

Witness
Statement
of Deborah
Jane
Kennett
Exhibits
DJK1
DJK2
Dated
7/02/25

IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

IN THE MATTER OF
SECTION 222 LOCAL GOVERNMENT ACT 1972 AND
SECTION 187B TOWN AND COUNTRY PLANNING ACT 1990

Claim
No2024-
003315

BETWEEN:

**THE MAYOR AND THE BURGESSES OF THE
LONDON BOROUGH OF RICHMOND**

Claimant

and

**(1) PERSONS UNKNOWN FORMING AN
UNAUTHORISED ENCAMPMENT AND / OR
OCCUPYING FOR RESIDENTIAL PURPOSES
(including temporary occupation) WITH OR
WITHOUT VEHICLES ON ANY OF THE 8 SITES
WITHIN THE LONDON BOROUGH OF
RICHMOND UPON THAMES LISTED ON
SCHEDULE 1 ATTACHED TO THIS CLAIM**

Defendants

**(2) PERSONS UNKNOWN DEPOSITING
WASTE ON ANY OF THE 8 SITES WITHIN THE
LONDON BOROUGH OF RICHMOND UPON
THAMES LISTED ON SCHEDULE 1 ATTACHED
TO THIS CLAIM**

and

LONDON GYPSIES AND TRAVELLERS

**Proposed
Intervener**

**WITNESS STATEMENT
OF DEBORAH JANE KENNETT**

Full Name of Witness: Deborah Jane Kennett

Address: London Gypsies and Travellers, Mildmay Community Centre, Woodville Road,
Mayville Estate, London N16 8NA

Occupation: CEO

1. I make this statement in support of the further written submission from London Gypsies and Travellers (LGT) in preparation for the hearing on Thursday 13th February 2025. In this statement I wish to provide an opinion about the manner of communication of the injunction for its effect of preventing discriminatory harm, and with regards to lack of accommodation for families living a nomadic way of life in accordance with their culture as members of protected minority groups.

London Gypsies and Travellers' interest in wide injunction proceedings

2. I am the CEO of London Gypsies and Travellers (LGT). In my role I lead the strategy on engagement with Gypsies and Travellers living in London and those pursuing a nomadic way of life, and on communications with Local Authorities, the Greater London Authority and central government to advocate for the accommodation needs of Gypsies and Travellers to be met, including through the provision of permanent sites and temporary stopping places and policies such as ‘negotiated stopping’.

3. Since 2018 LGT has been actively seeking to challenge wide injunction orders against persons unknown stopping on land, recognising the damaging impact of such powers on the Gypsy and Traveller community, especially in the absence of safe and suitable alternative stopping places or transit sites. We were particularly concerned that the nature of orders against ‘persons unknown’ means that it is very unlikely for such cases to be defended and for Judges to hear arguments about how these injunctions affect the Gypsy and Traveller community. The Judgment in *London Borough of Bromley v Persons Unknown, London Gypsies & Travellers and others* [2020] EWCA Civ 12 has not been overturned.

4. Following the Bromley Court of Appeal judgment, LGT wrote to local authorities in London with a summary of the guidance provided by the Judges, asking if councils intend to apply for final hearings or renewal. This was with the intention to make submissions in forthcoming hearings, in assistance of the Court, highlighting the Bromley criteria and how they are being met or not. This included correspondence with the London Borough of Richmond. The letter is attached to this statement, below. The legal advisor for five boroughs in the south of London responded by email on 15 June 2020 to state only: “I can confirm that Richmond Council is proceeding with its application for a final Order, and the interim order remains enforceable”.

5. LGT continued to be available for communication with local authority office-holders after *Wolverhampton City Council v London Gypsies & Travellers and others* [2023] UKSC 47 with regards to obligations to provide accommodation that allows the nomadic way of life which is lawful and also an expression of Gypsies and Travellers’ “enshrined freedom not to stay in one place but to move from one place to another” as laid out in Bromley Judgment, para 109.

Concerns about the lack of effective notification of the injunction

6. LGT first found out about LB Richmond’s new interim Injunction Order from an email sent by the legal advisor for the five boroughs, sent to our organisation’s general email address info@londongandt.org.uk on Friday 20th of December 2024 at 4.04pm, at a time when all the staff had closed the office for their Christmas leave. The email was only picked up upon the re-opening of the office on 3 January 2025. The timing and the medium of the communication did not leave the time for meaningful consultation on the detrimental effects of proceedings against ‘persons unknown’ which target the whole Gypsy and Traveller community. Consequently, even the role that our organization has tried to take, in order to bring some views of how these communities are affected, could only be hurriedly attempted at such short notice. We acknowledge the fact that this does not substitute for any potential defendants coming forward and putting their case across in front of the Courts.

7. If the purpose of informing LGT of the injunction was to inform Gypsies and Travellers living on the roadside of the application of the Order, and to support them in an application to vary or set aside the Order, then notifying LGT of the Order in the manner outlined above could not be effective in light of the complexity of the Order, the reliance on the Council website for access to the legal documents, and the literacy rates and digital exclusion in Gypsy and Traveller communities (see [House of Commons Library, “Gypsies and travellers: educational](#)

[outcomes”, research briefing, 17 May 2024](#); and [House of Commons Women and Equalities Committee, Tackling inequalities faced by Gypsy, Roma and Traveller communities, report, 5 April 2019](#), para 149). In our view other additional measures would need to be put in place to support those who are not able to understand the order when they come across it posted on the eight sites in the borough, and who would need support to access associated proceedings of how to get involved if they wish.

8. Local authorities have a duty under the Equality Act to have due regard to removing or minimising disadvantages suffered by people due to their protected characteristics and in this case the council should have considered how to serve the Part 8 claim form in a more accessible and effective way.

Concerns about the lack of provision of accommodation for nomadic families

9. I will now turn to the second issue I want to address in this statement, which relates to the lack of accommodation for Gypsies and Travellers pursuing a nomadic way of life, as is their right. The Bromley criteria stipulate the need to provide transit accommodation to which households making stops in an area can be directed. There is no transit pitch accommodation available for rent in the entirety of Greater London.

10. At the same time as local authorities, including the London Borough of Richmond, started applying Injunction Orders, LGT sought to convince the local authorities to adopt negotiated stopping approaches as a humane method for meeting the accommodation needs of families living on the roadside. In the context of research commissioned by the Greater London Authority, LGT contacted LB Richmond’s Housing Directorate and its Environment and Community Services to introduce the policy of negotiated stopping, on 13th February 2019 and 22nd May 2019, and to invite officers in both departments to a meeting at City Hall on 31st May

2019 “to share best practices and develop ideas for approaches that seek to reduce human costs and public spending”.

11. The research and policy guidance that resulted from this engagement across London during 2019 came out as [the report “The potential for a negotiated stopping approach in London”](#) which was published on 4 December 2019. This report is presented as evidence exhibit **DJK1** attached to this statement. Following the publication, which was disseminated via the Greater London Authority to all relevant stakeholders, LGT sought again to meet with Richmond’s Environment and Community Services, which responded on 31 May 2022 without in fact arriving at a date for a meeting.

12. On 9 November 2020, LGT followed up on its research by making a Freedom of Information request to LB Richmond – as to other local authorities – with regards to the potential implementation of negotiations with encampments that had made stops in the borough, particularly in the context of Covid-19 precautions. The response from LB Richmond came on 4 January 2021, indicating that out of six unauthorised encampments between 13 March 2019 and 9 November 2020, one encampment that included a woman in an advanced stage of pregnancy had been tolerated, but after three days was served with an injunction notice just as the other five encampments endured.

13. Despite these multiple and repeated opportunities to draw on London Gypsies and Travellers’ expertise in the matter of providing suitable accommodation such as negotiated stopping, the London Borough of Richmond has decided to regress to the punitive approach as imposed by the Injunction Order. The formulation, labelled as a “positive” impact in [the Equality Impact and Needs Assessment attached to the Order](#), that states “[t]he injunction would allow for the Gypsy and Traveller communities to travel through the borough to alternative destinations”, captures the essence of the exclusionary and punitive approach.

Rather than punishing people pursuing a nomadic way of life and reinforcing the negative perceptions of roadside camps, LGT calls on London Borough of Richmond to help build inclusive neighbourhoods where Gypsy and Traveller families are welcomed.

14. There is now produced and shown here as exhibit **DJK2** LGT's letter of 23rd March 2020 to London Borough of Richmond and LGT's report "The potential for a negotiated stopping approach in London".

A handwritten signature in blue ink, appearing to read 'Deborah Jane Kennett', is positioned above the 'Signed:' line.

Signed:

Printed: DEBORAH JANE KENNETT

Date: 7th of February 2025

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LONDON GYPSIES AND TRAVELLERS

**Proposed
Intervener**



The potential for a negotiated stopping approach in London

EXECUTIVE SUMMARY

By Professor Jo Richardson, DeMontfort University
and London Gypsies and Travellers

November 2019

**LONDON
GYPSIES &
TRAVELLERS**



SUPPORTED BY
MAYOR OF LONDON

Executive summary

Travelling is a significant part of Gypsies and Travellers' culture and way of life and many families continue to travel in and around London following in the footsteps of past generations. Being able to stop in safe and secure conditions and having access to basic facilities such as sanitation and waste disposal are essential to travelling.

Negotiated stopping is a balanced and humane approach to managing roadside camps, based on a mutual agreement between the local authority and Gypsy and Traveller families on matters such as correct waste disposal and basic temporary facilities, sometimes directing Gypsy and Traveller communities away from contentious public spaces to more appropriate council land.

This approach is proven to achieve significant savings in public spending and decreased social costs for Gypsy and Traveller communities. However, across London the preferred approach for most local authorities is rapid eviction of roadside families which has significant negative impacts.

What is the project about?

The Greater London Authority (GLA) has commissioned London Gypsies and Travellers (LGT) to investigate the issues around unauthorised encampments and negotiated stopping in London. LGT worked in partnership with De

Montfort University who undertook research to examine the evidence and explore the potential for negotiated stopping approaches in London. This report summarises the findings of research undertaken during the first eight months of 2019, through a series of methods including policy reviews, an online survey, focus groups and interviews with local authorities, housing associations, the GLA, members of the Traveller community and other stakeholders.

Starting with an analysis of the current context and key issues related to roadside stopping across London, the report highlights existing good practice, reflects on the facilitators and barriers for developing new approaches, and makes recommendations for practical steps to transition to a planned and managed approach that decreases the social costs and public spending often associated with unauthorised encampments.

This project is essentially an exploration of the idea of negotiated stopping, to see whether this could help in London. The idea for negotiated stopping as a shared set of principles and approaches is to support all landowners (including public sector bodies and councils) and Gypsies and Travellers to agree what short term accommodation is appropriate, fair and in the best interests of all residents. It is not about permitting stopping where it would be inappropriate to do so, or about allowing inappropriate or unfair behaviour. It is about sharing knowledge, ideas and practices to enable a pattern of travel and nomadic way of life that has contributed to our society for centuries.

Research findings

Current context and key issues

There are a range of factors that contribute to the increased visibility of camps across London in recent years, including the lack of permanent site provision or stopping places, the lack of available vacant land in more concealed locations, or the fact that vacant land is very often hoarded up and secured even if not in use for many years. Access to locations that were traditionally used by Gypsy and Traveller families for stopping has significantly diminished due to development pressures and, especially in London, land values in a global city.

One of the most significant factors that can lead to encampments being more visible, and perceived as more disruptive, is an enforcement approach from local



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authorities that focuses on eviction and exclusion. For example, half of London boroughs have secured High Court injunction orders against “persons unknown” stopping on public land for residential purposes, which clearly target Gypsy and Traveller communities. Yet there are no authorised stopping places or transit sites in London at all; and permanent accommodation has been historically insufficient resulting in significant shortage today. Only 10 new pitches have been provided on local authority sites since over 750 were identified as needed in 2008.

Due to the lack of stopping places and access to vacant land, many Gypsies and Travellers feel they have nowhere to go but on public parks and open spaces. This leads to increased community tension and creates a vicious circle, as local authorities and police seek to evict as quickly as possible, under public pressure. In most cases this is just shifting people on to the next green space, rather than to a suitable location where Travellers can negotiate some stopping time and access the facilities and services they need. Identification of suitable land, in co-operation with neighbouring authorities, can lead to a proactive accommodation approach which provides benefits for the whole community, and which can provide savings to public budgets. There is a potential for savings in legal and cleaning costs if local authorities adopt an approach based on dialogue and provision of basic facilities, such as negotiated stopping.

Local authorities have a range of duties to assess the needs of Gypsies and Travellers, in terms of access to accommodation, ensuring the best interests of children, advancing equality of opportunity and preventing discrimination. Current government guidance on managing unauthorised encampments recommends careful consideration of such issues before deciding whether enforcement is actually necessary. However, the hard-line response to camps which seeks rapid enforcement action is rarely meeting these requirements, leading to further marginalisation and exclusion of Gypsy and Traveller communities.

Travellers stopping on land are often associated with crime and fly-tipping, particularly through local news reports and social media, and in local authorities’ public responses to camps in their area. More worryingly, the injunction orders sought by councils appear to conflate the two issues, which can have the effect of criminalising travelling and stopping. Accommodation needs to be provided. Organised waste crime should be prosecuted. These are separate issues, sometimes in the same location, but with different required treatments.



This research found a range of models of good practice in terms of managing roadside encampments in ways that meet local authorities’ duties and, as a result, decrease not only social costs for the Gypsy and Traveller community, but also lead to savings in public spending and improvements in community relations.

Key ingredients for a successful negotiated stopping approach in London

While negotiated stopping is a flexible approach that should be adapted to respond to local circumstances and needs, rather than a prescribed set of policies and procedures, there are a number of elements or “ingredients” that have proven to work. The research found a series of contingent factors, or ingredients, underpinning negotiated stopping, or similar managed unauthorised encampment approaches. These are examined throughout the report. One of the predominant ingredients for success across London is the need for political vision, leadership and coordination at a strategic level by a central London body, like the GLA. The key ingredients are summarised here for the executive summary:

Political vision:

- ▶ A shift in political attitudes to travelling and stopping – a part of culture, not a “problem”
- ▶ Setting positive examples and leading the way
- ▶ Public Sector Equality Duty – challenging discriminatory language and action where it occurs

Decent conditions for roadside families:

- ▶ Outreach and dialogue
- ▶ Provision of basic facilities
- ▶ Detailed welfare assessments and follow up
- ▶ Agreeing stopping time

A planned approach to temporary stopping:

- ▶ Identifying suitable alternatives for stopping places
- ▶ Budgets for dedicated staff and resources
- ▶ Securing meanwhile uses on vacant land

Trust and partnership between Traveller families, local authorities, police and other agencies

- ▶ Consultation with residents, Gypsies and Travellers to keep lines of communication open
- ▶ Local elected members and senior leaders challenging discriminatory discourse where it occurs.

