

# Canllawiau Arfer Da

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## DEALL BETH FYDD EFFAITH DEDDF YR HEDDLU, TROSEDDU, DEDFRYDU A'R LLYSOEDD AR LES

GORFFENNAF 2022



## Rhagair

Mae Tîm Cyngor i Deithwyr yn cynghori ac yn cynrychioli Sipsiwn a Theithwyr ledled Cymru a Lloegr. Rydym yn hynod bryderus ynghylch y posibilrwydd o ganlyniadau trychinebus y drosedd tresmasu newydd a gyflwynwyd gan Ddeddf yr Heddlu 2022. Yn yr amgylchiadau hyn, bydd Canllawiau yn bwysig iawn i geisio lleddfu rhai o effeithiau gwaethaf posibl y defnydd o'r drosedd newydd hon. Rydym felly'n croesawu'r Canllawiau ardderchog yma gan BASW ac yn ddiau fyddwn yn dyfynnu'n helaeth ohonynt.

### **Chris Johnson**

Tîm Cyngor i Deithwyr – Partneriaeth Cyfraith Gymunedol Cyf.

## Cydnabyddiaeth

Ysgrifennwyd y Canllawiau Arfer Da hyn gan Dan Allen o Brifysgol Fetropolitan Manceinion gyda chefnogaeth gan Gymdeithas y Sipsiwn, Roma a Theithwyr.

Fe hoffai Dan Allen a Chymdeithas y Sipsiwn, Roma a Theithwyr ddiolch i Gymdeithas Gweithwyr Cymdeithasol Prydain am roi'r cyfle i gwblhau ac i ledaenu'r canllawiau hyn. Heb eu hymrwymiad i gydraddoldeb a chyfiawnder cymdeithasol, ni fyddai'r canllawiau hyn wedi bod yn bosibl.

Fe hoffai'r awduron diolch hefyd i Trudy Aspinwall, Teithio Ymlaen, Chris Johnson, Partneriaeth Cyfraith Gymunedol a Marc Willers QC, Siambrau Garden Court, a roddodd adolygiadau gan gymheiriaid arbenigol o ddrafft terfynol y canllawiau.

Cynhyrchwyd y cyhoeddiad hwn gan Gymdeithas Gweithwyr Cymdeithasol Prydain, ond cyfrifoldeb yr awduron yn unig yw cynnwys y cyhoeddiad hwn.

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## Crynodeb Gweithredol

Mae Deddf yr Heddlu, Troseddau, Dedfrydu a Llysoedd 2022 (Deddf yr Heddlu) wedi bod mewn grym ers 28<sup>ain</sup> Mehefin 2022, gan greu trosedd newydd sy'n anelu at gynyddu pwerau troi allan yn sylweddol gan effeithio'n anghymesur ar gymunedau Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersyll diawdurdod. O fethu â chydabod bod gwerylloedd anawdurdodedig yn deillio o'r diffyg darpariaeth o leiniau digonol (parhaol, tramwy ac argyfwng) a methiant llawer o Awdurdodau Lleol i ymrwymo i gytundebau aros a drafodwyd, gallai'r camau a gymerir o dan Ddeddf yr Heddlu olygu bod bywydau 10,000 o deuluoedd sy'n byw ar wersylloedd diawdurdod yn cael eu gwneud hyd yn oed yn fwy agored i niwed.

Lle mae Deddf yr Heddlu yn cael ei defnyddio, mae'r Swyddfa Gartref yn ei gwneud yn ofynnol i'r heddlu ystyried a oes ystyriaethau lles yn bodoli cyn i'r pwerau newydd gael eu gorfodi. Fodd bynnag, nid oes unrhyw ddull neu ffurf safonol y gallir eu defnyddio i lywio dull o ddeall pa ystyriaethau lles a all fodoli oherwydd weithrediad yr heddlu.

Nod y Canllawiau Arfer Da hyn yw darparu templed y gallir ei ddefnyddio gan swyddogion heddlu, swyddogion tai, swyddogion iechyd yr amgylchedd, swyddogion priffyrdd, swyddogion gorfodi cynllunio, wardeniaid Parc Cenedlaethol, eiriolwyr cymunedol, athrawon, gweithwyr cymdeithasol, swyddogion cymorth cymunedol a phawb arall sy'n ymwneud â chefnogi teuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n byw mewn gwerylloedd diawdurdod. Fe'i cynlluniwyd i lywio dealltwriaeth well o ystyriaethau lles, fel y gallir ystyried yn llawn yr egwyddor o gyfiawnder cymesur.

Trwy gynhyrchu'r canllawiau hyn, rydym yn cydnabod bod ystyriaethau lles yn deillio o gamau a gymerwyd o dan Ddeddf yr Heddlu. Yn unol â'r ddyletswydd sydd wedi'i chynnwys yn Adran 103 Deddf Tai (Cymru) 2014, y gobaith yw y bydd nodi'r un peth yn amlygu'r angen a aseswyd am fwy o wersylloedd awdurdodedig a chefnogi Adolygiad Barnwrol ar y sail bod y pwerau newydd a gynhwysir yn Neddf yr Heddlu yn anghydnaws gyda'r Ddeddf Hawliau Dynol yng Nghymru a Lloegr.

### **Cymdeithas Gwaith Cymdeithasol Sipsiwn, Roma a Theithwyr**

## Pennod 1: Cyflwyniad

Mae Deddf yr Heddlu, Trosedd, Dedfrydu a Llysoedd 2022 (Deddf yr Heddlu) wedi bod mewn grym ers 28<sup>ain</sup> Mehefin 2022, gan greu trosedd newydd o dan Ddeddf Cyfiawnder Troseddol a Threfn Gyhoeddus 1994 adrannau 60C i E.

Mae'r drosedd newydd hon yn cynyddu pwerau troi allan yn sylweddol ac mi fydd yn effeithio'n anghymesur ar gymunedau Sipsiwn, Dynion Sioe a Theithwyr. Er y dylai awdurdodau lleol a chyrrff cyhoeddus eraill (gan gynnwys yr heddlu) ystyried ystyriaethau lles cyn penderfynu defnyddio'r Ddeddf hon, mae'r dulliau a ddefnyddir i gyflawni'r ddyletswydd hon yn aml yn dameidiog. Felly, mae Cymdeithas Gwaith Cymdeithasol Sipsiwn, Roma a Theithwyr (GRTSWA) yn credu y bydd effaith lles y pwerau newydd hyn yn cael ei thanbriso'n fawr wrth i'r trallod a achosir gan achosion troi allan gael ei hanwybyddu, wrth i bwysigrwydd terfynau amser allweddol gael eu hanwybyddu a cholli'r cyfle i geisio her trwy Adolygiad Barnwrol.

