

House of Lords Briefing for the Crime and Policing Bill – Reducing police powers against encampments in PCSCA/CJPOA and the declaration of incompatibility

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Introduction

Gypsies and Travellers experience stark inequalities¹ and are subject to a wide range of enforcement powers against encampments. Part 4 of the Police, Crime, Sentencing and Courts Act (PCSCA), introduced in 2022, created a new criminal offence relating to trespass and gave police tougher powers to ban Gypsies and Travellers from an area for up to 12 months, with powers to fine, arrest, imprison and seize the homes of Gypsies and Travellers.

A judicial review challenged these new provisions brought in by the PCSCA 2022, with the High Court ruling in 2024 that some of the provisions are incompatible with the European Convention on Human Rights because of the impact on Gypsy and Traveller communities². Following the judgment, and after civil society, parliamentary and international campaigning, the Government are now making a move to address the declaration of incompatibility. The Government have tabled the following amendment to the Crime and Policing Bill (CPB):

[LORD HANSON OF FLINT, 375](#) After Clause 142, insert the following new Clause —

“Return to unauthorised encampments: prohibited period

(1) The Criminal Justice and Public Order Act 1994 is amended as follows.

(2) In section 60C(3) (offence relating to residing on land without consent in or with a vehicle) for “12” substitute “three”.

(3) In section 61 (power to remove trespassers on land)—

(a) in subsection (4)(b) for “prohibited period” substitute “period of three months beginning with the day on which the direction was given”;

(b) omit subsection (4ZA).

(4) In section 62 (supplementary powers of seizure)—

(a) in subsection (1)(b) for “prohibited period” substitute “period of three months beginning with the day on which the direction was given”;

(b) omit subsection (1A).

(5) In section 62B(2) (failure to comply with direction under section 62A: offences) for “twelve” substitute “three”.

(6) In section 62C(2) (failure to comply with direction under section 62A: seizure) for “twelve” substitute “three”.

¹ The umbrella term ‘Gypsy and Traveller’ includes many different and distinct communities. Romany Gypsies, Scottish and Welsh Gypsy Travellers, and Irish Travellers are separate ethnic groups, and experience similar inequalities and levels of racism and discrimination. Travelling groups in the UK also include Travelling Showmen, Liveaboard Boaters and New Travellers, who are not defined ethnic groups but continue to maintain a nomadic way of life. Roma are also an ethnic group, but do not usually live on encampments or sites in the UK.

² In a landmark decision on 14 May 2024, the [High Court Judge](#) issued a declaration of incompatibility under section 4 of the Human Rights Act 1998. This related to the extension of the power to ban families from an area from 3 to 12 months, finding that it discriminates against Gypsies and Travellers without justification and breaches Article 14 rights when read with Article 8 of the Convention. Garden Court Chambers explain the judgment further [in this article](#).

Member's explanatory statement: *This new clause changes the period within which a person directed to leave an unauthorised encampment must not return from twelve months to three.*

Amendments 466 and 468 also relate to amendment 375 and encampments. Whilst these amendments are welcomed, as they will significantly diminish the powers, some of the provisions brought in by PCSCA remain, and should be subject to further review.

Overview of the PCSCA 2022 police powers targeting encampments

Increased police powers targeting encampments were introduced through amendments made to provisions in Part V of the [Criminal Justice and Public Order Act 1994](#) (CJPOA) by Part 4 of the [Police, Crime, Sentencing and Courts Act 2022](#) (PCSCA).

This included the introduction of a new criminal offence where trespassers have the intent to reside, which applies when a person has at least one vehicle with them on the land; has caused, or is likely to cause, significant damage, disruption, or distress; and has failed to comply with this request as soon as reasonably practicable (see full provisions in section 60C CJPOA). Failure to comply without a '*reasonable excuse*' can lead to the police exercising powers to seize a vehicle (someone's home and possessions) as well as imprisonment and a fine (section 60D CJPOA).

Police powers were also strengthened by the PCSCA through amendments to existing powers of eviction in the CJPOA. This included amending section 61 to broaden the types of harm that fall within the scope of the power (to include '*that any of those persons has caused damage, disruption or distress...*') and increased the no-return ban period from 3 to 12 months where section 61 and section 62A have been used.

Impact of the amendment, remaining s60C-E powers and key differences with s61/62

The CPB amendment would make a meaningful reduction to the expanded police powers introduced by the PCSCA 2022 by restoring the '*prohibited period*' for return to an encampment to 3 months from 12 months. In doing so, it reverses one of the most far-reaching extensions made to the CJPOA 1994, significantly limiting the duration for which families can be banned from land and reducing the risk of prolonged criminalisation for returning. This brings the return period back into line with the pre-2022 position and narrows the scope of ongoing policing.