A coordinated pan-London approach

- ▶ Policy and guidance
- ▶ Joint working and infrastructure
- ▶ Staffing and resources
- ▶ Monitoring and evaluation

A clear separation of large-scale fly-tipping issues from roadside stopping.

Recommendations

Below is a summary of the key recommendations emerging from the research. They are presented in more detail at the end of the report.

1. Political champions

- **By the end of 2019** GLA to work with LGT to create a pledge for London politicians, to facilitate the nomadic way of life as an essential part of Gypsy and Traveller culture and advance the broader equality agenda for these communities.

This could include:

- **Promoting** dialogue, provision of basic facilities and stopping time for roadside families as a first response to encampments
- **Challenging** boroughs that take an unnecessarily tough approach and disproportionate enforcement action, particularly where alternative sites are not available
- **Proactive** and positive messaging on roadside issues and negotiated stopping in meetings, on social media, and through press coverage
- **Organising** cultural awareness training for colleagues, officers and other stakeholders to promote the better understanding of equality issues, challenges facing roadside families and best practices

2. Leading by doing

- **By early 2020** GLA to agree internally an approach that sets out the standard first response to camps on GLA Group land to be dialogue and negotiation, provision of basic facilities and allowing stopping time where needed.
- **By March 2020** GLA to develop a plan to implement this approach, including to identify the officers who will lead on the work, their relationship with GLA Estates



Management and TfL, and the budget to fund provision of portable toilets and rubbish collection where needed

- **By end of 2020** GLA to test this approach, monitor and evaluate the outcomes, in consultation with LGT, boroughs and other stakeholders.
- **By 2021** Based on success of initiative develop a policy of negotiated stopping for GLA Group land.

3. Support for a coordinated pan-London approach

- **By early 2020** – The Mayor of London to invite all London council leaders and housing portfolio holders to a seminar facilitated by De Montfort University and London Gypsy Travellers, to encourage political will across the city to address the issue of unauthorised encampments through a negotiated approach. The seminar is also an opportunity to consult on the options for resourcing and support outlined below.
- **By March 2020** – GLA to make available an offer of support for London boroughs that can include the following options:
 - ▶ GLA to facilitate a pan-London network for stakeholders from local authorities, housing associations etc to meet regularly and work on developing shared good practices for managing camps with the aim to reduce social costs and public spending. This can be used as a forum to further scope out the funding needed to support negotiated stopping in London and to establish likely areas for demonstration pilots.
 - ▶ A key GLA officer to work with London boroughs to implement negotiated approaches – the officer would help to identify land, develop financial models for meanwhile uses and work across council borders and with other agencies.
 - ▶ A funding stream for a small scale negotiated stopping pilot between March and October 2020. This would be a for a joint bid between two to three neighbouring local authorities. Funding through such grant could help to cover officer costs and delivering appropriate services for negotiated stopping (in some instances, refuse disposal and portaloos, for example).
- **By end of 2020** GLA to develop policy guidance on negotiated stopping as a meanwhile use for vacant land (e.g. supplementary planning guidance) – this can include topics such as identifying land, providing infrastructure (basic facilities), outreach and management. This could level the playing field and set the same expectations for all boroughs.
- **By end of 2020** GLA to evaluate the pilot funding stream and develop a grant programme for local authorities to implement negotiated stopping approaches between 2021-2024.



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4. Separate out issues of accommodation and waste

- **Ongoing** – Local authorities and GLA to review the collection of data on unauthorised encampments to ensure that costs associated with organised waste crime are separated out from costs of clearing up domestic waste and enforcement action.
- **By early 2020** – GLA together with the Environment Agency, London councils, Metropolitan Police, London Waste and Recycling Board to establish a forum that meets regularly to investigate issues with construction, commercial and industrial waste disposal and devise an action plan.

5. Change at the local level

Dependent on context and timeframe for policies, such as needs assessments and local plan development documents, it is recommended for local authorities in London:

- **Cabinet members** for housing to include Gypsy and Traveller accommodation (both permanent and temporary) in their portfolios of responsibility
- **Launch** in depth investigations to review current practices of enforcement and assess how they meet requirements under the Public Sector Equality Duty and government guidance on dealing with unauthorised encampments
- **Commit** to provide at least a minimum standard of dialogue and provision of basic facilities to all Traveller families stopping on public land in the borough
- **Undertake** financial modelling for negotiated stopping, for example to identify budgets that could be used to resource the approach (this should also include a cost-benefit analysis that considers wider social costs)
- **Use** local plans and other mechanisms to identify land for meanwhile use as negotiated stopping places
- **Prepare** for a transition to a planned approach to roadside stopping when existing injunctions will expire.

The potential for a negotiated stopping approach in London

November 2019

**LONDON
GYPSIES &
TRAVELLERS**



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Negotiated stopping is a balanced and humane approach to managing roadside camps, based on a mutual agreement between the local authority and Gypsy and Traveller families on what short term accommodation is appropriate, fair and in the best interests of all residents.

Authors

Professor Jo Richardson, De Montfort University

Jo Richardson has researched issues affecting Gypsy and Traveller accommodation for the last 18 years; she has undertaken work funded by the Economic and Social Research Council, Arts and Humanities Research Council and the Joseph Rowntree Foundation. Jo has published research funded by the Equality and Human Rights Commission, the Chartered Institute of Housing and a number of individual public sector and charity organisations. Jo is a member of the Local Governance Research Centre at De Montfort University, more information on their work can be found here: <https://www.dmu.ac.uk/research/centres-institutes/lgrc/index.aspx>

London Gypsies and Travellers

London Gypsies and Travellers is an organisation which challenges social exclusion and discrimination, working for change in partnership with Gypsies and Travellers. LGT works with the community and a range of trusted partners to contribute to the development of local, regional and national policy. The issue of unauthorised encampments has been a significant aspect of our policy and community development work over the years. More information about our work can be found on our website: <http://www.londongypsiesandtravellers.org.uk/>

Acknowledgements

This project was funded by the Mayor of London.

We would also like to thank all those who took part in the research, whose insights, assistance and expertise have made this work possible.

November 2019

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Executive summary

Travelling is a significant part of Gypsies and Travellers' culture and way of life and many families continue to travel in and around London following in the footsteps of past generations. Being able to stop in safe and secure conditions and having access to basic facilities such as sanitation and waste disposal are essential to travelling.

Negotiated stopping is a balanced and humane approach to managing roadside camps, based on a mutual agreement between the local authority and Gypsy and Traveller families on matters such as correct waste disposal and basic temporary facilities, sometimes directing Gypsy and Traveller communities away from contentious public spaces to more appropriate council land.

This approach is proven to achieve significant savings in public spending and decreased social costs for Gypsy and Traveller communities. However, across London the preferred approach for most local authorities is rapid eviction of roadside families which has significant negative impacts.

What is the project about?

London Gypsies and Travellers (LGT) investigated the issues around unauthorised encampments and negotiated stopping in London. This report is an independent piece of research supported with grant funding from the Greater London Authority (GLA). LGT worked in partnership with De Montfort University who undertook research to examine the evidence and explore the potential for negotiated stopping

approaches in London. This report summarises the findings of research undertaken during the first eight months of 2019, through a series of methods including policy reviews, an online survey, focus groups and interviews with local authorities, housing associations, members of the Traveller community and other stakeholders.

Starting with an analysis of the current context and key issues related to roadside stopping across London, the report highlights existing good practice, reflects on the facilitators and barriers for developing new approaches, and makes recommendations for practical steps to transition to a planned and managed approach that decreases the social costs and public spending often associated with unauthorised encampments.

This project is essentially an exploration of the idea of negotiated stopping, to see whether this could help in London. The idea for negotiated stopping as a shared set of principles and approaches is to support all landowners (including public sector bodies and councils) and Gypsies and Travellers to agree what short term accommodation is appropriate, fair and in the best interests of all residents. It is not about permitting stopping where it would be inappropriate to do so, or about allowing inappropriate or unfair behaviour. It is about sharing knowledge, ideas and practices to enable a pattern of travel and nomadic way of life that has contributed to our society for centuries.

Research findings

Current context and key issues

There are a range of factors that contribute to the increased visibility of camps across London in recent years, including the lack of permanent site provision or stopping places, the lack of available vacant land in more concealed locations, or the fact that vacant land is very often hoarded up and secured even if not in use for many years. Access to locations that were traditionally used by Gypsy and Traveller families for stopping has significantly diminished due to development pressures and, especially in London, land values in a global city.

One of the most significant factors that can lead to encampments being more visible, and perceived as more disruptive, is an enforcement approach from local authorities that focuses on eviction and exclusion. For example, half of London boroughs have secured High Court





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injunction orders against “persons unknown” stopping on public land for residential purposes, which clearly target Gypsy and Traveller communities. Yet there are no authorised stopping places or transit sites in London at all; and permanent accommodation has been historically insufficient resulting in significant shortage today. Only 10 new pitches have been provided on local authority sites since over 750 were identified as needed in 2008.

Due to the lack of stopping places and access to vacant land, many Gypsies and Travellers feel they have nowhere to go but on public parks and open spaces. This leads to increased community tension and creates vicious circle, as local authorities and police seek to evict as quickly as possible, under public pressure. In most cases this is just shifting people on to the next green space, rather than to a suitable location where Travellers can negotiate some stopping time and access the facilities and services they need. Identification of suitable land, in co-operation with neighbouring authorities, can lead to a proactive accommodation approach which provides benefits for the whole community, and which can provide savings to public budgets. There is a potential for savings in legal and cleaning costs if local authorities adopt an approach based on dialogue and provision of basic facilities, such as negotiated stopping.

Local authorities have a range of duties to assess the needs of Gypsies and Travellers, in terms of access to accommodation, ensuring the best interests of children,

advancing equality of opportunity and preventing discrimination. Current government guidance on managing unauthorised encampments recommends careful consideration of such issues before deciding whether enforcement is actually necessary. However, the hard-line response to camps which seeks rapid enforcement action is rarely meeting these requirements, leading to further marginalisation and exclusion of Gypsy and Traveller communities.

Travellers stopping on land are often associated with crime and fly-tipping, particularly through local news reports and social media, and in local authorities’ public responses to camps in their area. More worryingly, the injunction orders sought by councils appear to conflate the two issues, which can have the effect of criminalising travelling and stopping. Accommodation needs to be provided. Organised waste crime should be prosecuted. These are separate issues, sometimes in the same location, but with different required treatments.

This research found a range of models of good practice in terms of managing roadside encampments in ways that meet local authorities’ duties and, as a result, decrease not only social costs for the Gypsy and Traveller community, but also lead to savings in public spending and improvements in community relations. Some of the examples of good practice explored in the report are from Wales, Scotland, Leeds, Leicester and London; the examples present diverse responses at different scales.



Identification of suitable land, in co-operation with neighbouring authorities, can lead to a proactive accommodation approach which provides benefits for the whole community, and which can provide savings to public budgets.



Key ingredients for a successful negotiated stopping approach in London

While negotiated stopping is a flexible approach that should be adapted to respond to local circumstances and needs, rather than a prescribed set of policies and procedures, there are several elements or “ingredients” that have proven to work. The research found a series of contingent factors, or ingredients, underpinning negotiated stopping, or similar managed unauthorised encampment approaches. These are examined throughout the report. One of the predominant ingredients for success across London is the need for political vision, leadership and coordination at a strategic level by a central London body, like the GLA. The key ingredients are summarised here for the executive summary:

Political vision

- ▶ A shift in political attitudes to travelling and stopping – a part of culture, not a “problem”
- ▶ Setting positive examples and leading the way
- ▶ Public Sector Equality Duty – challenging discriminatory language and action where it occurs.

Decent conditions for roadside families

- ▶ Outreach and dialogue
- ▶ Provision of basic facilities
- ▶ Detailed welfare assessments and follow up
- ▶ Agreeing stopping time.

A planned approach to temporary stopping

- ▶ Identifying suitable alternatives for stopping places
- ▶ Budgets for dedicated staff and resources
- ▶ Securing meanwhile uses on vacant land.

Trust and partnership between Traveller families, local authorities, police and other agencies

- ▶ Consultation with residents, Gypsies and Travellers to keep lines of communication open
- ▶ Local elected members and senior leaders challenging discriminatory discourse where it occurs.

A coordinated pan-London approach

- ▶ Policy and guidance
- ▶ Joint working and infrastructure
- ▶ Staffing and resources
- ▶ Monitoring and evaluation.

A clear separation of large-scale fly-tipping issues from roadside stopping.

Recommendations

Below is a summary of the key recommendations emerging from the research. They are presented in more detail at the end of the report.

1. Political champions

- **By early 2020** GLA to work with LGT to create a pledge for London politicians, to facilitate the nomadic way of life as an essential part of Gypsy and Traveller culture and advance the broader equality agenda for these communities.

This could include:

- **Promoting** dialogue, provision of basic facilities and stopping time for roadside families as a first response to encampments.
- **Challenging** boroughs that take an unnecessarily tough approach and disproportionate enforcement action, particularly where alternative sites are not available
- **Proactive** and positive messaging on roadside issues and negotiated stopping in meetings, on social media, and through press coverage.
- **Organising** cultural awareness training for colleagues, officers and other stakeholders to promote the better understanding of equality issues, challenges facing roadside families and best practices.

2. Leading by doing

- **By early 2020** GLA to agree internally an approach that sets out the standard first response to camps on GLA Group land to be dialogue and negotiation, provision of basic facilities and allowing stopping time where needed.
- **By March 2020** GLA to develop a plan to implement this approach, including to identify the officers who will lead on the work, their relationship with GLA Estates

Management and TfL, and the budget to fund provision of portable toilets and rubbish collection where needed.

- **By end of 2020** to test this approach, monitor and evaluate the outcomes, in consultation with LGT, boroughs and other stakeholders.
- **By 2021** Based on success of initiative develop a policy of negotiated stopping for GLA Group land.