Gan ymgorffori cyfreithiau a pholisïau cymdeithasol perthnasol o bob rhan o Brydain, mae'r Canllawiau Arfer Da hyn wedi'i hysgrifennu i gefnogi gweithredu dau dempled sgwrsio lles sydd gyda hwn. Mae'r ddau dempled hyn, Rhan A a Rhan B, wedi'u hysgrifennu gan y GRTSWA mewn partneriaeth â Chymdeithas Gweithwyr Cymdeithasol Prydain a Phrifysgol Fetropolitan Manceinion i gefnogi sgysiau ystyrion gyda theuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n wynebu gweithrediad o dan Ddeddf yr Heddlu.

Nod y Canllawiau Arfer Da hyn yw rhoi cyflwyniad byr am y mathau o sgysiau a all arwain at ddealltwriaeth ddibynadwy a gwiriadwy o ystyriaethau lles sy'n deillio o gamau gweithredu gan yr heddlu. Gellir defnyddio'r wybodaeth hon wedyn i gefnogi her gyfreithiol neu apêl yn erbyn Deddf yr Heddlu ar y sail bod y weithred o droi allan yn anghydnaws â'r Ddeddf Hawliau Dynol yng Nghymru a Lloegr. Mae wedi'i ysgrifennu i gefnogi unrhyw unigolyn neu sefydliad sy'n gweithio i roi terfyn ar hiliaeth a gwahaniaethu ac i amddiffyn hawl cymunedau Sipsiwn, Dynion Sioe a Theithwyr i ddilyn ffordd nomadig o fyw

### *Y Cyd-destun*

Ers yr 16eg ganrif, defnyddiwyd deddfwriaeth i reoli traddodiadau ac arferion crwydrol cymunedau Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ym Mhrydain (Vanderbeck, 2005). Heddiw, mae'r cymunedau hyn yn profi diffyg cynyddol o fannau aros awdurdodedig, a methiant cyfreithiau cynllunio i ddarparu dull realistig i deuluoedd sefydlu eu

safleoedd eu hunain. Mae hyn yn golygu bod tua 10,000 o deuluoedd heb le diogel cyfreithiol i aros ym Mhrydain (Ffrindiau, Teuluoedd a Theithwyr, 2020).

Heb unrhyw le cyfreithiol i aros, mae cymunedau Sipsiwn, Dynion Sioe a Theithwyr yn cael eu gorfodi i fyw ar wersylloedd diawdurdod. Yma mae unigolion, teuluoedd a chymunedau yn sefydlu gwersylloedd ar feysydd parcio, caeau chwarae neu ar ymyl y ffordd. Rhaid gwneud yn glir bod gwersylloedd diawdurdod yn digwydd o ganlyniad uniongyrchol i'r ddeddfwriaeth sy'n cyfyngu ar ryddid a datblygiad gwersylloedd awdurdodedig. I fod yn blaen, pe bai mwy o wersylloedd awdurdodedig, ni fyddai teuluoedd yn gorfod aros ar feysydd parcio, caeau chwarae neu ar ymyl y ffordd.

Mae'r diffyg gwersylloedd awdurdodedig hefyd yn effeithio ar draddodiadau diwylliannol. Er bod yr arfer o 'nomadiaeth' yn nodwedd warchoddedig i rai cymunedau Sipsiwn a Theithwyr, mae'r ffordd y mae teuluoedd yn cael eu gorfodi i ddefnyddio gwersylloedd diawdurdod yn golygu y gall y rhai sy'n parhau i 'deithio' wynebu caledi sylweddol sy'n effeithio ar eu hiechyd meddwl a chorfforol, lles, addysg a chyflogaeth (Okely, 1997). Er gwaethaf y caledi hwn, mae llawer o deuluoedd yn parhau i fyw ar wersylloedd diawdurdod wrth iddynt geisio ymarfer eu diwylliannau a'u traddodiadau crwydrol (Comarty, 2019).

Mae effaith uniongyrchol cyfreithiau a basiwyd i reoli traddodiadau crwydrol ac arferion cymunedau Sipsiwn, Dynion Sioe a Theithwyr yn golygu eu bod yn profi lefelau sylweddol o amddifadedd ac anghydraddoldeb. Mae llywodraeth Prydain eisoes wedi cydnabod y berthynas rhwng gwersylloedd diawdurdod a phenderfynyddion cymdeithasol iechyd. Yn 2012, daeth Cymunedau a Llywodraeth Leol i'r casgliad:

*“Gall Sipsiwn a Theithwyr sy'n byw ar safleoedd anawdurdodedig wynebu anawsterau ychwanegol i gael mynediad at wasanaethau iechyd ac addysg a gall natur ansicr eu cartrefi waethygu ymhellach anghydraddoldebau a mygu cyfleoedd bywyd.”*

Gan bwysleisio gwir effaith 'mygu cyfleoedd byw, daeth yr adroddiad i'r casgliad bod cymunedau Sipsiwn, Dynion Sioe a Theithwyr wedi profi rhai o'r canlyniadau iechyd a gofal cymdeithasol gwaethaf o gymharu â'r holl grwpiau eraill (Cymunedau a Llywodraeth Leol, 2012). Cefnogir y canfyddiad hwn gan nifer o astudiaethau eraill (Barry et al., 1987; Parry et al., 2004; Baker, 2005; Rose-Walker, 2008; Y Swyddfa Ystadegau Gwladol, 2011; Senedd y DU, 2019; Allen a Hamnett, 2022 ) sy'n dangos anghydraddoldebau sylweddol mewn materion sy'n ymwneud ag addysg, iechyd a chyfiawnder cymdeithasol (gweler Blwch 1 isod).

39% o Sipsiwn a Theithwyr efo salwch hirdymor o gymharu â grwpiau lleiafrifoedd ethnig eraill.

Mae Teithwyr Gwyddelig 3 gwaith yn fwy tebygol o gael peswch cronig neu froncitis, hyd yn oed ar ôl ystyried ysmegu.

10 - 22% o Sipsiwn a Theithwyr wedi dweud bod asthma arnynt a 34% yn dweud bod ganddynt boen yn y frest o gymharu â 5% a 22% o'r boblogaeth gyffredinol.

Cymunedau Sipsiwn, Dynion Sioe a Theithwyr sy'n darparu'r lefelau uchaf o ofal di-dâl o gymharu â grwpiau eraill.

Mae Sipsiwn a Theithwyr bron deirgwaith yn fwy tebygol o fod yn bryderus na'r cyfartaledd ac ychydig dros ddwywaith yn fwy tebygol o fod yn isel eu hysbryd.

Mae Teithwyr Gwyddelig 3 gwaith yn fwy tebygol o farw trwy hunanladdiad na'r boblogaeth gyffredinol.

Mae mynychder gormodol o gam-esgor, genedigaethau marw a marwolaethau plant newydd-anedig mewn cymunedau Sipsiwn, Dynion Sioe a Theithwyr a chyfraddau uchel o farwolaethau mamau yn ystod beichiogrwydd ac yn fuan ar ôl genedigaeth.

Mae mynychder uchel o achosion o ddiabetes wedi'u nodi mewn Cymunedau Sipsiwn, Dynion Sioe a Theithwyr, a diffyg gwybodaeth gymunedol am y ffactorau risg.

Mae menywod o gymunedau Sipsiwn, Dynion Sioe a Theithwyr yn byw 12 mlynedd yn llai na menywod yn y boblogaeth gyffredinol a dynion 10 mlynedd yn llai, er bod ymchwil diweddar yn awgrymu y gallai'r bwlch disgwyliad oes fod yn llawer uwch.

Mae plant Sipsiwn a Theithwyr 3 gwaith yn fwy tebygol o gael eu cyfeirio at wasanaethau plant a theuluoedd a 3 gwaith yn fwy tebygol o fynd i ofal y wladwriaeth o gymharu â'r holl grwpiau lleiafrifoedd ethnig eraill.



## *Deddf yr Heddlu, Trosedd, Dedfrydu a Llysoedd (2022)*

Yn ogystal â'r caledi sydd eisoes yn wynebu cymunedau Sipsiwn, Dynion Sioe a Theithwyr ym Mhrydain, mae Deddf yr Heddlu yn cyflawni ymrwymiad y Llywodraeth i gryfhau gallu'r heddlu i erlyn y rhai sy'n byw ar wersylloedd diawdurdod. Mae hyn yn cynnwys pŵer arestio newydd a phŵer i'r heddlu atafaelu cerbydau teuluoedd Sipsiwn, Dynion Sioe a Theithwyr. Yn ôl y Swyddfa Gartref (2022a):

*“Mae'r Ddeddf yn creu trosedd newydd o fyw gyda cherbyd ar dir heb ganiatâd. Bydd y drosedd newydd yn cael ei chyflawni pan fydd rhywun yn achosi difrod, aflonyddwch neu drallod sylweddol yn y cyflyrau a ddisgrifiwyd, ond wedi'i fframio yn y fath modd sy'n sicrhau nad yw hawliau'r rhai sy'n dymuno mwynhau cefn gwlad yn cael eu heffeithio”*

Wrth grynhoi Deddf yr Heddlu, mae'r Swyddfa Gartref yn methu â chydabod bod problem gwerysilloedd diawdurdod yn deillio o ddiffyg darpariaeth o leiniau digonol, parhaol, tramwy neu frys, a methiant llawer o Awdurdodau Lleol i ymrwymo i gytundebau aros a drafodwyd. Cyflwynodd Deddf Meysydd Carafanau 1968 ddyletswydd i hwyluso darparu safleoedd ond diddymwyd y ddyletswydd honno gan Ddeddf Cyfiawnder Troseddol a Threfn Gyhoeddus 1994.

Trwy erlyn y rhai sy'n byw gyda cherbyd ar dir heb ganiatâd, mae Deddf yr Heddlu yn amlwg yn targedu Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersylloedd diawdurdod. Mewn perthynas â'r canrifoedd o ddeddfau a ddefnyddiwyd i reoli traddodiadau ac arferion crwydrol cymunedau Sipsiwn, Dynion Sioe a Theithwyr, mae Deddf yr Heddlu yn targedu pobl sydd wedi cael eu gorfodi i breswyllo ar dir heb ganiatâd oherwydd Deddfau cyfreithiol eraill sy'n atal datblygu gwerysilloedd awdurdodedig. I'r bobl hynny sy'n ceisio arfer eu diwylliannau a'u traddodiadau crwydrol, fel y'u gwarchodir gan y gyfraith, mae'r 'sefyllfa dim-ennill' gyfreithiol hon yn golygu y gallai'r 10,000 o deuluoedd nad oes ganddynt le diogel cyfreithiol i aros yno yng Nghymru a Lloegr gael eu gwneud hyd yn oed yn fwy agored i niwed cyn bo hir.

Fel y dengys Webb et al., (2021) a Bywaters et al., (2019), mae anghydraddoldebau mewn addysg, iechyd a chyfiawnder cymdeithasol yn cynyddu lle mae amddifadedd a diffyg cyfle. Drwy alluogi'r heddlu i arestio ac atafaelu cerbydau a chartrefi teuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersyll diawdurdod, credwn y bydd y pwerau a gynhwysir yn Neddf yr Heddlu yn lleihau cyfleoedd ac yn creu amddifadedd pellach i rai o'r grwpiau mwyaf ymylol ac agored i niwed ym Mhrydain. Mae'n hanfodol felly bod y rhai sy'n gweithio i gefnogi teuluoedd Sipsiwn, Dynion

Sioe a Theithwyr sy'n byw ar wersylloedd diawdurdod wedi'u paratoi'n well i ymdrin â'r effaith gysylltiedig y bydd gweithredu gan yr heddlu yn ei chael.

## *Pam fod angen ymateb?*

Dylai prif uchelgais pawb sy'n cefnogi teuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersylloedd diawdurdod adlewyrchu'r angen i helpu i sicrhau eu lles a'u diogelwch trwy ddarparu mwy o wersylloedd awdurdodedig. Yn unol â'r ddyletswydd yn Adran 103 Deddf Tai (Cymru) 2014, mae'n hanfodol bod yr angen a aseswyd am safleoedd yn gallu gwrthbwysu'r drosedd newydd a'r diwygiadau i droseddau presennol. Gan fod gwaith sydd ei angen i roi newid deddfwriaethol a pholisi cynllunio ar waith bellach yn cael ei fygwth gan Ddeddf yr Heddlu, mae angen gweithredu ar frys i sicrhau nad yw'r pŵer i arestio, a'r pŵer i'r heddlu atafaelu'r cerbydau, yn peryglu ymhellach iechyd, diogelwch a lles teuluoedd Sipsiwn, Dynion Sioe a Theithwyr.

Fe ddylai awdurdodau lleol a chyrff cyhoeddus eraill (gan gynnwys yr heddlu) ystyried ystyriaethau lles cyn penderfynu a ddylid troi allan gwrsyll teithwyr, gan fod canllawiau presennol y Llywodraeth ar wersylloedd diawdurdod (yng Nghymru a Lloegr) yn parhau yn eu lle. Yn ogystal, mae canllawiau statudol i'r Heddlu newydd gael eu cyhoeddi gan y Swyddfa Gartref ac mae canllawiau pellach gan Gyngor Cenedlaethol Penaethiaid yr Heddlu wedi'u cyhoeddi. Bydd y canllawiau olaf yn arbennig o bwysig i'r rhai sy'n cynghori Sipsiwn a Theithwyr (Johnson, 2022).

Lle mae Deddf yr Heddlu yn cael ei defnyddio, mae'r Swyddfa Gartref (2022b: 12) yn ei gwneud yn ofynnol i'r heddlu ystyried a oes ystyriaethau lles yn bodoli cyn i'r pŵer arestio newydd a'r pŵer i'r heddlu atafaelu cerbydau teuluoedd Sipsiwn, Dynion Sioe a Theithwyr cael ei orfodi:

*'Dylai'r heddlu sicrhau, yn unol â'u rhwymedigaethau cydraddoldeb a hawliau dynol ehangach, bod ymholiadau priodol am lesiant yn cael eu cynnal i benderfynu a oes anghenion dybryd yn cael eu cyflwyno gan y rhai ar wersylloedd diawdurdod a, lle bo angen, bod yr asiantaethau priodol (gan gynnwys Awdurdodau Lleol yn cymryd rhan cyn gynted â phosibl. Os oes angen, gallai camau gorfodi yn erbyn y rhai ar y gwrsyll diawdurdod gael eu gohirio tra bo anghenion lles brys yn cael sylw'*

Er gwaethaf y canllawiau statudol hyn, gwyddom nad yw awdurdodau lleol a chyrff cyhoeddus eraill (gan gynnwys yr heddlu) yn holi am y materion hyn fel mater o drefn, nac yn gohirio camau gorfodi nes bod ymchwiliad lles wedi'i gynnal. Nid yw'r rhan fwyaf o'r ffurflenni presennol y gellid eu defnyddio i arwain a llywio ymholiad lles yn addas ar gyfer ymarfer, ac nid oes unrhyw ganllawiau arfer da yn bodoli lle y gellid eu defnyddio i ddeall y ffordd orau o gydlynu ymholiad lles llawn a chywir.

Felly mae angen fframwaith sgwrsio generig i alluogi'r heddlu, awdurdodau lleol a chyrff cyhoeddus eraill i fodloni'r gofyniad a osodwyd gan y Swyddfa Gartref. Mae hefyd yn bwysig nodi nad yw cyngor byr y Swyddfa Gartref (2022b) ar ddeall materion lles yn mynd yn ddigon pell. Er mwyn cyflawni eu cyfrifoldeb yn llawn, i leihau cydraddoldeb ehangach ac i hyrwyddo rhwymedigaethau hawliau dynol, mae'n rhaid i'r heddlu ddeall hefyd sut y gall y pwerau sydd wedi'u cynnwys yn Neddf yr Heddlu eu hunain achosi ystyriaeth lles brys (Willers a Jonson, 2020).

## Pennod 2: Ymchwiliad Lles: Rhan A

Er mwyn helpu i ddeall rhai o'r ystyriaethau lles a achosir gan Ddeddf yr Heddlu, rydym wedi dylunio templed y gellir ei ddefnyddio gan swyddogion tai, swyddogion iechyd yr amgylchedd, swyddogion priffyrdd, swyddogion gorfodi cynllunio, wardeniaid y Parc Cenedlaethol, eiriolwyr cymunedol, athrawon, gweithwyr cymdeithasol, swyddogion cymorth cymunedol a phawb arall sy'n ymwneud â chefnogi teuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersyll diawdurdod.

Gellir defnyddio'r ffurflen 'Ymholiad Lles: Rhan A' sy'n cyd-fynd â'r Canllawiau Arfer Da hyn ar unrhyw achlysur i gasglu gwybodaeth ddefnyddiol am sut mae camau a gymerir o dan Ddeddf yr Heddlu yn effeithio ar fywyd teuluol. Hyd yn oed os yw'r teulu'n bwriadu symud ymlaen, mae Rhan A wedi'i dylunio i helpu awdurdod lleol neu gorff cyhoeddus arall i gynnal ymholiadau lles a datblygu gwell dealltwriaeth o'r rhesymau pam mae teulu'n byw ar wersyll diawdurdod. Yna, lle bynnag y bo modd, gall y wybodaeth hon gael ei defnyddio gan yr awdurdod lleol a chyrrff cyhoeddus eraill (gan gynnwys yr heddlu) i asesu a chynllunio darpariaeth llety arall i gefnogi asesiad llety mwy ffurfiol. Hyd yn oed os yw'r teulu wedi nodi eu bwriad i symud ymlaen ar ôl gweithredu Deddf yr Heddlu, dylid eu cyfeirio at y gwasanaethau a restrir ar dudalen 19 o hyd.

Gan fod ymholiadau lles yn aml yn cael eu hanwybyddu, rydym yn annog awdurdodau lleol a chyrrff cyhoeddus eraill i fabwysiadu'r ffurflen 'Ymchwiliad Lles: Rhan A', ynghyd â'r Canllawiau Arfer Da hyn, wrth ddatblygu eu polisi ysgrifenedig eu hunain ar gyfer rheoli gwersylloedd diawdurdod a chyflawni ymholiadau lles hanfodol.. Byddai GRTSWA yn croesawu trafodaethau gydag awdurdodau lleol a chyrrff cyhoeddus sy'n dymuno mabwysiadu'r model hwn.

Os penderfynir, wrth gwblhau Rhan A, y bydd camau a gymerwyd o dan Ddeddf yr Heddlu yn achosi ystyriaethau lles sylweddol, mae'r ffurflen Rhan B wedi'i dylunio i gefnogi sgwrs fanylach. Gyda chaniatâd yr unigolyn, dylai'r wybodaeth ychwanegol a roddir yn Rhan B wedyn yn cael ei ddwyn i sylw'r awdurdod lleol neu gorff cyhoeddus arall. Lle bo'n bosibl, ac eto gyda chaniatâd, dylai'r ystyriaethau lles a nodir yn Rhan B hefyd cael eu trosglwyddo i sefydliad Sipsiwn, Dynion Sioe a Theithwyr fel y gellir rhoi cyngor cyfreithiol am ddim. Mae'r rhestr o sefydliadau Sipsiwn, Dynion Sioe a Theithwyr hefyd wedi'i rhestru ar dudalen 19 o'r canllawiau hyn.

## Pennod 3: Ymchwiliad Lles: Rhan B

Cafodd ffurflen 'Ymholiad Lles: Rhan B' ei ddiweddarau trwy'r concordatiau polisi ac ymchwil allweddol a restrir yn Atodiad 1. Fel Rhan A, gellir defnyddio Rhan B gan unrhyw un sydd â'r cyfrifoldeb neu'r cyfle i ganfod problemau sy'n dod i'r amlwg ac ystyriaethau lles posibl sy'n deillio o gamau a gymerwyd o dan Ddeddf yr Heddlu. Yn wahanol i Ran A, mae Rhan B wedi'i chreu i alluogi adnabyddiaeth lawnach a chyson o ystyriaethau lles sy'n dod i'r amlwg.

Pryd bynnag y defnyddir y ffurflen 'Ymholiad Lles: Rhan B', y diben bob amser yw casglu gwybodaeth y gellir ei gwirio (Gweler Blwch 2).

*Blwch 2: Pwrpas ffurflen Rhan B*

Yn ogystal â Rhan A, cafodd ffurflen Rhan B ei ddylunio i'ch galluogi i:

- Casglu gwybodaeth bwysig am unigolyn, plentyn a chymuned.
- Dadansoddi anghenion ac / neu natur unrhyw ystyriaethau lles.
- Penderfynu a fydd y camau a gymerwyd o dan Ddeddf yr Heddlu yn creu ystyriaethau lles ychwanegol, gan dorri cyfraith cydraddoldeb a hawliau dynol.
- Nodi'r gefnogaeth sydd ei angen i fynd i'r afael a'r anghenion hynny er mwyn diogelu lles a, lle bo angen, sicrhau bod yr unigolyn neu'r gymuned yn ddiogel.

Trwy gydol sgwrs effaith lles sy'n cael ei harwain gan y ffurflen Rhan B, dylai casgliadau fod yn seiliedig ar dystiolaeth. Dylai fod gwybodaeth glir am y camau sydd i'w cymryd a'r gwasanaethau sydd i'w darparu i atal ystyriaethau lles rhag codi i bwynt o argyfwng. Dylai'r person sy'n arwain y drafodaeth roi cymorth i'r unigolyn, y teulu a'r gymuned, ac fe ddylai weithredu fel eiriolwr a chydlynu'r gwaith o ddarparu gwasanaethau cymorth a nodwyd.

Mae cwblhau Rhan B yn debygol o fod yn gymhleth ac yn gofyn am wybodaeth a gwerthoedd ymarferydd medrus a phrofiadol. Ym mhob achos, dylid gofyn i feddyg teulu, gweithiwr cymorth teulu, nyrs ysgol, gweithiwr cymdeithasol, athro, eiriolwr cymunedol, ymwelydd iechyd a / neu gydlynnydd anghenion addysgol arbennig neu arweinydd crefyddol, neu rywun arall sydd â phrofiad o weithio gyda chymunedau Sipsiwn, Dynion Sioe a Theithwyr am gymorth i'w gwblhau'n llawn.

Cafodd ffurflen Rhan B ei ddylunio i'w defnyddio gyda chytundeb yr unigolyn, y teulu a'r gymuned, gan gynnwys y plentyn a'r teulu yn ogystal â'r holl ymarferwyr sy'n gweithio gyda nhw. Fe ddylai ystyried dymuniadau a theimladau'r plentyn lle bynnag y bo'n bosibl – ei oedran, yr amgylchiadau teuluol a'r cyd-destun cymunedol ehangach y maent yn byw ynddo. Dylai'r rhai sy'n cwblhau'r ymholiad lles hysbysu unigolion y bydd eu data'n cael ei gofnodi a'i rannu, a'r diben hyn yn cael ei egluro iddynt. Os ystyrir ar unrhyw adeg y gallai unrhyw blentyn fod mewn angen, neu ei fod wedi dioddef niwed sylweddol neu'n debygol o ddioddef niwed, dylid gwneud cyfeiriad ar unwaith i ofal cymdeithasol plant yr awdurdod lleol. Gall unrhyw un wneud y cyfeiriad hwn.

## Pennod 4: Sut i gynnal ymchwiliad lles da

Dylai'r sgysiau lles ac effaith sydd eu hangen i gwblhau Rhan A a Rhan B fod yn ddigon deinamig i ddadansoddi ac ymateb i'r newid yn natur a lefel yr angen a / neu'r risg a wynebir gan yr unigolyn, y teulu a'r gymuned. Mae'n bwysig bod effaith yr hyn sy'n digwydd oherwydd Deddf yr Heddlu yn cael ei nodi'n glir a bod gwybodaeth yn cael ei chasglu, ei chofnodi a'i gwirio'n systematig, a'i thrafod gyda'r unigolyn, y teulu a'r gymuned i wirio cywirdeb.

Mae sgysiau da yn cynorthwyo dealltwriaeth o'r ystyriaethau lles sy'n gysylltiedig ag unrhyw gamau a gymerir o dan Ddeddf yr Heddlu. Mae'n bosibl felly y bydd angen dealltwriaeth o anghenion cymorth rhieni, gofalmwr, gofalmwr nad ydynt yn rhieni, ac oedolion o fewn y gymuned deuluol a hŷn. Am y rheswm hwn, ymholiadau lles o ansawdd uchel yw:

**Canolbwyntio ar y person.** Dylai pob penderfyniad gael ei wneud er lles gorau'r unigolyn, y teulu neu'r gymuned gyda gwybodaeth a'i gofnodi fel tystiolaeth.

- **Canolbwyntio ar weithredu a chanlyniadau.** Dylai pob penderfyniad gael ei gynllunio i leihau neu finimeiddio ystyriaethau lles a grëir gan Ddeddf yr Heddlu
- **Dull cyfannol.** Mynd i'r afael ag anghenion a lles yr unigolyn, y teulu neu'r gymuned.
- **Canolbwyntio ar gyfleoedd cyfartal.** Yn seiliedig ar ac yn cynnwys deddfwriaeth cydraddoldeb a hawliau dynol.

**Y gallu i gynnwys plant.** Sicrhau bod llais y plentyn yn cael ei glywed a bod cefnogaeth briodol ar gael i alluogi hyn pan fo gan y plentyn anghenion cyfathrebu penodol.

- **Y gallu i adnabod risgiau.** Rhaid sefydlu diogelwch a lles y plant, teulu a chymuned.

**Y gallu i adeiladu ar gryfderau yn ogystal ag adnabod anawsterau.** Mae'r unigolyn, y teulu a'r gymuned yn debygol o fod dan bwysau aruthrol oherwydd Deddf yr Heddlu. Yn ogystal, efallai bydd ganddynt hwy wydnwch sylweddol a strategaethau ymdopi hefyd.

**Canolbwyntio ar weithredu cadarnhaol.** Ceisiwch restru'r camau gweithredu sydd eu hangen gan gynnwys darparu gwasanaethau.

**Tryloyw.** Oherwydd hiliaeth systemig a gyfundrefnol, bydd unrhyw asesiad o effaith lles Sipsiwn, Dynion Sioe a Theithwyr trwy'r pwerau newydd a ganiateir yn Neddf yr Heddlu yn debyg o gael ei gwestiynu gan awdurdodau lleol a chyrff cyhoeddus eraill ac yn agored i gael ei herio. Mae'n hanfodol felly bod cofnod y sgwrs yn cynnwys gwybodaeth onest, gredadwy, y gellir ei brofi ac y gellir ei wirio yn unig.