However, sections 60C-60E would remain in force. These sections create a standalone criminal offence of residing on land without consent in or with a vehicle where at least one vehicle is present and significant damage, disruption or distress has been caused or '*is likely to be caused*'. Police would continue to have the power to direct people to leave, to arrest for non-compliance, and to seize vehicles or other property. In practice, much of what remains, including the power to direct trespassers to leave, to arrest for failing to comply with directions, and to seize vehicles, already exists under sections 61 and 62.

Key differences between sections 60C-E and sections 61/62 of the CJPOA concern both numerical thresholds and the role of the occupier (the person entitled to possession of the land/the landowner). Section 60C can be triggered by one person with one vehicle (who is residing or intending to reside on the land, provided significant damage, disruption or distress has been caused or *'is likely to be caused'*). In contrast, section 61 requires two or more people on the land (and either damage, threatening behaviour or obstruction, or the presence of six or more vehicles).

In terms of the role of the occupier, a key structural difference between sections 60C-E and 61-62 of the CJPOA is the point at which the occupier becomes central to enforcement. Section 61 is police-led and triggered by objectively identifiable conditions (such as damage, threatening behaviour, obstruction, or six or more vehicles), with officers determining whether the thresholds are met. In contrast, section 60C places the occupier's experience at the gateway stage, giving them an earlier and more influential role in initiating a process that can lead directly to a criminal offence and vehicle seizure, accelerating escalation from complaint to enforcement compared with section 61³.

While the amendment reduces the scope of the extended powers, the remaining provisions continue to grant criminalisation and seizure powers. These powers and their impacts should be monitored through post-legislative scrutiny to assess their operation and any disproportionate effects. Given the breadth of pre-existing powers (see next section), the additional measures introduced by Part 4 of the PCSCA are unnecessary, and a full repeal of Part 4 would be more proportionate.

Pre-existing powers and lack of support from police for the Part 4 PCSC Act powers

Prior to sections 60C-E CJPOA coming into force, there already existed a wide range of other powers of eviction and removal, which were used against encampments. In March 2015, the Department for Communities and Local Government and the Ministry of Defence jointly published [a document summarising the powers](#) that public bodies have to deal with illegal and unauthorised sites: That report states: *'Councils and the police have been given strong powers to deal with unauthorised encampments.'*

Those *'robust'* pre-existing powers include: temporary stop notices; injunctions to protect land from unauthorised encampments; licensing of caravan sites; possession orders; interim possession order; local byelaws; the local authority power to direct unauthorised campers to leave land; addressing obstructions to the Public Highway; planning contravention notices; enforcement notice and retrospective planning; stop notices; breach of condition notices; powers of entry onto land; power of the police to direct unauthorised campers to leave land; and police powers to direct trespassers to an alternative site.

³ Statutory Guidance exists for police on unauthorised encampments: [a summary of available powers](#) (June 2022)

Against this legislative background, [research showed](#) that the majority of the police forces and police and crime commissioners that responded to the Home Office consultation (2019) on criminalising unauthorised encampments [opposed](#) the proposal to criminalise trespass. Only 21.7% of police bodies supported criminalisation of trespass, with 93.7% calling for site provision as the solution to unauthorised encampments.

The views of the National Chief Police Council and the Association of Police and Crime Commissioners were made plain in their [joint submission](#) to the 2018 Government consultation: *'Trespass is a civil offence and our view is that it should remain so. The possibility of creating a new criminal offence of "intentional trespass" or similar has been raised at various times over the years but the NPCC position has been – and remains – that no new criminal trespass offence is required.'*

Inequalities experienced by Gypsies and Travellers and the impact of criminalisation

In considering the increased enforcement powers, it should be noted that Romany Gypsies and Irish Travellers are widely recognised as being amongst the most marginalised groups within UK society. A [2012 report from the Department for Communities and Local Government](#) noted that: *'Gypsies and Travellers experience, and are being held back by, some of the worst outcomes of any group, across a wide range of social indicators.'* In March 2019, the House of Commons Women and Equalities Committee published a report on ['Tackling inequalities faced by Roma and Traveller communities'](#), noting that: *'Our inquiry has found that, while many inequalities have existed for a long time, there has been a persistent failure by both national and local policy-makers to tackle them in any sustained way.'*

Increased police powers could push Romany Gypsies, Irish Travellers and other nomadic communities into the criminal justice system, compounding inequalities and further restrict the ability to maintain a traditional and cultural way of life.

Conclusion

The CPB amendment represents a positive step in addressing the declaration of incompatibility, and in moderating some of the police powers introduced by the PCSCA 2022, particularly by shortening the prohibited return period from 12 months to 3 months. Parliamentarians should support this change as a necessary response to the declaration of incompatibility.

However, the remaining provisions under sections 60C–60E continue to grant substantial criminalisation and seizure powers. Further reductions to these powers, alongside increased provision of sites for Gypsy and Traveller communities, would be a more proportionate, equitable approach. More fundamental action to expand site provision falls within the remit of MHCLG, with whom discussions are ongoing as part of broader planning policy reforms.