3. Support for a coordinated pan-London approach

- **By early 2020** – The Mayor of London to invite all London council leaders and housing portfolio holders to a seminar facilitated by De Montfort University and London Gypsy Travellers, to encourage political will across the city to address the issue of unauthorised encampments through a negotiated approach. The seminar is also an opportunity to consult on the options for resourcing and support outlined below.
- **By March 2020** – GLA to make available an offer of support for London boroughs that can include the following options:
 - ▶ GLA to facilitate a pan-London network for stakeholders from local authorities, housing associations etc to meet regularly and work on developing shared good practices for managing camps with the aim to reduce social costs and public spending. This can be used as a forum to further scope out the funding needed to support negotiated stopping in London and to establish likely areas for demonstration pilots.
 - ▶ A key GLA officer to work with London boroughs to implement negotiated approaches – the officer would help to identify land, develop financial models for meanwhile uses and work across council borders and with other agencies.
 - ▶ A funding stream for a small scale negotiated stopping pilot between March and October 2020. This would be for a joint bid between two to three neighbouring local authorities. Funding through such grant could help to

cover officer costs and delivering appropriate services for negotiated stopping (in some instances, refuse disposal and portable toilets, for example).

- **By end of 2020** GLA to develop policy guidance on negotiated stopping as a meanwhile use for vacant land (e.g. supplementary planning guidance) – this can include topics such as identifying land, providing infrastructure (basic facilities), outreach and management. This could level the playing field and set the same expectations for all boroughs.
- **By end of 2020** GLA to evaluate the pilot funding stream and develop a grant programme for local authorities to implement negotiated stopping approaches between 2021-2024.

4. Separate out issues of accommodation and waste

- **Ongoing** – Local authorities, GLA and other stakeholders to review the collection of data on unauthorised encampments to ensure that costs associated with organised waste crime are separated out from costs of clearing up domestic waste and enforcement action.
- **By early 2020** – GLA together with the Environment Agency, London Councils, Metropolitan Police, London Waste and Recycling Board to establish a forum that meets regularly to investigate issues with fly-tipping and waste crime related to construction, commercial and industrial waste and devise an action plan aiming to prevent fly-tipping.

5. Change at the local level

Dependent on context and timeframe for policies, such as needs assessments and local plan development documents, it is recommended for local authorities in London:

- **Cabinet members** for for housing to include Gypsy and Traveller accommodation (both permanent and temporary) in their portfolios of responsibility.
- **Launch** in depth investigations to review current practices of enforcement and assess how they meet requirements under the Public Sector Equality Duty and government guidance on dealing with unauthorised encampments.
- **Commit** to provide at least a minimum standard of dialogue and provision of basic facilities to all Traveller families stopping on public land in the borough
- **Undertake** financial modelling for negotiated stopping, for example to identify budgets that could be used to resource the approach (this should also include a cost-benefit analysis that considers wider social costs).
- **Use** local plans and other mechanisms to identify land for meanwhile use as negotiated stopping places.
- **Prepare** for a transition to a planned approach to roadside stopping when existing injunctions will expire.





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Context

This introductory chapter sets out the context for the research on negotiated stopping. First, we will summarise the situation for roadside stopping in London, then secondly, we'll examine the social costs of poor management or non-provision of accommodation.

Roadside stopping in London

Gypsies and Travellers have been part of London for generations – patterns of travelling and stopping are closely and historically connected to the city's economy. It is estimated that there are 30,000 Gypsies and Travellers living in London.

As London has developed, and pressures are put on the financial valuation of land in this global city, there has been less and less availability of space for Gypsy and Traveller sites (and indeed more widely council and social housing). Financial viability assessments may prioritise certain types of development over others, and Gypsy and Traveller sites have been near the bottom of the list.

The changing landscape – more development pressures, less vacant land out of sight, less access to vacant land – has led to increased visibility of unauthorised encampments as there are fewer and fewer places to stop

in London. This has resulted in an accommodation crisis and conflict over provision of sites.

For many Gypsy and Traveller families being on unauthorised encampments is the only way they can continue to live a traditional way of life, even if only seasonally or during school holidays. Some families travel but have a settled base in housing or on a permanent site, other families are always on the road and possibly homeless.

Lack of provision for Gypsy and Traveller accommodation

The 2008 London wide Gypsy and Traveller Accommodation Assessment found a need for up to 768 pitches⁴ and since then, just 10 have been delivered as extensions on council sites. It also identified a need for 40 pitches on transit sites to be provided on a sub-regional basis – none of these have been delivered and there continues to be no transit provision across the whole of



The 2008 London wide Gypsy and Traveller Accommodation Assessment found a need for up to 768 pitches and since then, just 10 have been delivered...

London. There are currently very few Local Plans that make allocations for new sites or even expanding existing sites to accommodate some of this backlog of need.

The change to the planning definition of Gypsies and Travellers in 2015 saw a significant effect on the official numbers of recorded Gypsies and Travellers⁵; although the inclusion of a more appropriate definition in the draft London Plan should reconcile this tension. The definition in Policy H16 in the draft London Plan would ensure that local authorities also count the accommodation needs of Gypsies and Travellers who had ceased travelling permanently or lived in brick and mortar housing due to lack of sufficient pitches.

Although councils may have seen a reduction on paper of the accommodation needs of Gypsies and Travellers, reported increases in roadside encampments are a strong indication of unmet need.

A strict approach through eviction and injunction does not lead to fewer encampments – instead it creates a merry-go-round of fractured social cohesion, poorer health and education outcomes, mounting legal and clear-up costs, and dissatisfied residents.

Social costs of poor management

There are several costs which result from poor management of unauthorised encampments, and insufficient provision of accommodation. For officers working in councils and housing associations, for parish, district, county councillors and MPs the symptoms may be increased unauthorised encampments and complaints from local residents if there is loss of use of recreational land, as well as financial costs.

For Gypsies and Travellers, the symptoms of historic failure to deliver well-run sites and to facilitate the nomadic way of life can be summarised as follows.

Lack of provision has an impact on identity and culture

While the Government's 2015 planning definition requires Travellers to actively travel for work in order to have their needs counted and planned for by local authorities, in reality this is impossible for most given the lack of authorised, safe and suitable stopping places.

While the large majority of Travellers are "settled" in housing and sites, there has been a resurgence in recent years of many families seeking to go back on the road in an effort to keep their culture and community alive.



For many Gypsy and Traveller families being on unauthorised encampments is the only way they can continue to live a traditional way of life

Some are able to stay with relatives for family and cultural events, but the majority have to stay roadside. Increasingly more young people start travelling, even when they have grown up in housing, in an attempt to reconnect with their community, culture and identity.

In conversations with Gypsies and Travellers in London, whether in housing, on sites, or on camps, there is a strong feeling that their culture is under threat and that approaches to enforcement that tar everyone with the same brush (such as borough injunctions) are a form of marginalisation, some may even say geographical segregation, or social cleansing.

Public responses to roadside stopping can fuel prejudice

The response to unauthorised encampments in London (and across many parts of the country) seems to be increasingly hostile and reinforces negative stereotypes, as well as giving clear messages to Gypsy and Traveller families that they are not welcome.

Local media outlets' coverage of unauthorised encampments is most often alarmist, using language that reinforces negative stereotypes about Traveller communities and presents the camp as a danger to the neighbourhood. Online articles usually go up very quickly after camps set up, accompanied by comment threads which are unpleasant, and in some cases could be seen to incite hatred⁶.



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These articles very rarely show attempts to balance the story by interviewing Travellers or organisations working with them, or by investigating the root causes of why families stop on open spaces – which is sometimes the lack of planning and provision of suitable accommodation, sometimes it is a pattern of travel that a family has used for centuries, until public space became more privatised and public land was subject to injunction.

Similar activity takes places on social media websites where individuals from the area, as well as local councillors or police post photos of the camps (sometimes with vehicle registration plates visible which places people in a vulnerable position) with messages that reinforce that they are a “problem” that needs to be “dealt with” as quickly as possible. This is particularly challenging for the officers in London boroughs, and we hear later in the report how this phenomenon of fast news on social media creates real pressure on officers to “do something”.

Research⁷ has shown the impact of negative political and social discourse on the lives of Gypsies and Travellers. This exacerbates public prejudice and normalises hate crime against Gypsies and Travellers. Stereotypes and assumptions can move from language in town halls, to discussions at the kitchen table, into actions on the street. This linking of negative words and hostile action can be seen, for example, in evidence from the Gypsy and Traveller exchange in Hertfordshire report on hate crime:

“Those people setting up camps or sites or living in camps were particularly targeted for violence, intimidation and harassment. In one incident, a group of Gypsies arrived at a camp and shortly after, the police turned up to let them know they had to move on. During this time, those people living in the houses nearby came out shouting “Gypsy scum, Gypsy bastards”, letting their dogs loose to attack the community who had just arrived.”
(Thompson and Woodger, 2018, page 23)⁸

There is a need for strong political leadership in this country and beyond, so that politicians at all levels lead by example, and that councils feel empowered to challenge negative discourse where they hear it – including in their own council chambers.

Roadside stopping is indiscriminately associated with fly-tipping

The two separate issues of “accommodation” and “rubbish” are often conflated. The research team recognises from the responses in surveys and the focus group, that there are some locations where the two issues are present; but they require separate remedies, rather than a ban on accommodation altogether. It is recommended that prosecution is the response to waste crime. Separately, it is recommended that site delivery and negotiation of spaces is the response to encampments where there is insufficient accommodation, or where people are travelling through.



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A strict approach through eviction and injunction does not lead to fewer encampments – instead it creates a merry-go-round of fractured social cohesion, poorer health and education outcomes, mounting legal and clear-up costs, and dissatisfied residents.

There are times when rubbish is left after an encampment. Occasionally, there are reports of very large tips of rubbish, allegedly left by Travellers – but these large tips are of a scale which is criminal waste dumping and which needs investigating and prosecuting. It is important that councils, the wider public and the media do not confuse the separate issue of fly tipping with the issue of accommodation need. Fly tipping is illegal by any section of society and should be dealt with appropriately. Rapid evictions don't allow these issues to be investigated adequately. This in turn contributes to the wider issues of negative perceptions and discrimination against Gypsies and Travellers generally.

Negotiated stopping is an accommodation issue, not a criminal waste issue (that needs dealing with separately by the police and environment agency). Nevertheless, the use of negotiated stopping processes and agreements can help to alleviate the incidence of small domestic rubbish dumping, as it is possible to include the condition to dispose of waste in an agreement, along with a paid for service of rubbish storage and collection. If there isn't the means to dispose of rubbish, as there is for the wider community in housing, then it is difficult for travelling households to manage this in some cases.

"In some areas around Northampton and Crewe we have good relationships with council officers, they are very helpful and provide black bins and arrange to collect them. We can usually get a good bit of stopping time if we find land that is not in anyone's way and not being currently used."
(Traveller in conversation with LGT)

"Once we went to the council waste centre to leave our bin bags and we got refused because we are not residents and don't have an address."
(Traveller in conversation with LGT)

Frequent evictions affect Gypsies and Travellers' health, wellbeing and restrict access to education and other services

The health outcomes for Gypsies and Travellers are stark. Looking at Census (2011) data analysis, the percentage of Travellers reporting poor health is twice as high as the wider population⁹. There have been many studies on health and education outcomes and in early 2019 the Women and Equalities Select Committee published their inquiry report¹⁰. It is clear that without a place to stay, from which

to access medicine, schooling, work – then health and wellbeing outcomes are diminished.

If injunction or rapid eviction becomes the norm, rather than accommodation and negotiation, outcomes for Gypsies and Travellers will not improve. Where stopping is not part of the response, and where services and protocols therefore are not put in place, there are notable physical and mental health issues that have a disproportionate effect on Travellers and within that, further affecting Gypsy Traveller women and girls. Access to basic facilities – water, toilets, rubbish collection – should be seen as basic human right and part of the local authorities' duties around equality, public health and best interest of children.

Rapid evictions mean that welfare checks are expedited, and issues not always properly considered and addressed adequately. Signposting to health, education and welfare services is not always done consistently; and this can be exacerbated with confusion for Travellers and officers alike, when there are different processes and approaches across borough boundary borders.

Keeping stability in education is difficult for families who want to travel. Being able to stop within an area, for a negotiated period of time, allows families to plan their stay and to liaise with schools to help support better education outcomes. Education is an important aspect, and there is a need for schools to recognise the importance of travelling to cultural heritage. A more prominent inclusion of Gypsy and Traveller culture in history and citizenship lessons could help increase community understanding and cohesion too.

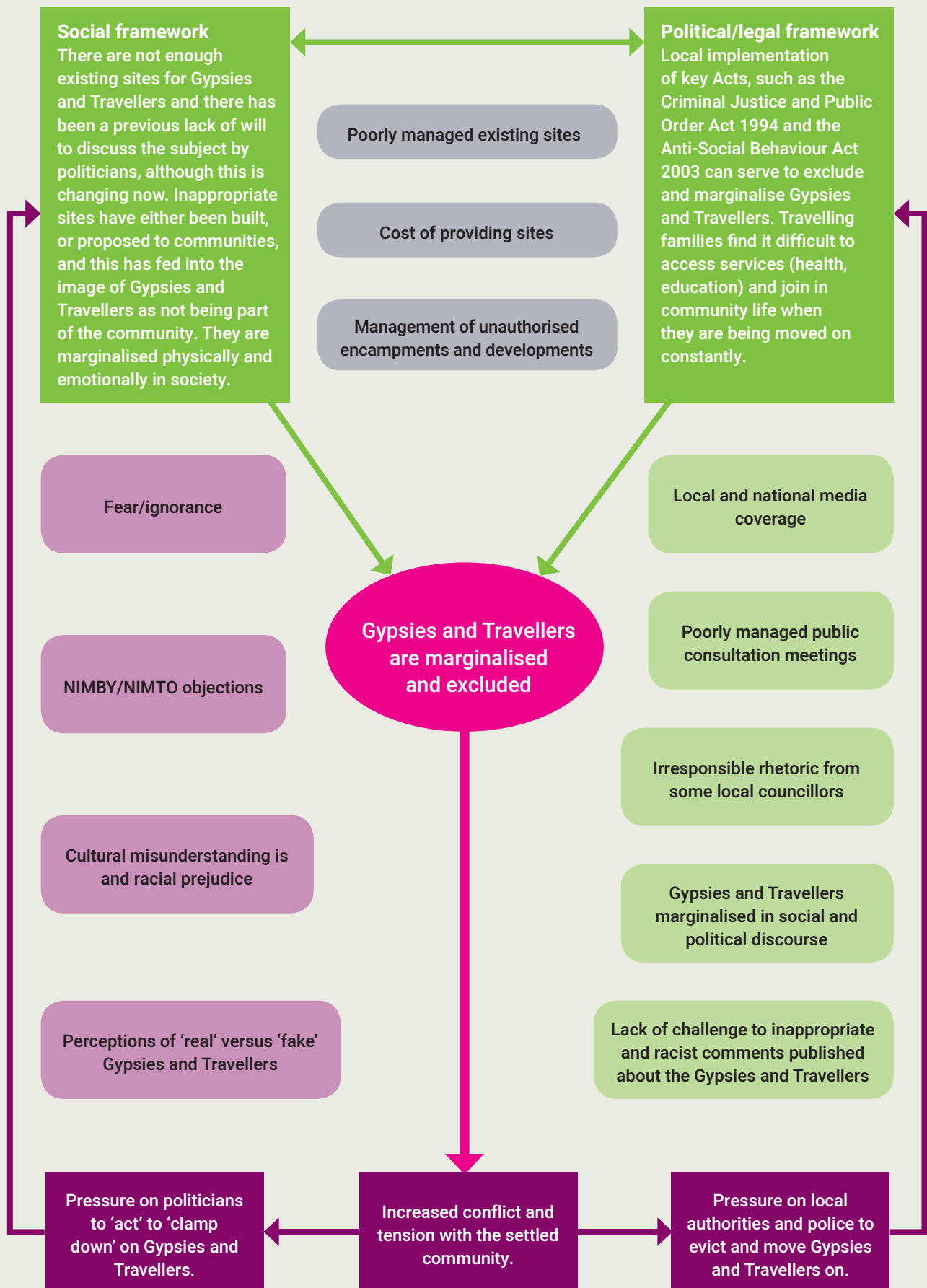
Conclusion

The negative cycle and social costs of not providing sufficient site accommodation for Gypsies and Travellers is extremely well rehearsed. The following illustration at Figure One is an excerpt from research undertaken for the Joseph Rowntree Foundation¹¹ (Richardson 2007).

In previous research on negotiating conflict in the management and delivery of sites¹², it was found that an approach premised on the delivery of accommodation through planning for sites, and through negotiation of managed use of spaces can break this negative cycle.

► See figure 1, page 10

FIGURE 1: Cycle of non-provision





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Research findings

This chapter summarises the research findings from a variety of methodological approaches. These include:

- Twenty survey respondents, including 16 London councils, two London housing associations, the Greater London Authority and Transport for London. Individual council and housing association officer responses to the survey and the focus group are anonymised
- Nine council focus group participants, representing seven councils
- Interview with one London borough councillor and one London borough officer
- Two police officers in a small group interview
- Conversations with roadside families with recent experience of roadside stopping
- Significant desktop analysis of all 33 London borough online policies, and online requests for information where that was not publicly available
- Analysis was also undertaken of policies and approaches outside London where there were lessons to draw from.

This chapter will start with a brief policy review focused on legislation, guidance and procedures for managing camps. Then it will summarise key findings from an examination of current practices of London boroughs who either took part in the survey or focus group, or who have published material online that is pertinent. This is followed by findings on the financial costs (and potential savings)

of unauthorised encampments; and the chapter will finish with a section on the perceived appetite for a negotiated stopping approach amongst councils.

Policy review

Equality and human rights

Local authorities and public sector bodies have a duty to promote equality and they must still work within Human Rights legislation¹³. Gypsies and Travellers are a part of our communities, they have lived in and around London for centuries. Councils in London must work not only to provide accommodation for their communities, but also to “eliminate discrimination, advance equality of opportunity and foster good relations between people” (Equalities Act, 2010). Decisions around enforcement action must be informed by welfare needs, equality considerations and the best interest of children.

“5.8... The Human Rights Act applies to all public bodies including local authorities (including town and parish councils), police, public bodies and the court. With regard to eviction, the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The



There is a need for local authorities to conduct a scrutiny of their enforcement practices and how they conform to existing duties, guidance and protocols. Where a leniency agreement is appropriate and is in the protocol, officers should feel supported to make that decision in practice.

human rights of members of the settled community are also material if any authority fails to curb nuisance from an encampment."

(ODPM, Guidance on Managing Unauthorised Encampment)

Local authorities can show leadership in the way they talk about Gypsies and Travellers, the strategies they create, and the way that they manage the manifestation of insufficient accommodation, by taking a negotiated approach.

Legislation and government guidance on responding to unauthorised encampments

The range of powers available¹⁴ to councils, police and landowners to enforce against unauthorised encampments or seek to prevent them is extensive and has received criticism from civil society and legal practitioners working with Gypsies and Travellers. Guidance produced by the Office of the Deputy Prime Minister in 2006 regarding the effective use of enforcement powers¹⁵ as well the more recent Operational Advice on Unauthorised Encampments from the National Police Chiefs Council¹⁶ stress the essential principles of a balanced approach to decision making, which fully considers equality duties and human rights and avoiding unnecessary enforcement action and associated costs.

"Before taking action, landowners should consider whether enforcement is absolutely necessary. It may be that in certain circumstances, alternatives to eviction action are appropriate, for example:

- *where unauthorised campers have chosen an unobtrusive location in which to camp it may be preferable to agree a departure date with them;*
- *where unauthorised campers have chosen to stop in an unacceptable location, but where the local authority has also identified a location in the vicinity which would be much less damaging or obtrusive, unauthorised campers could be encouraged to move to this location."*

(ODPM, 2006)

However, national government in recent years, has been taking an increasingly robust approach on issues of unauthorised encampments, and the conflation of accommodation and fly-tipping issues is evident in discourse right at the top of government – for example in ministerial statements from Brandon Lewis¹⁷ and Dominic Raab¹⁸.

There are occasions where there is an attempt to balance the discourse; for example, the launch of a recent review of enforcement powers also stated:

"The vast majority of the travelling community are decent and law-abiding people. But we are particularly concerned about illegal traveller encampments, and some of the anti-social behaviour they can give rise to.

We must promote a tolerant society and make sure there are legal sites available for travellers, but equally the rule of law must be applied to everyone."

(Dominic Raab, 2018)

However, despite acknowledging the need for more sites, the government consultation focused disproportionately on punitive measures such as increasing police powers to evict, criminalising trespass, planning enforcement and local authority injunctions.

Unauthorised encampment protocols

Unauthorised encampment protocols should establish good practice on managing encampments in line with government guidance and the duties summarised above. It is important for councils to devise and then utilise such protocols. However, in the desk-top analysis, only eight boroughs were found to have a published encampment policy: Barnet, Ealing, Havering, Royal Borough of Kensington & Chelsea, Merton, Bexley, Sutton, and Hackney. A few councils provided a policy on request, which were in fact a joint unauthorised encampment policy with the Metropolitan Police, or a version of the police protocol. One council, responding to a freedom of information request, said that it had a policy but could not share it because of "data security".

Unauthorised Encampment Protocols set out a range of steps in response to camps which typically involve:

- ▶ **an initial assessment** to be conducted within 24 to 48 hours of the unauthorised encampment being flagged up, either by the local police or the Gypsy and Traveller Liaison Officer (sometimes both)
- ▶ **establishing** land ownership
- ▶ **engagement** with the unauthorised encampments which typically included: welfare check, risk of harm from the conditions of the site, and an assessment of the number of people and vehicles on the site
- ▶ **discussion** of the purpose and length of stay was also sometimes included.

The policies of Barnet, Hackney, Royal Borough of Kensington & Chelsea, and Merton all included an aspect of potential site toleration or leniency, such that if the encampment is considered to be unobtrusive and not causing any immediate issues, the site may be tolerated for a short period of time. The protocols used by Havering and Bexley indicated that the initial site assessment would determine if the officers agree to negotiate a length of time for the encampment to be tolerated. Some of the protocols recommend consultation meetings with Traveller families and local services (health, education etc) as part of the decision-making process.

However, the pressure to evict as quickly as possible – particularly where objections are being raised by community members and elected members in real and online forums, means that these processes are not always followed in practice. There is a pressure to be seen to be “doing something” – the something being eviction.

There is a need for local authorities to conduct a scrutiny of their enforcement practices and how they conform to existing duties, guidance and protocols. Firstly, councils should ensure they have a protocol in place. Secondly, they should ensure that officers are empowered to enact the protocol, depending on the law, and on the circumstances. Where a leniency agreement is appropriate and is in the

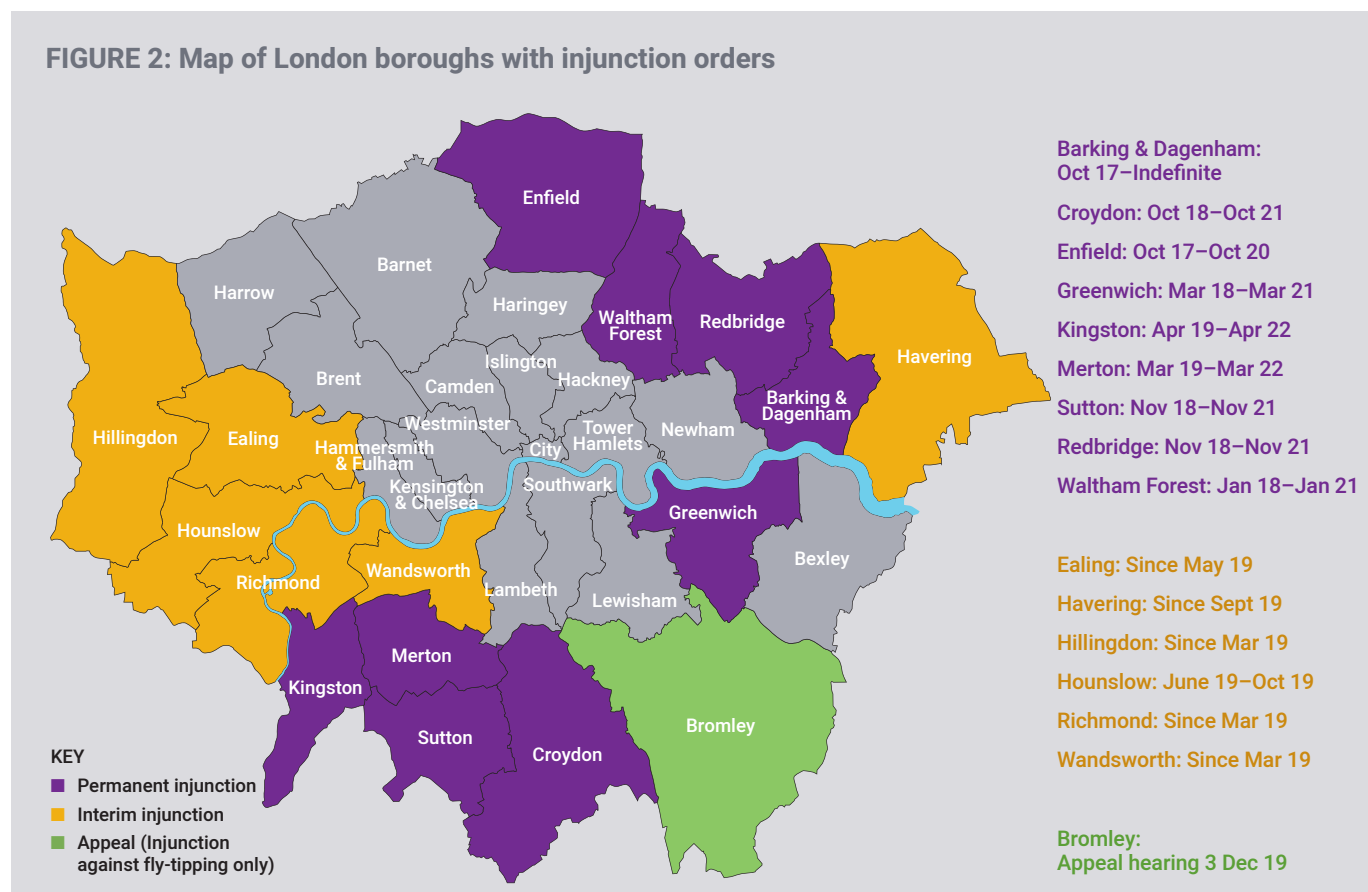
protocol, officers should feel supported to make that decision in practice. It is no use having a protocol on paper, but not practically applying it to real situations of unauthorised encampment.

Injunction orders on the increase

Over the last two years 16 local authorities in London and many others in adjacent areas and elsewhere across the country have obtained injunction orders against persons unknown stopping on public land and/or depositing waste. Injunctions are a form of indirect discrimination as they predominantly affect Gypsies and Travellers and the nomadic way of life. They also further conflate the issue of fly-tipping with roadside stopping, as indicated in the previous section. Furthermore, injunction orders side-step existing enforcement powers and government guidance. This means that due process, duties to do welfare checks and make a balanced decision are less likely to happen in practice. (See Figure 2.)

The injunction orders in London boroughs cover hundreds of pieces of public land, predominantly parks, open space, but also car parks, industrial land and other types of vacant or derelict land. In the absence of safe and suitable stopping places and sufficient provision for Traveller sites, injunction orders are effectively borough-wide bans on travelling. For many roadside families a common experience is that when

FIGURE 2: Map of London boroughs with injunction orders



people camp on land covered by an injunction, they are often denied stopping time anywhere else within borough boundaries. As shown in the map (Figure 2) on page 13, injunctions in London create a large exclusion zone. This cumulative impact especially in a context of severe under-provision is of significant concern.

"We stopped in South London on the edge of a common. We got told by the officers that there's an injunction on the land and the rest of the borough and we had to leave the next day. They didn't give us any more stopping time and we were escorted outside the borough. We then moved around the Thurrock area and the next day the bailiffs came and evicted us. Next we stopped in Kent."
(Traveller in conversation with LGT)

The process of applying for a High Court injunction often happens with limited public scrutiny. In a few instances a decision to seek injunctions was made at full council or committee meetings – however, with limited consideration of evidence and equality impacts. High Court judges also generally have limited information on how injunction affect Gypsies and Travellers. London Gypsies and Travellers has been notified of High Court hearings by a majority of the London boroughs seeking injunctions, at the instruction of judges to local authorities to inform "representatives" of the community.

LGT successfully intervened in the case of Bromley vs Persons unknown, having secured pro-bono legal representation. At a court hearing in May 2019 to determine whether a permanent injunction should be granted, a judge was presented for the first time with evidence and legal arguments highlighting concerns and impacts of injunctions on Gypsy and Traveller communities. The judge decided not to grant the order against "persons unknown occupying land", instead only granting an injunction against fly-tipping. Bromley Council is appealing the decision with support from three other London boroughs.

