their traditional way of life and the rights of settled residents.
- (b) If the recommended approaches to responding to unauthorised encampments identified in this guidance are followed, they should have a positive impact on fostering good relations. This is because encampments would be dealt with in a fair and consistent manner. Evictions would not be undertaken if they were unreasonable.

7.0 Is a full Equality Impact Assessment required?

Yes

1. Building on the evidence you gathered and considered at the screening stage, please consider the following:

How could, or does, the policy help advance / promote equality of opportunity?

For example, positive measures designed to address disadvantage and reach different communities or protected groups?

The revision of the guidance should ensure that unauthorised encampments are resolved in a fair and consistent manner. The guidance recognises that unauthorised encampments will always occur unless local authorities provide an adequate supply of authorised sites. Therefore, the guidance recommends that local authorities consider the impact of eviction on individuals who have no alternative authorised pitch.

How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?

This guidance aims to encourage a consistent method for approaching unauthorised encampments based upon accurate data collection and balanced consideration of the impact of any decision to tolerate or evict an encampment. In doing so, local authorities should be able to fully justify their decision-making process having acted in accordance with this guidance.

Consider whether this will have any impact will on advancing / promoting good relations and wider community cohesion? If so, what?

If local authorities follow the recommendations contained within this guidance on a consistent basis, Gypsies and Travellers and the wider settled community should understand when an encampment will or won't be tolerated / evicted. This should start to dispel the myth that Gypsies and Travellers are able to settle where ever they choose without consequences.

Furthermore, by fully considering the impact of eviction actions on encampment occupiers, local authorities may choose to tolerate more encampments until they have provided needed authorised sites. In doing so, Gypsy and Traveller residents (in particular children) are more likely to integrate into the community through education, play and other provision.

2. Strengthening the policy

If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or community cohesion, what are the reasons for this?

What practical changes could help reduce any negative impacts identified for at the screening stage?

Consider (for example) changes in communication methods, providing language support, collecting data or engagement activities

This guidance should not have any adverse impact on any protected group. However, it is possible that those who feel that unauthorised encampments should be dealt with by a 'zero tolerance' approach would be disappointed to see this balanced approach. Nevertheless, the Welsh Government has made these revisions based upon the principle of equality of opportunity for these communities to continue their traditional way of life. Currently, there is a large shortfall of sites so unauthorised encampments are inevitable. This guidance should lead to a reduction in encampment instances and develop better community cohesion over time.

3. Making a decision

Summarise your findings and give an overview of whether the policy will meet the Welsh Government's responsibilities in relation

to equality and human rights.

Though this guidance does not introduce any new requirements on local authorities it clarifies the guidance produced in 2005 to reflect the current accommodation environment in Wales. It recommends that local authorities fully assess the impact of eviction actions, particularly where there are vulnerable individuals occupying the camp. The guidance meets the Welsh Government's responsibilities in relation to promoting equality and human rights.

What practical actions do you recommend to remove or mitigate any negative / adverse impact?

If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.

As the guidance does not introduce any new requirements – only clarified advice – no additional actions are necessary. It is possible that the emphasis on balanced consideration of the circumstances of the occupiers could be viewed negatively by those who feel that unauthorised encampments should be treated with a 'zero tolerance' approach. However, this is only one aspect under consideration, as settled neighbours and the impact on the environment, highway safety etc will also need to be considered.

4. Monitoring, evaluating and reviewing

How will you monitor the impact and effectiveness of the policy?

Please include the date the policy will be reviewed.

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

Fairer Futures officials will seek to ensure that local authorities across Wales adopt local protocols for resolving unauthorised camping, as recommended in the guidance.

Fairer Futures will also aim to revise the Caravan Count data collection exercise to ensure that we're able to quantify the level of unauthorised encampments across Wales. With that data we will be able to review whether the guidance has contributed to a reduction in the incidence of unauthorised camping.

Several relevant pieces of legislation are currently in passage through

the National Assembly for Wales. If passed, this legislation will necessitate a minor revision of the guidance but should also provide further methods of assessing its effectiveness. As a result, the guidance will be revised again in 2015.

Give details of how the results of the impact assessment will be published, including consultation results and monitoring information if applicable.

The results of all impact assessments will be published on the Welsh Government's website.

This equality impact assessment will be published on the Managing Unauthorised Camping guidance page on the Welsh Government website:

<http://wales.gov.uk/topics/localgovernment/publications/guidecamping/?lang=en>

5. Declaration

***Please delete as appropriate:**

The policy does have a significant impact upon equality issues and therefore does require an EIA.

Official completing the EIA
Name:
John Davies
Department:
Fairer Futures Division, Local Government & Communities
Date:
01/11/2013
Signature:
Head of Division (Sign-off)
Name:
Amelia John
Job title and department:
Head of Fairer Futures Division
Date:
Signature: