

CITY AND COUNTY OF SWANSEA

**GYPSY AND TRAVELLER POLICY
2017**

DRAFT

1. Introduction

The City & County of Swansea (CCS) is committed to improving the lives of its residents, promoting the rights of all those who live and work within its district and those who visit irrespective of their background or circumstances.

The Council fully recognises that everyone has the right to protection from nuisance, harassment and discrimination and to access the full range of services offered by the Council to meet their needs.

The Well-being of Future Generations (Wales) Act 2015 requires public bodies in Wales to consider the long term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health, inequalities and climate change.

This Gypsy and Traveller Policy is set in the context of the overarching Welsh Government strategy for Gypsies and Travellers entitled; 'Travelling to a Better Future',¹ as well as Council policies and schemes relating to equality, diversity and community cohesion.

The purpose of this policy is to ensure that all members of current and future Gypsy and Traveller communities within the CCS receive services that meet their needs. In order to achieve this, the Council is committed to promoting good practice with all agencies and raising awareness of the culture.

2. Who are Gypsies and Travellers?

'Gypsies and Travellers' is a generic term used to define a number of people who subscribe to the Gypsy or Traveller way of life, as well as to certain cultural and moral beliefs. This policy uses the following definition of Gypsies and Travellers, which is also the definition used by the Housing (Wales) Act 2014.:

Persons of a nomadic habit of life, whatever their race or origin including:

- (i) Persons who, on grounds only of their own or of their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and
- (ii) Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and

b) All other persons with a cultural tradition of nomadism or of living in a mobile home."

¹ Welsh Government - Travelling to a Better Future ; 2013

All of these groups are associated with the travelling way of life and can share some common beliefs and practices, but each group may have distinctive languages, traditions and ethnicity.

3. Legal Context

3.1 Equality

Romany Gypsies and Irish Travellers are recognised as racial groups and are thus protected characteristics as defined by the Equality Act 2010. The Public Sector Equality Duty requires that we, as a public authority must work to eliminate unlawful discrimination; promote equality of opportunity between different groups; and foster good relations between different groups of people.

3.2 Housing and Planning

The Housing Act 2004 requires local housing authorities to carry out an assessment of the accommodation needs of Gypsies and Travellers. The Housing (Wales) Act 2014 places a duty on local authorities to undertake a Gypsy and Traveller Needs Assessment by February 2016, which should then be updated every five years as a minimum.

The Act also places a duty on local authorities to provide a site for Gypsies and Travellers where a need has been identified. Where a local authority fails in its duty to provide suitable and sufficient sites, the Welsh Ministers can compel them to do so.

Where a need is identified then proper consideration must be given by the Council to identify site(s) as part of their Local Development Plan (LDP). Sites would be subject to planning permission in the normal way.

Welsh Government Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites requires that local authorities allocate sufficient sites in their LDP to ensure that identified pitch requirements for both permanent and transit Gypsy and Travellers are met. A temporary permission may be justified where it is expected that the planning circumstances will change at the end of the period of the temporary permission. In cases where there is:

- unmet need;
- no available alternative Gypsy and Traveller site provision in an area; and
- a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need;

the Council may consider granting a temporary planning permission.

4. Policy Statement

The Council recognises the importance of celebrating the diversity of all those who live in the CCS and recognises that this can only be achieved if all

communities feel safe and valued. The Council will adhere to the principles of community cohesion and support a culture where there is mutual respect for others and a tolerance of racial and cultural identity. The Council is committed to:

- Eliminating unlawful discrimination and harassment and promoting equality of opportunity and fairness;
- Considering the needs and expectations of all communities;
- Applying consistent enforcement powers in a fair and proportionate way when dealing with unauthorised encampments and developments;
- Working in partnership and consulting with the Gypsy and Traveller and local communities to promote understanding and mutual respect;
- Meeting all its statutory obligations whilst having regard to relevant guidance;

5. Corporate and Partnership Working

A number of Council departments and external agencies work together to provide services for Gypsies and Travellers in the CCS area. Most services and agencies attend the Western Bay Gypsy and Traveller Forum which helps to ensure services to the community are coordinated.

5.1 Community Cohesion

Community Cohesion is clearly important to the lives of everyone in our community. The Welsh Government supports the UK Government's formal definition of community cohesion:

Community Cohesion is what must happen in all communities to enable different groups of people to get on well together. A key contributor to community cohesion is integration which is what must happen to enable new residents and existing residents to adjust to one another.²

The Council's vision of an integrated and cohesive community is based on three principles:

- People from different backgrounds having similar life opportunities;
- People knowing their rights and responsibilities; and
- People trusting one another and trusting local institutions to act fairly,

and three key ways of living together:

- A shared future vision and sense of belonging;
- A focus on what new and existing communities have in common, alongside recognition of the value of diversity; and

² Getting on Together: a Community Cohesion Strategy for Wales, 2009

- Strong and positive relationships between people from different backgrounds.

Achieving the goals of Community Cohesion is all about working together in partnership with service providers and community groups working towards a common vision via the delivery of the Community Cohesion Delivery Plan. The Plan makes specific references to Gypsies and Travellers and identifies how the needs of this community can be identified and promoted.

The Council is currently developing a Hate Crime Action Plan aiming to increase the awareness and reporting of hate crime in Swansea. Reference will be made to Gypsies and Travellers within the Action Plan.

5.2 Education Services

The Traveller Education Service (TES) co-ordinates, monitors, advises on and supports educational provision for the Gypsy and Traveller community throughout Swansea. TES has a long and successful record of visiting and working with Gypsies and Travellers including families on the official site and with families unofficially encamped in the area.

TES is pro-active in making contact with families known to be in the area but is also contacted by families requesting support in accessing education for their children. They aim to support access to education for Gypsies and Travellers throughout their school life, promote their inclusion and raise awareness and understanding of their history and cultural identity. They aim to identify and remove barriers to learning, provide support to Gypsy and Traveller pupils, parents and the schools they attend and raise attendance and attainment wherever possible.

Gypsy and Traveller children and young people are encouraged to attend their local catchment school where arrangements can be made to ensure specific support is put in place to enable individual learners to engage in a full curriculum which may require a gradual integration process.

5.3 Health and Social Services

The Abertawe Bro Morgannwg University Health Board is the Primary Health Care Trust within the area and offers the same level of service to Gypsies and Travellers as for all other members of the settled community.

Gypsies and Travellers have some of the poorest health outcomes of any ethnic group and often have problems when accessing health and welfare services including registering with local doctors' surgeries. This is particularly a problem with those Gypsies and Travellers who have no permanent site and rely solely on unauthorised encampments. The Welsh Government have recognised this fact and in 2015 they produced a strategy entitled 'Travelling to Better Health'³ to try and address these issues. The NHS Trust also works closely with the Gypsy and Traveller community to try and address these issues.

³ Welsh Government – Travelling to Better Health, 2015

The Council's Social Services Department provides essential services for vulnerable people in the community who need support, care or protection and believe a person's independence should be maintained in their chosen home environment wherever possible. Efforts are made to ensure that services are culturally sensitive and equally accessible to Gypsies and Travellers.

Social Services' Adult Welfare team provide support to adults who qualify for help and whose needs are most urgent.

Child and Family Services are responsible for safeguarding and promoting the welfare of children from all communities in the City and County of Swansea, including gypsies and travellers. They will do this in accordance with the Social Services and (Wellbeing) Wales Act 2014, Children Act 1989, 2004 and other relevant legislation.

They aim to support families to stay together whenever this is best and safe for the child. Making sure the child is safe is a key priority

The service works with and supports those families with children under the age of 18 who are in greatest need. For example;

- Disabled children
- Parents who need extra support to help them look after their children safely
- Children and young people who have been or are at risk of being neglected, harmed or sexually exploited
- Children and young people in trouble with the law

Sometimes information, advice and assistance may be all that's needed; this could be from our service or services in the community and/or with the support of friends, family or other support networks. In some circumstances there is a legal duty to take action; for example where the service is concerned that a child has been or may be at risk of abuse or neglect. If it seems that there is a need or a requirement for child and family services to become involved a social worker will usually visit the family. They will talk about concerns, what is working well and what needs to happen next including what help and support may be needed. If there is a concern that a child is being, has been, or is at risk of being abused or neglected a child protection enquiry will also be needed. Where a child is being supported by Child and Family Services they will have a Care and Support Plan.

5.4 Housing

Gypsies and Travellers have the same rights for their housing needs to be assessed and subsequently addressed as any other resident. Aside from the requirement to carry out a general accommodation needs assessment for Gypsies and Travellers, those who reside on unauthorised encampments and have nowhere legal to go are likely to be, by definition, statutorily homeless under the Housing (Wales) Act 2014.

The Authority endeavors to visit all unauthorised encampments to determine housing needs and to check what further assistance may be needed. Housing needs may not be traditional bricks and mortar accommodation.

Any Gypsy or Traveller wishing to reside on the Council's authorised site would be required to complete an application form and undergo a relevant assessment.

5.5 Land Use and Planning

5.5.1 Site Provision

The Council currently provides one authorised site for Gypsies and Travellers located at Ty Gwyn Road, Llansamlet. The site is managed by the Housing Service and has seven permanent pitches on hard-standings each of which is provided with essential facilities such as water, sewage disposal, electricity and waste collection. Residents on this site hold licences in accordance with a standard set of conditions and sign agreements to occupy a pitch in accordance with these conditions, for which they are liable to pay rent and Council Tax. This is in compliance with the Mobile Homes (Wales) Act 2013 which provides additional safeguards for those living on and running local authority Gypsy and Traveller sites.

The Council also has a single tolerated encampment on Council run land, occupied by one extended family with established links to the area. This site is also provided with essential facilities and occupiers have signed up to a Code of Conduct.

The Council acknowledges that there are more Gypsy and Traveller caravans within the local area than there are authorised places for them to stop. In addition to particular Gypsy and Traveller families that have had long established links with the area, there are also other Gypsies and Travellers that periodically pass through the area. Currently there is no provision for transit sites or stopping places within CCS.

Having due regard to the limited number of places available, the Council recognises that there will be unauthorised encampments from time to time. Furthermore there is an increasing expectation from the Courts and other agencies that alternative site provision should be available when eviction from unauthorised sites is considered.

The most recent Gypsy & Traveller Accommodation Needs Assessment undertaken by the Council has identified the need for additional permanent pitches within the City and County. The Deposit Local Development Plan (LDP) has identified a site for the provision of further pitches and the Council is committed to developing future provision for Gypsies and Travellers to comply with its statutory obligations.

At the time of writing, the Council has submitted the LDP to the Ministers of the Welsh Government for independent examination. The formal Hearing Sessions

of the Examination will consider the content of the Plan and deal with the representations on the Deposit LDP that have been duly made during the public consultation process, including those representations made by the Gypsy and Traveller community on the proposed site provision. On completion of the Examination, the Inspector will issue a Report for the Council giving recommendations for action which will be binding on the Council.

Any future planning application(s), whether on private or Council land, will be assessed fully in line with criteria set within the Development Plan.

5.5.2 Unauthorised Encampments

Unauthorised encampments from both established and transient Gypsies and Travellers may occur for a number of reasons with the primary reason being a lack of authorised sites and stopping places.

The Council does not condone unauthorised encampments by Gypsies and Travellers. However, where they do occur from time to time, the Welsh Government's Guidance will be followed.⁴

Each encampment will be dealt with on a case by case basis, but the following are options for action:

- Option 1 – 'Tolerate' the Gypsy or Traveller occupiers, if only for a short time, until an alternative site can be found or they move from the site of their own accord;
- Option 2 – Find an alternative site, if only on a temporary basis, and offer the Gypsy or Traveller occupiers the chance to move onto it.
- Option 3 – As a last resort, the Council can seek and obtain possession of the occupied site by eviction proceedings
The Council acknowledges Welsh Government guidance that, without sufficient and appropriate site provision, effective and justifiable enforcement against unauthorised encampments cannot be achieved.