This is in many ways, a ground-breaking case, as it highlighted that significant consideration should be given to a range of issues: the traditional way of life of Gypsies and Travellers, the lack of accommodation and suitable alternatives, the Public Sector Equality Duties and the need to consider equality impacts, the circumvention of

national legislation and guidance, the cumulative impact of injunctions across wide areas of the country.

Judge Mulcahy noted the problem of "displacement" when suggesting that the number of encampments in Bromley had not increased year on year, more that the frequency in a given part of the year might have increased:

"The evidence is that it is likely that this acceleration occurred because of injunctions having been granted to other London boroughs (Croydon and Greenwich were mentioned in this regard) which have had the effect of displacing activity into Bromley." (Para 24)

It is an unsustainable model for councils in London to continue to seek injunctions in the absence of provision of permanent sites and stopping places.

It is recommended that councils with existing injunctions should prepare to transition to a planned approach to managing camps when their injunctions expire, rather than automatically seeking to extend the injunction.

London councils need to work together and consider the impact of their individual approaches on one another.

Across London there should be a strategic approach to making the necessary provision, rather than councils working in isolation.

Gypsy and Traveller Accommodation Needs Assessments – a data gap?

The research found 19 boroughs had Gypsy and Traveller Needs Accommodation Assessment (GTAA) documentation available on their websites. There are two key issues with recent GTAA's that present the potential for a data gap. First, is the definition of Gypsies and Travellers in national policy and how this is applied in local studies. Research for the EHRC²⁰ found that the impact of the change in definition resulted in a reduction in pitch requirement numbers of nearly 75% across a sample of 20 English local authorities, along with an ad-hoc approach to the accommodation consideration for those ethnic Gypsies and Travellers who did not meet the new planning definition.

Secondly, GTAA's in London generally don't indicate the need for temporary stopping or transit sites. Evidence



There is contradictory evidence being given by local authorities. On the one hand they report low numbers of encampments in GTAA's which result in fewer pitches required for the future. On the other, they supply evidence to the courts of high numbers of encampments, in order to secure injunctions.

presented in most studies suggests small numbers of camps, yet the same local authorities have sought injunction orders. For example, the London Borough of Kingston's GTAA published in September 2018 says "Whilst there is some evidence of a small number of unauthorised encampments in RBK in recent years, it is recommended that there is currently no need to provide any new transit pitches at this time."²¹ Yet the council have secured a permanent injunction for the next 3 years – arguing they had too many encampments. In January 2019, evidence in the GTAA is contradicted by the Council Leader in a quote for an article for the Surrey Comet newspaper:

"Last year we had an unprecedented number of illegal encampments..."²²

Some GTAA's recommend negotiated stopping approaches instead of providing transit sites. For example, the West London Alliance GTAA (2018)²³, which covers Barnet, Brent, Ealing, Harrow, Hillingdon, and Hounslow, included:

"In the short-term the Councils should consider the use of management-based arrangements for dealing with unauthorised encampments and could also consider the use of Negotiated Stopping Agreements, as opposed to taking forward an infrastructure-based approach."

Kingston Upon Thames, Lewisham, Newham, Redbridge, and Tower Hamlets all included a suggestion for the use of negotiated stopping within their joint GTAA.

"As such there is no need for the Council to consider any new transit provision but it is recommended that the Council should continue to monitor any unauthorised encampments and consider the use of short-term toleration or Negotiated Stopping Arrangements to deal with any short-term transient stops."

(Redbridge Draft GTAA²⁴, 2016)

There is contradictory evidence being given by local authorities. On the one hand they report low numbers of encampments in GTAA's which result in fewer pitches required for the future. On the other, they supply evidence to the courts of high numbers of encampments, in order to secure injunctions.

This issue is not adequately monitored, and further research on the different numbers being supplied is necessary. The contradiction is symptomatic of a disconnect between housing, planning and enforcement teams within councils, and of roadside camps not being seen as an accommodation issue.



Current practices of managing roadside camps

Changes in responding to roadside stopping

In the survey responses from councils there was an increasing trend towards the application of injunctions and tougher enforcement action. Respondents indicated that they felt that stricter policies allowed for more effective management of unauthorised encampments. For instance, in one borough where approaches had changed, the respondent indicated:

"Immediate out of hours response to prevent establishment of encampments. Enforcement with threat of confiscation of vehicles effective." (Respondent Ten)

The change in approach is towards a more assertive action, using the threat of eviction as a tactic to force Travellers to move on, and it was felt to be "effective". This was further reiterated in attitudes beyond just policy:

"We serve S77/ S78 as quickly as we can. Still takes minimum 1 week to move them on much to the distress of local residents. Needs to be banned as Ireland have done in 2002²⁵" (Respondent Eighteen)

The response above refers to a "ban" on travelling. This harder line approach possibly illustrates the thinking behind the trend towards injunctions. It seems to be felt, by this respondent, that there must be an immediate response to move on, rather than negotiate. This preference for rapid eviction and a hardening of approach is also present in other councils.

"Bylaws have almost become a bit redundant for common land, [we've] hardened a bit, we felt there was no control of power. That's why we've got injunction because we didn't think we had control". In the same council though, it was said that: "If we can mutually agree to that [stopping for a time] we will. If we don't know that family, if they don't move on, then we're prepared in the background for legal action". (Focus Group Respondent)

This is not universal though and there are debates within councils on the best approach. In the survey, a council officer (Respondent twenty) stated that they used negotiated stopping.

The same authority though, at the same time as the survey response, successfully applied for a short-term interim injunction with the intention to apply to extend this for three years.

Some councils, as well as the GLA, noted challenges they had faced previously in using a negotiated approach.

The role of the GLA and TfL in enforcement

There were two survey responses from the Greater London Authority and Transport for London providing detailed information about the response to unauthorised encampments on GLA land and National Car Parks, which are managed by teams employed by TfL. The response to encampments was described as follows:

"On discovering an unauthorised encampment, the Managing Agent meets with the occupier(s), informing them they are illegally occupying GLA land and requests they leave, providing a time scale in which to do so. On occasions a mutual departure time is agreed between the GLA and the occupier(s). If there is a failure to leave as agreed, the eviction process is commenced." (GLA response)

"If an unauthorised encampment has been identified at one of the NCP car parks by either station staff or NCP operatives, the Contract Manager is notified and proceeds to engage with the British Transport Police (BTP), TfL Enforcement and On-Street Operations (EOS) and TfL legal. NCP operatives and staff are advised not to approach individuals encamped on the land and BTP are placed on standby to engage with the Gypsies and Travellers if required. The Contract Manager notifies TfL legal to discuss which steps can be taken to manage the unauthorised encampment. Usually a notice is served to the individuals encamped on the site requesting they leave and providing the time scale in which to do so." (TfL response)



In terms of enforcement action, the GLA and TfL do not have the same powers as local authorities under the Criminal Justice and Public Order Act, and to some extent don't share the same duties. The GLA mentioned using "common law" to instruct bailiffs or obtaining repossession orders through the courts. The GLA response indicated that local authorities are invited to conduct welfare assessments for camps on GLA land, however the rest of the decision-making process was not clear.

The GLA notifies the local authority in which the GLA land is located of an unauthorised encampment and invites the borough to carry out welfare enquiries as the GLA does not have this resource.

(GLA response)

This is a challenge for the GLA to demonstrate leadership through their own action, to work towards co-ordination within their own organisation first to try negotiated stopping on their own land, rather than eviction as a usual response. If it can be shown to work in practice by the GLA themselves, this will help to show other councils that this approach is possible in a wider, more co-ordinated approach.

Financial costs

High public spending is one of the key arguments for taking a hard-line approach against roadside camps. The research team has sought to collate costs associated with encampments in London over the last few years through the online survey, follow up conversations with boroughs and analysis of publicly available evidence. The data presents a number of problems, particularly that it is not possible to distinguish how much of the costs relate to:

- the usual management of camps (for example officer visits, welfare assessments etc)
- evictions (for example legal costs)
- clean up of domestic waste if necessary
- and the cases where commercial fly-tipping occurs in the same location.

The research found that cost was a major theme throughout all the borough documents and was used by many as a justification for implementing an injunction order. Wandsworth, for instance, stated that, *"if the injunction was granted, the council would no longer be required to seek lengthy and time-consuming court orders in order to secure evictions. The 2013 clean-up cost to taxpayers was £25,000"*²⁶. Enfield also cited monetary costs related to Gypsy and Traveller unauthorised encampments;

*"Over the past 3 years the council have spent in excess of £4.4m in terms of managing and dealing with considerable traveller incursions, mainly by criminal gangs."*²⁷



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However, the cost of securing injunctions is also very significant. For example, a report to a Sutton council committee states that:

"The cost of the injunction in terms of legal costs has so far been £17,000 and it is anticipated that the cost to take this to a full three-year injunction will be a further £10,000. In addition, there is a cost for serving notices on each Council site of approximately £20,000 in total, excluding SHP sites and schools.

*The cost of dealing with the more than one hundred and twenty encampments or attempts since 2011 plus the associated removals, clean-ups, additional security measures, repairs and officers time in that period is estimated to have been well in excess of a hundred thousand pounds. It is hoped that by seeking an injunction future costs can be significantly reduced."*²⁸

These assumptions are common in the arguments brought by many local authorities in favour of tougher enforcement. However, a cost-benefit analysis for alternative approaches such as negotiated stopping is not common practice.

This is a very complex issue and it is closely linked to the problem highlighted previously in the report, that dealing with fly-tipping generally gets conflated with managing camps. Presenting data which aggregates the different estimated costs further reinforces the negative perception of roadside stopping as a problem that needs to be pushed out. It also creates a perceived barrier to considering alternative approaches such as negotiated stopping, which do have the potential to save costs.

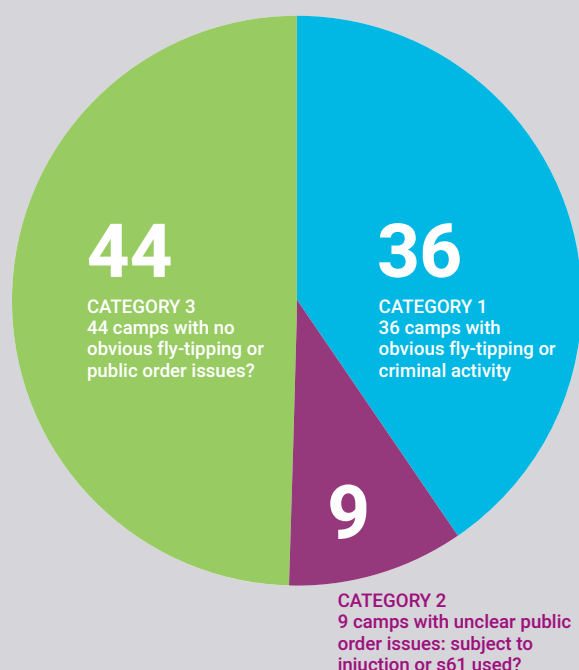
Separating out different costs

In 2017 LGT carried out research in partnership with DMU in three East London boroughs seeking to distinguish between different types of camp and indicate that different approaches are needed, rather than blanket enforcement action. Barking and Dagenham council was able to provide very detailed information about each encampment they had between 2014-2017, including size, length of stay, enforcement powers used and a breakdown of different costs. Based on this LGT was able to separate out three main categories of camps as shown in the figure below. Some general observations could be made:

- **CATEGORY 1 (Blue)** – Indication of large-scale fly-tipping; high clean-up cost, usually larger groups – no potential for negotiated stopping, but still there is a need to penalise individuals involved in criminal activity rather than whole group;
- **CATEGORY 2 (purple)** – Section 61 CPJO and injunction order used but unclear if there are any public order issues; families could find themselves subject to injunction but not aware. Could be potential to work with families under a negotiated stopping approach;
- **CATEGORY 3 (green)** – mostly Section 77/78 used but no obvious public order issues. Low clean-up costs. Higher legal costs. Usually smaller groups. Indicates an accommodation need – potential to work with families under a negotiated stopping approach.

FIGURE 3: Breakdown of number of camps in Barking and Dagenham between 2014-2017

Categorising different typologies of encampments



There was an indication that across all three categories, a number of encampments appear to be the same groups moving to different locations (shown by number of caravans, dates and description).

It was not possible to carry out a similar exercise based on the data collected in this research, as it requires a granular level of detail on a case by case basis. However, to further illustrate the point that different scenarios require different solutions. Table 1 (page 19) shows a range of anonymous cases, based on real-life approximate costs from different encampment sizes, factoring in legal, basic provisions (e.g. rubbish bins and portable toilets), security, clean-up, and staff time.

This helps to show cases in which a negotiated stopping approach is possible and where costs could be saved (first five examples in the table), and those where there is an indication of large-scale fly-tipping which requires a distinct response (last two examples).

Potential cost savings

Through a negotiated stopping approach, it is possible to reduce public spending in different ways:

- **Identifying** suitable locations for stopping can lead to savings in terms of security and defences
- **Reducing** the overall number of evictions can lead to savings in officer time and legal fees
- **Making provision** of basic facilities such as portable toilets and rubbish collection can lead to savings in clear up costs of domestic waste.

All of these solutions have the potential to also address significant social costs in terms of health and access to services, and to reduce poor outcomes for Gypsies and Travellers who are roadside.

Councils will be able to determine for themselves the best value for commissioning services, but it may be that working in liaison with the other London councils will create more efficient purchasing conditions for such provision. The table above indicates some estimated costs for providing basic services.

One London council officer who provided information for the research stated that they did not feel that staff time should be included within the cost for unauthorised encampments, as this is already a part of their regular job, and it is expected that they should be engaged with the encampments. The same council officer also felt that clean-up costs should not always be factored into encampment costs, as often clean-up is part of regular parks or environmental clean-up and would be conducted regardless of the presence of an encampment.

TABLE 1: Cost Estimates ²⁹ of different categories of camps							
EXAMPLE	1	2	3	4	5	6	7
Number of days	1	4	4	7*	19	46	112
Number of vehicles	3	3	17	9	4	10	7
Traveller liaison officer cost (£)	–	306	–	535	–	3,519.00	–
Other officers cost (£)	300	500	1,400.00	1,000.00	1,400.00	2,000.00	4,125.00
Legal costs (£)	–	–	–	–	138	2,333	1,104
Bailiff costs (£)	–	–	–	–	–	9,066	2,005
Security costs (£)	–	–	–	–	–	2,964	–
Clean up costs (£)	–	–	500	660	500	1,831	70,000
Portaloo cost (£)	73	84	84	95	137	234	470
Rubbish provision cost (£)	70	70	238	126	70	140	98
Total cost (£)	443	960	2,222	2,416	2,246	22,087	77,802

* The figures for this example can be used as an approximation of the weekly costs of providing portable toilets and rubbish collection

Some council officers in London report that even in boroughs where negotiated stopping is acceptable practice, legal processes are started in the event that the negotiation goes sour and the Travellers refuse to leave at the agreed upon date. While the legal costs are often not extensive, it is a consistent expense that is spent on the basis that the council may have to evict. Ultimately there is still a lack of trust between the local authority and Gypsy and Traveller families that make negotiated stopping difficult to manage.