**Ataliol.** Fel y pwysleisiwyd gan McAlister (2022), yn yr adolygiad o ofal cymdeithasol plant a gomisiynwyd gan y llywodraeth, yr hyn sydd ei angen ar hyn o bryd yw newid y diwylliant o fynd â phlant i ofal y wladwriaeth. Mae mabwysiadu'r Canllawiau Arfer Da hyn, a'r Templed Sgyrsiau cysylltiedig, yn cyd-fynd â'r argymhelliad hwn a deddfwriaeth lles perthnasol ar draws gwasanaethau oedolion a phlant.

Mae'r GRTSWA yn hyderus mai dull systemig o gwblhau Rhan A a Rhan B yw'r ffordd orau o ddarparu golwg gynhwysfawr ar ystyriaethau lles.

Er mwyn helpu i gwblhau'r gwaith, mae modelau amrywiol eisoes wedi'u cynnwys yn ffurflen Rhan B. Bwriad Rhan B yw rhoi cyfle i ystyried anghenion generig yr unigolyn, y teulu a'r gymuned, er mwyn galluogi sgwrs sensitif a all rymuso a galluogi'r rhai sy'n wynebu gweithredu o dan Ddeddf yr Heddlu. Mae rhai modelau eraill i gefnogi cwblhau'r ddwy ffurflen sy'n cyd-fynd â'r canllawiau hyn i'w gweld yn Atodiadau 2 a 3.

### ***Sgwrs sensitif***

Mae'n bwysig cydnabod bod unrhyw sgwrs am effaith lles Deddf yr Heddlu yn debygol o ddod ar adeg pan fo'r unigolyn, y teulu a'r gymuned yn profi llawer iawn o drallod a phryder. Gallai'r cwestiynau a gyflwynir yn Rhan A a Rhan B hefyd ymddangos i fod yn anarferol i'r rhai nad ydynt wedi arfer siarad am yr anawsterau, trallod a phryder y maent yn eu profi.

Dylai pwrpas y sgwrs sydd ei hangen i ddeall effaith lles Deddf yr Heddlu ymwneud yn bennaf â chefnogi unigolion, teuluoedd a chymunedau sydd mewn perygl o fod yn droseddwy, neu eu troi allan. Fodd bynnag, prif nod y sgwrs yw galluogi pobl i oresgyn ystyriaethau lles drwy ymateb i gamau a all wadu'r hawliau a'r breintiau y mae llawer o bobl eraill yn eu cymryd yn ganiataol. Trwy deilwra'r sgwrs i adlewyrchu'r berthynas rhwng unigolion a'u hamgylchedd, dylai pwrpas y drafodaeth adlewyrchu dull sy'n seiliedig ar berthynas.



## ***Adeiladu perthynas***

Mae'r canllawiau statudol a gyhoeddwyd gan y Swyddfa Gartref a Chyngor Cenedlaethol Penaethiaid yr Heddlu wedi'u dehongli gan Gyfeillion Teuluoedd a Theithwyr a Phartneriaeth Cyfraith Gymunedol, dau sefydliad sy'n arbenigo mewn cefnogi Sipsiwn, Dynion Sioe a Theithwyr. Fodd bynnag, mae'r sylw anghyfartal a roddir i ganllawiau ar sut i gynnal ymholiad lles wedi creu gwahaniaeth yn y wybodaeth, y gwerthoedd a'r sgiliau y gall fod eu hangen i ddangos dull o nodi ystyriaethau effaith lles. Yn benodol, o fewn y darlun sy'n cael ei greu gan y gynrychiolaeth ystrydebol o deuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n byw ar wersylloedd diawdurdod, mae delwedd yn dod i'r amlwg o grŵp cyfan o unigolion, teuluoedd a chymunedau di-rym sy'n aros am rywun a all gynrychioli eu safbwyntiau a'u harwain i fywyd gwell. Nid yn unig yw'r ddelwedd hon yn nawddoglyd, ond mae hefyd yn anghywir. Mae'n cymryd yn ganiataol nad oes gan unigolion, teuluoedd a chymunedau'r adnoddau, y gallu, y cyfalaf a'r pŵer i helpu eu hunain.

Er ei bod yn bwysig i gydnabod y bydd llawer o'r bobl sy'n wynebu camau gweithredu o dan Ddeddf yr Heddlu yn profi ymdeimlad dwfn o ddiffyg grym, mae hefyd yn bwysig i gydnabod bod gan yr ymdeimlad dwfn hwn o ddiffyg pŵer achos, a waethygir yn aml gan derfynau amser llym sy'n gysylltiedig â rhybudd troi allan.

I rai, mae diffyg grym yn deillio o amddifadedd economaidd cymdeithasol, ymleiddio, stigmatiddio, a diffyg gwasanaethau cymorth. I eraill, mae diffyg grym yn deillio o ymdeimlad o ansicrwydd, diffyg cyfle, anghyfiawnder cymdeithasol, diffyg gwersylloedd awdurdodedig neu dros dro a system gymdeithasol annheg. Ym mhob achos, mae'r grefft o gefnogi unigolion, teuluoedd, a chymunedau i reoli a goresgyn achos sylfaenol eu diffyg grym yn ganolog i'r cynsail o rymuso a galluogi.

## ***Grymuso a galluogi***

Mae'r ddau derm, grymuso a galluogi, yn gofyn i chi gydnabod nad chi yw'r arbenigwr ym mywydau'r bobl yr ydych yn ceisio'u cynrychioli. Yn hytrach, fe ddylech geisio defnyddio'ch sgiliau i gefnogi unigolion, teuluoedd a chymunedau i ddod yn ddigon cryf i ddylanwadu a newid y digwyddiadau a'r systemau sy'n effeithio ar eu bywydau eu hunain.

Mae nod grymuso yn dibynnu ar eich gallu i hwyluso cyfleoedd i bobl ennill sgiliau a gwybodaeth. Galluogi yw eich gallu i gefnogi pobl i arfer eu grym eu hunain i ddylanwadu ar newid yn eu bywydau ac ym mywydau'r rhai y maent yn poeni amdanynt.

Mae strategaeth bwysig sydd wedi'i hanelu at hyrwyddo newid cymdeithasol yn ei gwneud yn ofynnol i chi rymuso pobl i ddod yn adnodd eu hunain wrth reoli a gwella eu bywydau eu hunain. Unwaith y byddwch yn trosglwyddo'r grym hwn, rydych yn gweithio i gefnogi galluogi drwy nodi cyfleoedd i adeiladu ar gryfderau unigol, tra, ar yr un pryd, yn darparu'r modd, y gallu a'r cyfleoedd i bobl oresgyn yr heriau y maent yn eu hwynebu.

Mae unigolion, teuluoedd a chymunedau sydd wedi cael cymorth grymusol a galluogi yn elwa drwy wella hunan effeithiolrwydd gan arwain at well canlyniadau cymdeithasol ac ansawdd bywyd. Os gallwch chi hwyluso grymuso a galluogi trwy ymarfer sy'n seiliedig ar berthynas, efallai y bydd gennych chithau hefyd ymdeimlad o gyflawniad, hyder a boddhad gwell o'ch swydd wrth i chi ddechrau gwneud synnwyr o'r ystod lawn o anghydraddoldebau sy'n bodoli.

## ***Cyngor i unrhyw un sy'n cynnal ymholiad lles***

Mae'r GRTSWA yn cefnogi'r ddyletswydd i ddiwallu'r angen a aseswyd am safleoedd o dan Adran 103 o Ddeddf Tai (Cymru) 2014 fel bod teuluoedd Sipsiwn, Dynion Sioe a Theithwyr yn gallu cael mynediad at le cyfreithlon i osod eu cerbydau a chael llety diogel o safon gyda mynediad at gyfleusterau, iechyd, addysg, a gwaith wrth fyw mewn grwpiau teuluol estynedig traddodiadol. Mae'r GRTSWA hefyd yn cefnogi'r egwyddor bod llety diogel a darparu safleoedd yn angenrheidiol 'i ddarparu llwybr i Sipsiwn a Theithwyr gynnal ffordd grwydrol o fyw', hawl sydd wedi'i hymgorffori yn Erthygl 8 o'r Confensiwn Ewropeaidd ar Hawliau Dynol. Wrth gynnal ymholiad lles, gallwch helpu'r GRTSWA i sicrhau'r hawliau hyn drwy:

- **Cofio bod pobl yn ddynol.** Cymryd cyfrifoldeb personol am weithio mewn modd tosturiol, empathig, dyneiddiol, creadigol a gwrth-hiliol.
- **Bod yn onest.** Byddwch yn agored, yn dryloyw ac yn onest ym mhob un o'ch rhyngweithiadau. Cymerwch amser i egluro eich rôl, atebwch gwestiynau a disgrifiwch yn ofalus y rheswm am yr hyn rydych yn ei wneud. Peidiwch ag addo y gallwch rwystro'r cam o droi allan a byddwch yn onest ynghylch beth allai canlyniad y sgwrs lles fod.

- **Modelu rôl.** Cymerwch gyfrifoldeb personol i sicrhau eich bod yn ymarfer yn unol â gofynion cyfraith cydraddoldeb, eich corff rheoleiddio (os yw'n berthnasol), cod moeseg a dangos parch at ddiwylliant, cydraddoldeb ac amrywiaeth.
- **Peidio â beio.** Cydnabod nad yw'r heriau a brofir gan unigolion, teuluoedd a chymunedau Sipsiwn, Dynion Sioe a Theithwyr yn cael eu priodoli i ddewis ffordd o fyw, ond yn hytrach mae eu sefyllfa'n adlewyrchu safle gorthrymedig o fewn cymdeithas a ategir gan gyfraith sy'n gweithio yn erbyn y gymuned hon o bobl.
- **Gwrando a bod yn gynhwysol.** Sicrhau bod unigolion, teuluoedd a chymunedau yn cael eu cynnwys ym mhob agwedd o'r sgwrs effaith lles, gan fod yn sensitif i'r angen i barchu cyfrinachedd fel a lle bo'n briodol.
- **Bod yn eiriolwr.** Cefnogi unigolion, teuluoedd a chymunedau a sicrhau bod eu hawliau bob amser yn cael eu cynnal tra bod yn ymwybodol o'r angen i barchu preifatrwydd a chyfrinachedd pobl.
- **Hybu cryfderau.** Gwerthfawrogi pwysigrwydd systemau teuluol a chymunedol a gweithio mewn partneriaeth â phobl i nodi a rheoli asedau'r systemau hynny.
- **Cydweithio.** Cefnogi unigolion, teuluoedd a chymunedau i gydweithio i gyflawni nod cyffredin.
- **Hwyluso newid.** Cymhwyswch eich gwybodaeth a'ch sgiliau i wella ansawdd bywyd a lles i fod yn gyfrwng am newid.
- **Herio eich hun ac eraill.** Defnyddiwch fodelau o ymarfer myfyriol ac atblygol. Nodwch unrhyw ymddygiad gan asiantaethau eraill sy'n ymwneud â'r troi allan a allai achosi pryder a chodwch bryderon am ddrwgweithredoedd sefydliadol a diwyllianau o arfer amhriodol ac anniogel.

- **Cadwch eich hun yn ddiogel.** Gall rhai gwersylloedd diawdurdod fod yn lleoedd prysur a gall tensiynau fod yn uchel. Cydymffurfiwch â pholisi gweithio'n unigol eich asiantaeth a gofynnwch am adolygiad ohono os nad yw'n cynnwys gwersylloedd diawdurdod.
- **Adrodd yn ôl.** Chwiliwch am gyfleoedd rheolaidd a ffurfiol i adrodd yn ôl i gydweithiwr trwy oruchwyliaeth wedi'i threfnu neu weithgareddau tebyg.

## **Pennod 5: Cefnogi person a gafodd ei arestio**

Os na fydd yr heddlu'n cytuno i dynnu'r rhybudd yn ôl erbyn y dyddiad cau, bydd Ffrindiau, Teuluoedd a Theithwyr (FFT), Elusen sy'n gweithio i roi terfyn ar hiliaeth a gwahaniaethu yn erbyn Sipsiwn, Dynion Sioe a Theithwyr ac i amddiffyn yr hawl i ddilyn ffordd grwydrol o fyw, eglurwch y gallai fod yn well pe bai'r unigolyn, y teulu a'r gymuned yn gadael y tir i osgoi cael eu harestio ac i'w cerbydau cael eu atafaelu.

O ystyried y terfynau amser byr iawn sy'n debygol o fod mewn grym, gall fod yn anodd iawn i atal y troi allan oni bai bod ystyriaethau lles difrifol yn bodoli, ond nid yw hynny'n golygu y dylid rhoi'r gorau i'r cyfle am eiriolaeth ac egwyddorion arfer da. Fel yr eglura FFT, hyd yn oed os oes rhaid i'r unigolyn, y teulu neu'r gymuned adael y tir mewn ymateb i rybudd, efallai y bydd yn bosibl o hyd i gyflwyno her a'i gwneud yn glir sut mae'r camau a gymerwyd o dan Ddeddf yr Heddlu wedi achosi risg sylweddol i les. .

Os bydd risg sylweddol i les yn atal unigolyn, teulu neu gymuned rhag gadael y tir, efallai y cânt eu harestio, a gall eu cerbydau gael eu hatafael. Am y rheswm hwn y mae ffurflen Rhan B yn arwyddocaol iawn.