The Gypsy and Traveller Liaison Officer, acting as a single point of contact for the Council, will gather as much information as possible about any unauthorised encampments and visit the site within 24 hours, if reasonably practicable and will liaise with colleagues across the Council and with partners to ensure that the relevant welfare assessments are carried out depending on the particular circumstances.

Once the relevant visits and assessments have been made, a decision as to whether an unauthorised encampment should be tolerated or whether the eviction process should commence will be made.

⁴ Guidance on Managing Unauthorised Camping 2013, Welsh Government

Any decision as to action must consider the Human Rights Act 1998 and duties under the Housing Act 2004 and Equality Act 2010, together with full consideration of the needs of any children and young people under 18 years of age as well as considering the Authority's obligations under the United Nations Convention on the Rights of a Child (UNCRC) Any decisions made to evict Gypsies and Travellers must be reasonable and proportionate having regard to the circumstances. All local authorities must determine if the interference with a Gypsy or Traveller's home and private and family life is justified and proportionate.

5.5.3 Unauthorised Developments

An unauthorised development occurs where a residential use of a site commences without planning permission being granted. Gypsies and Travellers may privately own the land and have planning permission to reside on their own land or have the owner's permission to be there or reside there permanently. Unauthorised developments will be dealt with by the Council in accordance with planning law.

The Council can grant planning permission pursuant to any retrospective application that may be submitted to continue the use of an unauthorised development on a temporary or permanent basis; or if there is no reasonable prospect of planning permission being granted, it can issue an enforcement and/or stop notice to remedy the harm caused. A failure to comply with an enforcement notice after the compliance period has ended is an offence and the Council has the power to prosecute and/or take direct action as required to secure compliance.

Gypsies and Travellers living on unauthorised developments are entitled to health and educational services in the same manner as any other member of the settled community residing within the CCS.

6. Monitoring and Evaluating the Policy

The Council will periodically monitor this policy to evaluate its continued relevance and effectiveness. This will involve monitoring against current and proposed statutory legislation and guidance and in light of other Council policies that have a potential impact on the lives of Gypsies and Travellers.

As with other corporate policies, the Council's Equality Impact Assessment (EIA) process highlights any potential discriminatory or other unfair practices.

This policy will enable Council employees to understand their obligations and responsibilities to promote and provide services equitably to all members of the community.

Key staff who work with the Gypsies and Travellers are required to undertake training regarding working effectively with the community.

7. Due regards to UNCRC articles/rights

In 2014, the Council determined that all initiatives undertaken in its name must be developed with due regard to the rights enshrined in the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC has been embedded within the Council's existing Equality Impact Assessment process. This process is also embedded into the corporate reporting protocol. CCS will assess the best interests of child occupants when considering unauthorised encampments, and adhering to UNCRC 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 and equality legislation. This can also be used to show that children's rights are being considered.

8. References

City & County of Swansea – Children and Young People Plan
City & County of Swansea – Community Cohesion Delivery Plan
City & County of Swansea – Strategic Equality Plan 2016 - 2020
City & County of Swansea – Health, Social Care and Wellbeing Strategy
City & County of Swansea – Local Development Plan
City and County of Swansea – Unitary Development Plan
Equality Act 2010
Housing Act 1996
Housing Act 2004
Housing (Wales) Act 2014
Human Rights Act 1998
Mobile Homes (Wales) Act 2013
United Nations Convention on the Rights of the Child
Welsh Government (2012) - A Gypsy Traveller Framework for Action and Delivery Plan
Welsh Assembly Government (2007) - Circular 30/2007: Planning for Gypsy and Traveller Caravan Sites
Welsh Assembly Government (2009) - Getting on Together: a Community Cohesion Strategy for Wales
Welsh Government (2013) - Guidance on Managing Unauthorised Camping
Welsh Government (2013) – Travelling to a Better Future, a Framework for Action and Delivery Plan
Welsh Government (2015) – Travelling to Better Health