Example of cost benefits estimated for Leeds negotiated stopping³⁰

It appeared, in the evaluation, that the number of unauthorised encampments in Leeds had fallen since the work of the team at Leeds Gypsy and Traveller Exchange (GATE) with the Gypsies and Travellers in need of accommodation in the area, which had led to the negotiated stopping approach.

The reduction per year in Leeds appeared to be in the region of 20-25 unauthorised encampments. The average costs equating to local authority land encampments were £5,134.

This equates to potential average savings for the local authority of £102,640 to £128,350 annually. Additionally, there are also potential savings for local police of £88,000 to £110,000.

Total savings resulting from a reduction in the number of evictions range between £190,640 and £238,350 annually in local authority and policing costs combined³¹.

The practice of “just-in-case” injunctions drives up costs which would otherwise be unnecessary if a well-functioning negotiated approach was working.

Knowledge and appetite for negotiated stopping

Based on the engagement of the research team with local authorities and the GLA during this project, it is clear that there is some degree of knowledge and a mixed appetite for negotiated stopping. There is certainly not a universal or consistent understanding, and the research found conflicting views even within the same local authority. One such example was the willingness shown in research interviews with an elected member and a planning forward officer to engage with negotiated stopping, and even to seek facilitative support to work with a neighbouring authority; while at the same time the legal team in the same authority is proud to be winning injunctions on behalf of a number of councils who commission its legal services and expertise.

In response to the survey question on whether they had heard of/used negotiated stopping, there was a variety of responses:

“Yes, and we have used this. We can still use this as an option outside of the injunction areas and have done so with two smaller groups (two UEs consisting of single units) since the injunction was in place. Each UE is assessed on a case by case basis.” (Respondent Six)

“Whilst we have not employed the specific project Negotiated Stopping, our approach to any unauthorised encampment is always with a view to ensuring safeguarding and welfare needs are balanced and that the occupants are engaged with to the best of our abilities



There is evidenced need for more Gypsy and Traveller permanent sites which is yet unmet. This is separate to negotiated stopping, but there is a negative impact from the wider unmet need in terms of delivering negotiated stopping for those wishing to travel in order to support their cultural heritage and nomadic habit of life.

and their willingness to conduct the site in a clean and safe manner whilst the process is followed for the lawful management of unauthorised encampments.”

(Respondent Four)

There is also some confusion on exactly what negotiated stopping is, with some survey respondents saying they didn't use it, but then in explanation referred to negotiated approaches:

“We have a sound track record for our protocols on enforcement and are proud that most are done through successful negotiation and no incidents have ever occurred during enforcement process.” (Respondent Eight)

However, there were challenges noted and particularly a concern as to what happens if the negotiation breaks down:

“Negotiation relies on both sides keeping to the agreement and we have found that we still have to use bailiffs or the courts because the trespassers have not vacated the land on the agreed date.” (Respondent One)

“In 2016 there was a reduction in visiting groups to Croydon and we only had 31 different encampments

reported to us. We predominantly dealt with two families during that year across the 31 sites and we began trialling negotiated stopping with the two groups that we knew.

“In 2017 the number of reported encampments dropped to 23. Again, this part due to some success with negotiated stopping techniques applied and therefore having to move groups on fewer times so fewer encampments, but also because there were not as many visitors from outside the two main families that came to Croydon. In that period, we only had to go to court to request a removal order on one occasion such was the success of negotiated stopping.

“However, this year we have had 21 encampments reported to us so far. The two main families seen in Croydon over the last two years have apparently moved away and we have noticed families coming to Croydon we have never met before. It also signalled the end of the attempts to try negotiated stopping, as the new groups visiting this year have been unwilling to engage with us.” (Witness statement for Croydon injunction application)³²

In a focus group of council officers, analysis of the discussion found a number of challenges, including:

- Current (injunction led) approach shifts issues, but does not resolve them
- Conflation, by officers in discussion, of fly-tipping and accommodation – this reflects the media and political discourse and negative stereotyping more broadly
- Recognition that there were serious cases of mass criminal fly-tipping which caused negative perception
- Lack of political will in boroughs and London-wide to deliver sites and to co-ordinate with one another
- Pressure from councillors (and the public through calls to the council, or social media groups) to “do something” – evict
- Information gaps and policy implementation gaps – negotiated stopping approaches on paper but not in practice, or indeed vice versa
- Lack of co-ordination or leadership across London – taking the issue beyond individual boroughs.

In two survey responses from housing associations, and a further interview with one of these – there was a willingness to engage in the issue. Neither of the two currently had sites, or offered land for temporary use, but both were willing to discuss further. The interviewee from one (very large)



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London housing association, was not a senior executive member of staff, but was keen to try and see the housing association consider this in the future, for example through meanwhile use of land for development in plan, or through utilising Section 106 planning gain agreements to include small sites as part of wider housing development.

Summary of key issues

A number of themes emerge from the research:

- **There are variable approaches** to unauthorised encampments, some councils have negotiation written in policy, but this is not always manifest in practice; others do not have it as a policy, but on occasion will include a form of negotiated stopping in practice.
- **The implementation of welfare checks** is not universal, and there is potential for this to be more consistently applied if eviction is not the first response.
- **There is little to suggest** in the findings that services such as waste disposal services and portable toilets are provided to informal encampments – the lack of toilet facilities can lead to health issues, and lack of refuse disposal to rubbish dumping.
- **There is a conflation between accommodation and fly-tipping.** Where this is small scale domestic waste, there is a link to lack of facilities, the provision (for a fee) which could alleviate the situation. The larger scale tipping is a criminal issue, separate to the encampment, but is currently not treated as such.
- **There is a perception from Gypsies and Travellers and advocacy agencies** that there has been a recent “hardening” of approach, acknowledged in the focus group by some councils, in relation to unauthorised encampments, particularly as seen in the use of injunctions. This is also viewed as “shifting” issues, not resolving them.
- **Lack of political will** to deliver and provide accommodation, including shorter term, negotiated stopping places, was found as a key theme in responses from a variety of respondents. This can lead to pressure from councillors and the public to “deal with” unauthorised encampments. This pressure is amplified through the rapid sharing of information and negative comments on social media.
- **Willingness to work together** was shown by the respondents, they wanted leadership from the GLA to help co-ordinate approaches and to access funding to support location of appropriate land and management of the negotiation.
- **There is evidenced need** for more Gypsy and Traveller permanent sites which is yet unmet. This is separate to negotiated stopping, but there is a negative impact from the wider unmet need in terms of delivering negotiated stopping for those wishing to travel in order to support their cultural heritage and nomadic habit of life.



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Good practices in managing roadside stopping

This chapter provides examples of good practice in managing encampments. Some authorities mentioned here explicitly refer to this as “negotiated stopping” in their written policies; others do not use this term, but the effect of their practice is the same.

There are several key ingredients or contingent factors which must be in place for negotiated stopping. The following section will refer to examples as illustration; the ingredients will be summarised in a table for ease of use in the next chapter.

London

London provides a number of historic and more recent examples where negotiated stopping approaches have been used successfully. London Gypsies and Travellers has been working in London for over 30 years supporting families stopping across different boroughs, where possible taking the role of facilitating stopping time and negotiation. The experience of LGT since the 1980s has been that some local authorities take a more lenient approach to stopping in their area, based on acknowledging the long history of Gypsies and Travellers and the nomadic way of life, or on understanding the need

to make some temporary provision for families in the absence of permanent sites. Indeed, some of the local authority sites built in the late 1980s and 1990s were the outcomes of families being able to negotiate to stay for a longer period of time in an area and build a relationship with the local authority.

Some examples of successful negotiation and a positive approach oriented towards making provision include:

Croydon – an approach of allowing stopping time for families passing through the borough and those with connections to the area was in place for many years and practised consistently by the Traveller liaison officer who regularly attended the London Gypsy and Traveller Forum. More recently, a form of negotiated stopping has also been implemented by officers as mentioned in the previous chapter of the report.

Enfield – participants in this research representing the local authority have described current practices that involve building a relationship with families that have links to the area and allowing stopping time where possible. There were also efforts to bring forward evidence of need for a permanent site in a borough where no provision is currently made.

Hackney – from the experience of LGT liaising closely with the council and supporting Traveller families to be involved in dialogue and negotiation has resulted in a consistent practice over many years of allowing stopping time and making provision of basic facilities. There have been many locations in the borough that were common stopping places, some used for short periods of time for families passing through or visiting relatives, others used for months and even a couple of years. The practice was also formalised to an extent through leniency agreements which specified arrangements between the local authority and the Traveller families – this is also incorporated in the council's unauthorised encampment protocol.

Transport for London – land owned by TfL has been used historically as stopping places or longer-term camps. In one example in Hackney, this was successful through the partnership working between the landowner, the council, Traveller families and LGT. Families negotiated to stay for up to two years in one location and were provided basic facilities: they vacated the land as soon as it was needed for development.

Greater London Council – it is not just at an individual London borough level that negotiated stopping has been attempted before. A policy of “non-harassment” written by the equalities committee at the Greater London Council in 1983 included such principles as:

- Where the GLC land is not in use, there should be a presumption not to evict
- “Land-holding committees” and the GLC would offer land to councils for use for Gypsy and Traveller accommodation
- A recognised need of the historic non-provision and the duty (at that time) to provide sites
- A recognition of the importance of consultation between councils in London
- A request that the equalities committee of the GLC should take the lead in policy making for Gypsies and Travellers and that it should co-ordinate activity and be informed of action by other relevant committees.

This historic policy from the GLC shows there was a real appetite for a London-wide approach and sets up an interesting basis for the GLA to follow in taking up political leadership, policy framing and practical coordination and support for negotiated stopping, now.

The key ingredients demonstrated in London's historic and emerging practice are:

- **Previous political vision** implemented in (GLC) policy
- **Inclusive attitude** toward Travellers and recognition of nomadic way of life

- **Joint working** between council officers, police, landowner and Travellers
- **Political will** in some parts of some councils to work together on a negotiated approach
- **Examples** of specific negotiated stopping approaches, in injunction evidence bundles and joint police protocols.

Those contingent factors yet to be clarified are:

- **A planned approach** to practically identifying appropriate land at a coordinated level in London, with the GLA leading the way on their own approach and facilitating councils to work together on negotiated stopping.

England

Leeds is frequently given as the pinnacle example of successful negotiated stopping within the United Kingdom, as their trial of negotiated stopping within the city is reported as a success by Leeds Gypsy and Traveller Exchange (GATE). This was the one council, outside of London, where the research team undertook primary data collection, through an interview with a representative from Leeds GATE. First though, the research team examined information through publicly available data from GATE's own website, and the newly created negotiated stopping website³³. Leeds GATE explain some of the key components of the approach:

- Negotiated stopping involves local authority officers making an agreement with Gypsies and Travellers on unauthorised encampments. The terms of the agreement can vary depending on the situation but will usually include matters such as correct waste disposal which can be described as “good neighbourliness”. Provision and use of services, such as portable toilets and household waste disposal, will often form part of the agreement. Some authorities also supply water where possible.
- The length of the agreement can also vary from two weeks to several months but tend to be around 28 days. The agreement can apply to the land which has been camped on, or if it is unsuitable the local authority can direct the group to an alternative more suitable location where an agreement can be made.
- Having a negotiated agreement in place does not preclude the authority seeking to secure the land by means of Sec 77 CJPOA for example. Indeed, a magistrate may approve a possession order against an individual or family, where behaviour has been seen to breach the agreement, rather than a whole group.
- Methods to negotiate stopping can include provision of dedicated, temporary, stopping facilities, such as

provided on routes to and from the Appleby Horse fair, but should not be confused with the provision of “transit sites”. A transit site is a permanent facility on which stopping is only allowed for short periods ranging from 28 days to three months.

The desirable criteria for Leeds were:

- ▶ That the land was a “defensible space” in that land available was restricted and any encampment therefore would be restricted in size
- ▶ That there was some “buy-in” to the project among local business owners, the police and elected members
- ▶ The location was safe for the families and that they were prepared to stay there.

Key points learned in Leeds:

- Even on sites which the council was unwilling to do negotiated stopping, basic services of rubbish collection and toilet facilities were provided.
- Strong communication between council and a number of individuals on camp.
- There have been setbacks and political will has presented a key obstacle to either maintaining momentum or making progress.
- The council was willing and able to invest a not insignificant pot of money into a potential site for negotiated stopping, using savings by avoiding legal and clean-up costs associated with conventional treatment of unauthorised encampments.
- Throughout, Gypsies and Travellers have led the negotiations and discussions, with GATE playing only a facilitating role.

- The success of the negotiated agreement has become positively reinforcing, with money saved able to be reinvested and the evidence of its success facilitating its time extension and greater development of formality.³⁴

Leicestershire Multi Agency Travellers Unit (MATU) provides another good practice example in England. MATU has been operating for many years, incorporating the expertise of housing, planning, education, health and police, to provide a “one-stop-shop” approach. It is a rare example of an authority that has been successful in recent years in providing new Gypsy and Traveller sites, and in retaining a multi-agency approach that includes some Traveller education service, liaison and equalities advice. MATU does not use the term “negotiated stopping” but uses a “firm but fair” approach to unauthorised encampments, and there are clear codes of conduct and processes which frame their practice.

They have the clear ambition to provide benefits to the wider community, such as:

- ▶ Be a first point of communication about issues involving Travellers
- ▶ Provide an increased awareness towards what is required in responding effectively to emerging Traveller issues
- ▶ Take a common and consistent approach to the toleration/eviction of Travellers throughout the county
- ▶ Result in potential reduction in anti-social behaviour and reduce the need for enforcement.

Wales

There are some progressive policies in Wales that could provide lessons for the other UK countries, in terms of duties within the Housing (Wales) Act 2014 and in subsequent detailed guidance on delivering and managing sites as published by the Welsh government. The Welsh Guidance on Managing Unauthorised Camping 2013 advises that unauthorised encampments are the result of decreasing authorised spaces for Gypsies and Travellers to stop, and that unauthorised encampments signify the need for better accommodation. The guidance even goes so far as to advise that:

“Local authorities should recognise that it may be more cost effective to provide a site, even if that is a temporary tolerated site, than to enforce against unauthorised encampments in an area with no site provision and where there are a high number of unauthorised encampments. Such sites could reduce community tensions, remove the potential of damaged public land, and ensure that clear-up costs are reduced.”³⁵



Powys, Wales³⁶

In Powys there is an agreement with a landowner to use a parcel of land close to the Royal Welsh Showground for Travellers to stop before, during and after the show. Planning permission is secured for the specific two-week period. There is an agreement that Travellers must adhere to and rent allows for two-week use of the ground and access to portable toilets. The management of the temporary site was commissioned to a contractor with considerable experience in managing Gypsy and Traveller events. There is community cohesion work ongoing and the Fire Brigade attend the site to talk to residents and raise safety awareness. The provision is managed by a multi-agency group facilitated by the council and Royal Welsh Agricultural Society. The site is prepared before the show but then is returned to its original use – a field – after its temporary use.

The guidance highlights the benefit to the existing community of allowing temporary sites to be tolerated, and further implies that developing authorised sites would extend this benefit.

There are specific examples of negotiated stopping type approaches in Wales, in research for the Joseph Rowntree Foundation a piece of land was visited in Powys, which is used on a short-term temporary basis, for a specific period on the year to meet need:

The key ingredients demonstrated in Wales' good practice are:

- **Political vision** and leadership, embedded in progressive legislation
- **A planned approach** to policy and practice, working sites in practice
- **Trust** demonstrated between agencies and with Gypsies and Travellers.

Scotland

The Scottish Government also has a Guide to Managing Unauthorised Camping (2017) which includes a range of good practice examples and frameworks in its appendices, as well as similar consideration given to making balanced decisions as the English guidance³⁷.

East Ayrshire and Fife Council documents are listed as examples of good practice, both of which contain aspects of negotiated stopping. Uniquely, Fife Council highlights the need for seasonal sites, recognising the need for

increased accommodation during certain periods of the year. Through their recognition of the need for seasonal sites, Fife Council has guidelines in which they are able to set up sites which can be maintained for 4-6 weeks that have all the amenities required (e.g. portable toilets, water supply, waste disposal)³⁸.

More recently, the Convention of Scottish Local Authorities (COSLA) has made a clear statement of intent to work with local councillors and councils to “support better experiences for Gypsies and Travellers”. They are working with five pilots across the country to trial negotiated stopping³⁹. One of these which is most readily available on internet searches is Perth and Kinross Council. The research team contacted the council for an update on this very new initiative.

In August 2019, Perth and Kinross Council began a six-month pilot of negotiated stopping in their area. The council reportedly have approximately 12 unauthorised encampments per year, with average costs (excluding staff time) of £1500. They had learnt about negotiated stopping from the information disseminated by Leeds Gypsy and Traveller Exchange. Following a debate with other Scottish councils (COSLA), Perth and Kinross wanted to try this more proactive approach in order to see the social and financial benefits of a negotiated approach.

Perth and Kinross Council agreed a policy for the six-month trial, and the team devised a negotiated stopping agreement, along with a short “place criteria” document to help officers identify land that would be appropriate to use for the pilot. The new approach had not been formally used at the end of the first three months of the pilot, as unfortunately the council have struggled to identify suitable places in keeping with the criteria approved in the report – this work is ongoing. The place criteria and the negotiated stopping agreement are publicly available on the council's website with the committee report⁴⁰.

The key ingredients demonstrated in Scotland's emerging practice are:

- **Political vision**
- **A planned approach** to policy
- **Examples** of managing unauthorised encampments in a number of areas.

Those contingent factors yet to be clarified are:

- A planned approach to practically identifying appropriate land at a local level in the most recent negotiated stopping pilots.



A framework for negotiated stopping in London

The previous chapters have explored the responses to roadside stopping across London and the potential to adopt alternative approaches. From the engagement with local authorities, the review of policies and procedures and examples of existing good practice, it is possible to draw up a framework for negotiated stopping in London. This consists of: the contingent factors – or key ingredients – that enable this approach to work successfully; the key processes that are required in order to establish a consistent approach; and the desirable levels of response at local and strategic level that would ensure local authorities, the GLA and other public bodies act in line with their duties regarding equalities and human rights.

Key ingredients for a successful negotiated stopping approach in London

Based on the examples of good practice and the findings of this research, the following table outlines the contingent factors for negotiated stopping – or the key ingredients that are needed in order to enable local authorities, the GLA and other stakeholders to adopt alternative approaches to managing roadside camps on their land. (See Table 2).

Key processes of negotiated stopping

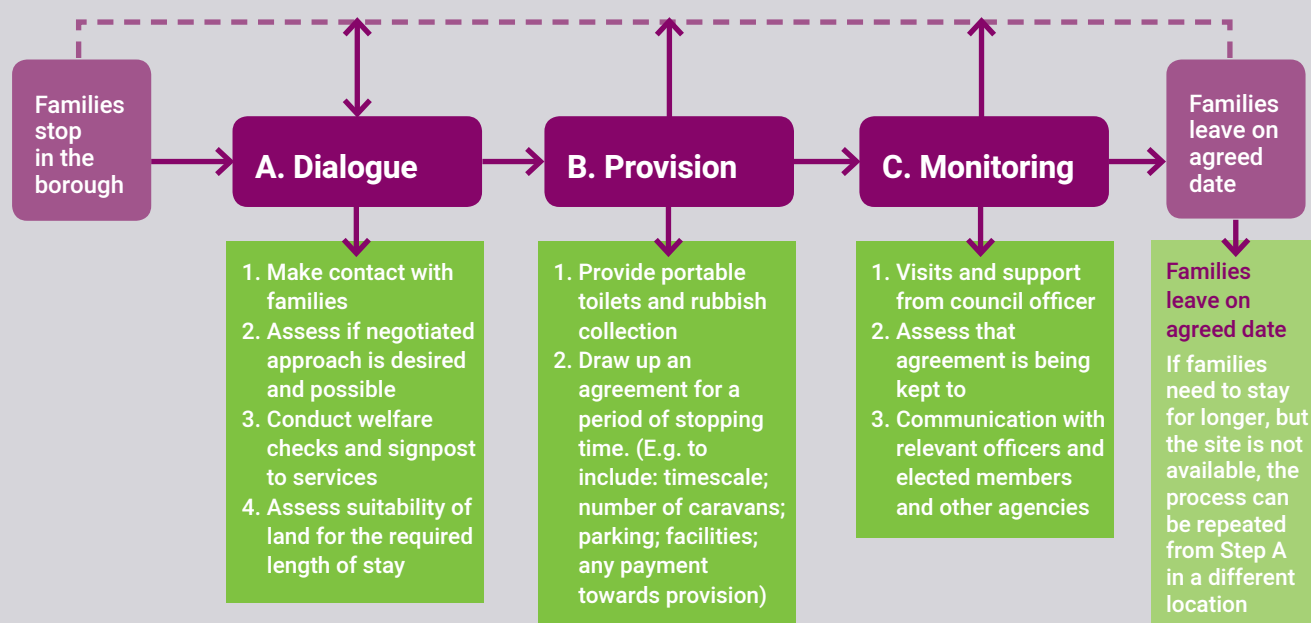
While negotiated stopping is a flexible approach that should be adapted to respond to local circumstances and needs, rather than a prescribed set of policies and procedures, the following steps can be highlighted as part of a basic process. The period of stopping time agreed between the landowner (e.g. local authority, GLA, housing association) and the Travellers can vary – as it was described in some of the examples of good practice in the previous chapter. The research has identified already occasions where aspects of this process take place, with a degree of informality and flexibility.

For longer periods, the process can become more complex, and it would require a more formalised framework in terms of the planning and resources allocated. This can also indicate the need for permanent accommodation for certain groups of families and it should feed into the plan making responsibilities of the local authority.

See Figure 4, page 27.

TABLE 2: Key ingredients for negotiated stopping in London		
Negotiated stopping ingredients	Barriers	Opportunities/facilitators
Political vision • A shift in political attitudes to travelling and stopping – a part of culture, not a “problem” • Setting positive examples and leading the way • Public Sector Equality Duty – challenging discriminatory language and action where it occurs	• The negative public perceptions of Gypsy and Traveller communities, particularly seen in social media campaigns • Subsequent pressure to act quickly and evict • Fear of a “honeypot” effect • The conflation of fly-tipping/organised waste crime with travelling	▶ The Mayor’s commitments to equality, diversity and inclusion ▶ Examples from elsewhere of positive political messages and leadership
Decent conditions for roadside families ▶ Outreach and dialogue ▶ Provision of basic facilities ▶ Detailed welfare assessments and follow up ▶ Agreeing stopping time	• Pressures from public and politicians to evict rapidly • Injunction orders (although some negotiation still possible) • Lack of scrutiny and monitoring regarding equality and human rights duties • Lack of capacity and other resources • Limited skills in outreach and building relationships	▶ Public Sector Equality Duty and human rights legislation ▶ Existing guidance and protocols that set these expectations ▶ Some examples of good practice
A planned approach to temporary stopping ▶ Identifying suitable alternatives for stopping places ▶ Budgets for dedicated staff and resources ▶ Securing meanwhile uses on vacant land ▶ Seeing roadside stopping as part of accommodation need	• Response to roadside stopping driven by enforcement team rather than accommodation or equalities • High cost of land and need to demonstrate financial returns • Austerity and budget cuts • Fear that negotiated stopping site could become permanent	▶ Gypsy and Traveller Accommodation Needs Assessments include recommendations on negotiated stopping approach ▶ Interest and willingness to engage from some local authorities ▶ Injunctions due to run out are an opportunity to plan for alternatives
Trust and partnership between Traveller families, local authorities, police and other agencies ▶ Consultation with residents, Gypsies and Travellers to keep lines of communication open ▶ Local elected members and senior leaders challenging discriminatory discourse where it occurs	• Discrimination, negative experiences, risks of being criminalised • Lack of capacity in civil society to work on the ground	▶ Traveller families successful in negotiating with councils for many generations
A coordinated pan-London approach ▶ Policy and guidance ▶ Joint working and infrastructure ▶ Staffing and resources ▶ Monitoring and evaluation	• Difficult to achieve consensus and engagement from all boroughs • Mobilising financial resources • Capacity and expertise issues	• GLA’s role to coordinate boroughs on planning issues
A clear separation of large-scale fly-tipping issues from roadside stopping	• Challenging for local authorities to investigate and prosecute	▶ Positive joint-working across different agencies

FIGURE 4: Key processes of negotiated stopping



A potential negotiated stopping approach for London

There are several ways in which the discussion and proposals on negotiated stopping could be taken forward for London. This report makes suggestions for a London-wide approach (see Chapter 5) for higher levels of mutual benefit and potential saving. However, it is recognised that with the different contexts facing councils, a range of responses will be possible at different levels.

Figure 5 below suggests four levels of response to roadside stopping that would result in positive impacts, in terms of advancing Public Sector Equality Duties, reducing social costs and also public spending.

It is recommended that the Level 1 response is seen by public landowners as the minimum standard of provision that should be made for all camps where dialogue and negotiation is possible. This would reduce the immediate impacts of eviction on families and the costs associated with clean up. Level 2 implies an agreement on allowing stopping time and therefore slows down the rate of evictions which would take place if families need to be in the area for a period. It has the potential to save costs in terms of staff time and legal fees. It is desirable that across London, boroughs seek to achieve the Level 3 response, which involves a higher degree of planning and preparedness, particularly through identifying land for meanwhile use and allocating resources more strategically.

Conclusions

This chapter has outlined several different examples which either use negotiated stopping or utilise some principles which include negotiation. The Leeds example has been in place for several years and is formalised with protocols and agreement templates which are available for other organisations to access on the web. In Scotland, there has been recent profile in media articles about newly introduced negotiated stopping approaches. The research team recognise the contextual challenges of applying existing models to London and recommend instead that ingredients and elements are adapted for use in the city.

There are some evident social and financial benefits to taking a coordinated approach to managing unauthorised encampments in London. We have found in this research that the increasing council by council eviction and injunction approach is not working for London as a whole – it is costly for the public purse, and it is displacing Travellers rather than resolving accommodation issues.

London councils need to ask themselves – where are they trying to move Gypsies and Travellers on to? If the answer is “not in my borough” then there is an urgent need for the GLA to grasp this issue and facilitate co-ordination. There must be places in London for Gypsies and Travellers to live, to travel and to stop.

FIGURE 5: Responses to roadside stopping in London





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Recommendations and actions

This research underlines the social and financial costs which result from not delivering accommodation or managing encampments well. There are important social benefits that can arise through a shift from an eviction centred approach to a negotiation and accommodation approach. The Women and Equalities Select Committee Inquiry focused on health, education and discrimination – and did not include planning and housing as specific themes. However, they made some important key recommendations⁴¹, one of which asked the Ministry of Housing Communities and Local Government for leadership – for government to co-ordinate a plan for Gypsy and Traveller communities.

In London, there is an opportunity for co-ordination and planning too, in order to reap some of the social and financial benefits of moving away from an eviction approach. The Greater London Authority has a platform

to work strategically in leading London councils in the provision of sites and the negotiation of spaces for stopping. Indeed, the GLA in managing its own land can demonstrate leadership by doing something differently in how it responds to encampments on its land. The GLA could be an instrumental lead in tackling the inequalities and reduction in social cohesion that result from a reactive and eviction-led response to accommodation need.

Recommendations

A list of recommendations emerged from the independent research, with key stakeholders identified to take the lead. These were discussed with London Gypsy Travellers who, recognising the current crisis of accommodation in the city, suggested timebound targets for the key stakeholders' recommendations, and these are set out in Table 3 on pages 30/31.



It is recommended that councils with existing injunctions should prepare to transition to a planned approach to managing camps when their injunctions expire, rather than automatically seeking to extend the injunction. London councils need to work together and consider the impact of their individual approaches on one another.

TABLE 3: Recommendations linked to research evidence

Recommendations	Time scale	Cost/resourcing	Evidence/need	Partners
1. Political champions GLA to work with LGT to create a charter or pledge for London politicians. The Mayor and Deputy Mayors to sign the pledge and start a communications campaign to publicise it across the board in the London Assembly and with London boroughs.	Early 2020	Officer time	● Social costs and inequalities ● Negative media coverage ● Negative comments from politicians	LGT Gypsy and Traveller communities
2. Leading by doing ● GLA to agree internally an approach that sets out the standard first response for all camps on GLA Group land to be dialogue and negotiation, provision of basic facilities and allowing stopping time where needed. ● GLA to develop a plan to implement this approach, including to identify the officers who will lead on the work, their relationship with GLA Estates Management and TfL, and the budget to fund provision of portable toilets and rubbish collection where needed. ● GLA to test this approach, monitor and evaluate the outcomes, in consultation with LGT, boroughs and other stakeholders. ● Based on success of initiative develop a policy of negotiated stopping for GLA Group Land.	Early 2020 – internal decision Early 2020 – plan Mar-Oct 2020 – test run Early 2021 – policy	Officer time Budget for portaloos/ rubbish collection	● Councils asking for leadership from the Mayor ● Mayor's commitments to equality and diversity ● GLA Estates and TfL don't have protocols to manage camps ● GLA and TfL spend on evictions could be reduced	GLA Group Local authorities
3. Support for a coordinated pan-London approach ● The London Mayor to invite all London council leaders and housing portfolio holders to a seminar to be facilitated by De Montfort University and London Gypsy Travellers, to encourage political will across the city, to address the issue of unauthorised encampments, through a negotiated approach. The seminar is also an opportunity to consult on the options for resourcing and support outlined below. ● GLA to make available an offer of support for London boroughs that can include the following options: ▶ GLA to facilitate a pan-London network for stakeholders from local authorities, housing associations etc to meet regularly and work on developing shared good practices for managing camps with the aim to reduce social impacts and public spending. This can be used as a forum to further scope out the funding needed to support negotiated stopping in London and to establish likely areas for demonstration pilots. ▶ A key GLA officer to work with London boroughs to implement negotiated approaches – the officer would help to identify land, develop financial models for meanwhile uses and work across council borders and with other agencies. ▶ A funding stream for a small scale negotiated stopping pilot between March and October 2020. This would be a for a joint bid between two or three neighbouring local authorities. Funding through such grant could help to cover officer costs and delivering appropriate services for negotiated stopping (in some instances, refuse disposal and portable toilets, for example). ● GLA to develop policy guidance on negotiated stopping (e.g. Supplementary Planning Guidance) – this can include topics such as identifying land, providing infrastructure (basic facilities), outreach and management. This could level the playing field and set the same expectations for all boroughs. ● GLA to evaluate the pilot funding stream and develop a grant programme for local authorities to implement negotiated stopping approaches between 2021 and 2024.	Early 2020 – seminar and consultation Early 2020 – offer and call for bids Mar-Oct 2020 – small scale pilot End 2020 – evaluation of network; Supplementary Planning Guidance; full funding stream for 2021-2024	Officer time New roles working in subregion – strategic officer; community outreach Funding for small scale pilot – includes officer time, budget for portaloos/ rubbish collection Funding for extended programme – potentially match funded	● Councils asking for support/resourcing ● Fear of “honeypot” effect ● Cost savings ● Sharing knowledge and best practices ● Working across boundaries ● Injunctions due to expire ● Planning for need – avoiding displacement	London councils Local authorities Councils outside London LGT Consultants Funders

Table 3 (continued): Recommendations linked to research evidence				
Recommendations	Time scale	Cost/resourcing	Evidence/need	Partners
4. Separate out issues of accommodation and waste - GLA together with the Environment Agency, London Councils, Metropolitan Police, London Waste and Recycling Board to establish a forum that meets regularly to investigate issues with fly-tipping and waste crime related to construction, commercial and industrial waste and devise an action plan aiming to prevent fly-tipping. - Local authorities, GLA and other stakeholders to review the collection of data on unauthorised encampments to ensure that costs associated with organised waste crime are separated out from costs of clearing up domestic waste and enforcement action.	Early 2020 – set up forum/ partnership End of 2020 – report and action plan Ongoing	Officer time	- Fly-tipping issues conflated - Social costs - Much bigger issue of poor waste management - Perceived risk of taking different approaches	EA, London councils Met Police London Waste and Recycling Board
5. Local authorities in London - Cabinet members for housing include Gypsy and Traveller accommodation (both permanent and temporary) in their portfolios of responsibility - In depth investigations review current practices of enforcement and assess how they meet requirements under the Public Sector Equality Duty and government guidance on dealing with unauthorised encampments - There is commitment to provide at least minimum standard of dialogue and provision of basic facilities to all Traveller families stopping on public land in the borough - There is financial modelling for negotiated stopping - There are Local Plans and other mechanisms to identify land - There is preparation for transition to a planned approach when injunctions expire.	Follow timetable for GLA recommendations	Cabinet Member Officer time Budgets for service provision Budgets for preparing land	- Public Sector Equality Duty and other requirements - Government guidance - No provision, injunctions and enforcement - Needs Assessments don't identify temporary need; but make recommendations on NS - Social costs - Public spending – displacing problem not solving it	GLA LGT and Traveller communities London councils

1. Simon Evans wrote about this in his book 'Stopping Places' and he included a summary in a short blog <https://www.culture24.org.uk/history-and-heritage/art38559>
2. <https://www.theguardian.com/cities/2018/jan/18/london-gypsies-counted-travellers-map-prejudice>
3. A London-wide GTAA in 2008 recorded a lower figure, but it is likely that the majority of Gypsies and Travellers living in housing, but who may still wish to continue to travel to maintain a cultural way of life, are not counted well in GTAA's. It is recognised that Census data also does not record very many people who may not be able to disclose their ethnic status for a variety of reasons.
4. https://www.london.gov.uk/sites/default/files/london_boroughs_gypsy_and_traveller_accommodation_needs_assessment_-_final_report_-_2008_-_fordham_research.pdf
5. <https://www.equalityhumanrights.com/en/publication-download/gypsy-and-traveller-sites-revised-planning-definition%E2%80%99s-impact-assessing>
6. We do not repeat such stories here as examples, to avoid giving more oxygen to the negative discourse.
7. Richardson 2006, 2007, Richardson and Ryder, 2012, Richardson 2014 <https://extra.shu.ac.uk/ppp-online/roma-in-the-news-an-examination-of-media-and-political-discourse-and-what-needs-to-change/>
8. <https://www.travellerstimes.org.uk/sites/default/files/inline-files/Recognise-Report-Resolve.pdf>
9. <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/gypsy-roma-traveller-inequalities-evidence-17-19/>
10. <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/360/report-files/36002.htm>
11. <https://www.jrf.org.uk/report/providing-gypsy-and-traveller-sites-contentious-spaces>
12. Richardson and Codona (2016) <http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/GypsyTravellerSitesDec16.pdf>
13. In relation to Public Sector Equality Duty <https://www.equalityhumanrights.com/sites/default/files/consultation-response-powers-for-dealing-with-unauthorised-development-and-encampments-june-2018.pdf> And in respect of Human Rights <https://www.gypsy-traveller.org/resource/the-human-rights-act-1998-and-its-impact-on-travellers/>
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23. <https://www.brent.gov.uk/media/16411801/2018-10-26-west-london-gtaa-final-report.pdf>
24. <https://www.redbridge.gov.uk/media/2269/draft-redbridge-gtaa-update-summary-and-questionnaire.pdf>
25. This refers to the Housing (Miscellaneous Provisions) Act (2002) which criminalised trespass in Ireland
26. <https://www.wandsworth.gov.uk/news/article/14730> October 5th, 2018
27. <https://governance.enfield.gov.uk/mgAi.aspx?ID=44096>
28. <https://moderngov.sutton.gov.uk/documents/s61638/8%20Permission%20to%20seek%20an%20injunction%20-%20Report.pdf>
29. To the £ (nearest pound)
30. De Montfort University was commissioned to undertake an evaluation of a three year asset based community development project by Leeds Gypsy and Traveller Exchange, a full report was submitted in 2017 and an excerpt has been used by Leeds GATE in their website on Negotiated Stopping <https://www.negotiatedstopping.co.uk/resources>
31. 5 (NB due to the different costing methodologies from the police and local authorities these savings are approximate)
32. <https://www.croydon.gov.uk/sites/default/files/articles/downloads/10%20Chris%20McAvoy%20nd%20statement%20Redacted.pdf>
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35. Welsh Government Guidance on Unauthorised Camping, 2013, p.8 <https://gov.wales/sites/default/files/publications/2019-03/guidance-on-managing-unauthorised-camping-2013.pdf>
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The potential for a negotiated stopping approach in London

This report is an independent piece of research supported with grant funding from the Greater London Authority and produced by London Gypsies and Travellers in partnership with De Montfort University.

The idea for negotiated stopping as a shared set of principles and approaches is to support all landowners and Gypsies and Travellers to agree what short term accommodation is appropriate, fair and in the best interests of all residents.

The report shows there are evident social and financial benefits to taking a coordinated approach to managing roadside stopping in London, instead of resorting to evictions and injunctions.



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IN THE HIGH COURT OF JUSTICE

KING'S BENCH DIVISION

IN THE MATTER OF
SECTION 222 LOCAL GOVERNMENT ACT 1972 AND
SECTION 187B TOWN AND COUNTRY PLANNING ACT 1990

Claim
No2024-
003315

BETWEEN:

**THE MAYOR AND THE BURGESSES OF THE
LONDON BOROUGH OF RICHMOND**

Claimant

and

**(1) PERSONS UNKNOWN FORMING AN
UNAUTHORISED ENCAMPMENT AND / OR
OCCUPYING FOR RESIDENTIAL PURPOSES
(including temporary occupation) WITH OR
WITHOUT VEHICLES ON ANY OF THE 8 SITES
WITHIN THE LONDON BOROUGH OF
RICHMOND UPON THAMES LISTED ON
SCHEDULE 1 ATTACHED TO THIS CLAIM**

Defendants

**(2) PERSONS UNKNOWN DEPOSITING
WASTE ON ANY OF THE 8 SITES WITHIN THE
LONDON BOROUGH OF RICHMOND UPON
THAMES LISTED ON SCHEDULE 1 ATTACHED
TO THIS CLAIM**

and

LONDON GYPSIES AND TRAVELLERS

Proposed
Intervener

DJK2

**To LB Richmond Upon Thames
Civic Centre,
44 York Street,
Twickenham,
TW1 3BZ**

23rd March 2020

Dear sir/madam

Re: LB RICHMOND UPON THAMES INJUNCTION ORDER

We write with regard to the interim injunction you obtained on 13 March 2019. We are an organisation which challenges social exclusion and discrimination, working for change in partnership with Gypsies and Travellers. We work with the community and a range of trusted partners to contribute to the development of local, regional and national policy.

We would refer you to the recent judgment in the case of *London Borough of Bromley v Persons Unknown (London Gypsies and Travellers and ors intervening)* [2020] EWCA Civ 12, a copy of which can be found here <https://www.bailii.org/ew/cases/EWCA/Civ/2020/12.html>

Bromley appealed to the Court of Appeal against the refusal of a wide injunction by the High Court. Judgment was handed down on 21 January 2020 and the appeal was dismissed. It is understood that Bromley does not intend to appeal that decision.

The Court of Appeal's judgment

Bromley's appeal was dismissed on all grounds, with Coulson LJ (with whom Haddon-Cave LJ and the Senior President of Tribunals agreed) stating that:

97. ... The judge considered all of the relevant factors when undertaking her proportionality exercise. She did not have regard to anything irrelevant. She came to a conclusion which she was entitled to reach....the appellant has struggled and failed to find any error of principle in the judge's reasoning.

Importantly, the Court of Appeal also gave guidance as to how local authorities should approach wide injunctions, which were described as being "*inherently problematic*". The Court emphasised the following (paragraphs 99-109):

- i. There is an "*inescapable tension*" between the Article 8 rights of the Gypsy and Traveller community and the common law of trespass, the obvious solution to which is the provision of more designated transit sites.

- ii. It was a *“striking feature”* of many of the documents before the Court that *“the absence of sufficient transit sites has repeatedly stymied any coherent attempt to deal with this issue”*.
- iii. The reality is that without sufficient sites *“unauthorised encampments will continue and attempts to prevent them may very well put the local authorities concerned in breach of the [European] Convention [on Human Rights]”*.
- iv. Government guidance presupposes that unlawful encampments will exist and does not suggest that they be closed down, save as a last resort and unless there are specific reasons for doing so. There is no hint in the guidance that a wide injunction is a satisfactory solution and indeed much of the guidance would be irrelevant if that were the answer.
- v. Local authorities must regularly engage with the Gypsy and Traveller community. Through a process of dialogue and communication, and following the guidance, wide injunctions should be avoidable. This might be achieved through negotiated stopping.
- vi. A local authority considering a *quia timet* injunction must engage with the Gypsy and Traveller community before seeking such an order. It must carry out welfare assessments, particularly where there are children involved, and undertake an up-to-date Equality Impact Assessment. A local authority which does not do this *“may expect to find its application refused”*.
- vii. Injunctions against persons unknown are exceptional measures because they avoid the protections of adversarial litigation and Article 6 of the European Convention on Human Rights (“ECHR”).
- viii. Local authorities must understand and respect the Gypsy and Traveller community’s culture, traditions, and practices. This will normally require positive action by the local authority to consider the circumstances in which the community’s Article 8 rights are capable of being realised.
- ix. The vulnerability and protected status of the Gypsy and Traveller community, and the integral role that the nomadic way of life plays as part of their ethnic identities, will be given weight in any proportionality assessment.
- x. The equitable doctrine of clean hands *“may require local authorities to demonstrate that they have complied with their general obligations to provide sufficient accommodation and transit sites for the Gypsy and Traveller community”*. Local authorities should provide evidence of what other suitable and secure housing or transit sites are available. If there are no alternative sites, no proposals for sites, and no support for the provision of sites, then *“that may weigh significantly against the proportionality of an injunction order”*. It is not enough to say that the Gypsy and Traveller community can go elsewhere.

- xi. The Court must take into account the cumulative effect of injunctions.
- xii. The duration of the injunction is important. It is *“without more – potentially fatal to any application for a local authority to seek a combination of a boroughwide injunction and a duration of a period as long as five years”*.
- xiii. A local authority seeking a wide injunction must show credible evidence of criminal conduct and/or likely risks to health and safety.

The Court concluded by saying that *“the Gypsy and Traveller community have an enshrined freedom not to stay in one place but to move from one place to another. An injunction which prevents them from stopping at all in a defined part of the UK comprises a potential breach of both the Convention and the Equality Act”*.

In light of this judgment we would ask you to confirm that you will urgently reconsider the injunction you have in place. Indeed we feel that this injunction should now be withdrawn. Please also confirm that you will not be seeking renewal of this injunction.

We look forward to hearing from you within 14 days.

Yours faithfully
Ilinca Diaconescu
Policy Officer
London Gypsies and Travellers