### ***Defnyddio ffurflen Rhan B i amlygu ystyriaethau lles.***

I ddyfarnu unigolyn yn euog o drosedd o dan Ddeddf yr Heddlu, bydd yn angenrheidiol i'r heddlu fynd â'r mater i'r Llys. Fodd bynnag, un broblem y mae'r Bartneriaeth Cyfraith Gymunedol yn ei rhagweld yw y gallai fod yn annhebygol iawn y bydd y camau a gymerir o dan Ddeddf yr Heddlu yn cael eu dwyn i'r Llys. Os cyrhaeddir y terfyn amser perthnasol a nodir yn y rhybudd, bydd y teuluoedd dan sylw (yn ddealladwy) yn gadael y safle oherwydd fel arall maent mewn perygl o gael eu harestio a'u cerbydau'n cael eu hatafael (y gellir cymryd camau gweithredu cyn cael Gorchymyn Llys). Am y rheswm hwn, mae'r Bartneriaeth Cyfraith Gymunedol yn credu na fydd y mater yn cyrraedd y Llys am drafodaeth o'r materion amrywiol sydd i'w trafod.

Er gwaethaf yr amgylchiadau hyn, efallai ei bod yn bwysig ceisio annog teuluoedd Sipsiwn, Dynion Sioe a Theithwyr sy'n gorfod gadael tir i geisio her drwy Adolygiad Barnwrol. Yma gallant herio penderfyniad yr Heddlu ac / neu'r Awdurdod Lleol lle teimlir bod y camau gweithredu wedi'u cyflawni'n anghyfreithlon neu lle mae'n

bwysig ceisio arweiniad pellach gan y llysoedd ynghylch a sut mae'r drosedd hon (a'r diwygiadau i'r troseddau presennol) i gael eu trin ar y tir. I gael trafodaeth lawn ar y mater hwn, gweler y pecyn hyfforddi gwych gan Ffrindiau, Teuluoedd a Theithwyr. Os yw teulu'n dymuno ceisio herio trwy Adolygiad Barnwrol, gall y ffurflen Rhan B sydd gyda'r canllawiau hyn roi tystiolaeth hanfodol y gellid ei defnyddio i herio penderfyniad yr Heddlu ac / neu'r Awdurdod Lleol.

Os caiff person ei arestio, a'i gerbyd yn cael ei atafaelu, mae'n hanfodol eu bod yn ceisio cyngor arbenigol mewn perthynas ag unrhyw honiad a wneir yn ei erbyn. Gorau po gyntaf y gwneir hyn. Ni ddylai presenoldeb ystyriaeth les sylweddol atal cais am gyngor cyfreithiol i sicrhau nad oes unrhyw gamweinyddiad cyfiawnder.

### ***Cefnogaeth i'r rhai a gafodd eu harestio***

Mae'r Cynllun Amddiffynwyr Cyhoeddus a Chymdeithas Cyfreithwyr y Gyfraith Droseddol yn sefydliadau a argymhellir sy'n darparu cyngor cyfreithiol am ddim i unrhyw un sy'n mynychu gorsaf heddlu am gyfweiliad o dan y cynllun cymorth cyfreithiol beth bynnag fo'r modd. Ar gyfer unrhyw un dan 18 oed sy'n cael ei arestio, mae'r Rhwydwaith Oedolion Priodol Cenedlaethol (NAAN) yn cael ei argymhell fel sefydliad sy'n gweithio i sicrhau bod eu lles yn cael ei ddiogelu'n effeithiol gan oedolyn priodol.

## **Pennod 6: Cysylltiadau defnyddiol a mwy o wybodaeth**

Gellir dwyn her gyfreithiol gyffredinol yn erbyn Deddf yr Heddlu ar y sail ei bod yn anghydnaws â'r Ddeddf Hawliau Dynol gan ei bod yn codi ystyriaethau lles sylweddol. Efallai y bydd heriau penodol yn bosibl o ran achosion unigol o droi allan, hyd yn oed o bosibl ar ôl i'r Sipsiwn a Theithwyr dan sylw adael y tir dan sylw.

Mae'n anochel y bydd unrhyw her gyffredinol (yn hytrach na heriau penodol mewn achosion unigol o droi allan) yn cymryd peth amser i symud ymlaen ac ni fydd yn cynnig ateb cyflym i'r sefyllfa sy'n digwydd.

Os ydych angen cynrychiolaeth gyfreithiol i herio troi allan gallwch alw ar unrhyw un o'r sefydliadau canlynol:

- **Mae Tîm Cyngor i Deithwyr yn y Bartneriaeth Cyfraith Gymunedol (CLP) yn gweithredu llinell gymorth, sydd ar gael ar 0121 685 8677 rhwng 9am ag 1pm o ddydd Llun i ddydd Gwener.**
- **Mae Sipsiwn a Theithwyr Cymru yn gweithredu llinell gymorth, sydd ar gael ar 0292 021 4411 rhwng 10am a 2pm o ddydd Llun i ddydd Iau**
- **Mae Cyfeillion Teuluoedd a Theithwyr yn gweithredu llinell gymorth, sydd ar gael ar 01273 234 777 rhwng 10am a 4.30pm o ddydd Llun i ddydd Gwener, ac eithrio Gwyliau Banc.**
- **Mae Sipsiwn a Theithwyr Llundain yn gweithredu llinell gymorth sydd ar gael ar 0208 533 2002 rhwng 10am a 4.30pm o ddydd Llun i ddydd Gwener, ac eithrio Gwyliau Banc.**
- **Mae Grŵp Cyswllt Swydd Derby yn gweithredu llinell gymorth sydd ar gael ar 07799443830 rhwng 10am a 2pm ar ddydd Llun, dydd Mercher a dydd Gwener, ac eithrio Gwyliau Banc.**
- **Mae Teithio Ymlaen (Travelling Ahead) yn gweithredu llinell gymorth sydd ar gael ar 08088020025 rhwng 10am a 4.30pm o ddydd Llun i ddydd Gwener, ac eithrio Gwyliau Banc.**
- **Mae Drive2Survive yn gweithredu llinell gymorth sydd ar gael ar 07903 198 022 neu 07840 979 302 rhwng 9am a 1pm o ddydd Llun i ddydd Gwener.**

- Mae Shelter yn gweithredu llinell gymorth sydd ar gael ar 0808 800 4444 (Lloegr) 08000 495495 (Cymru) rhwng 8am ag 8pm. Rhadffôn.
- Mae Showman's Guild yn gweithredu llinell gymorth sydd ar gael ar 01784 461805 rhwng 9am a 5pm o ddydd Llun i ddydd Gwener.

Bydd angen i sefydliadau Sipsiwn, Dynion Sioe a Theithwyr wybod beth sy'n digwydd ym mhob achos a dylai'r Templed Sgwrsio effaith lles a ddyluniwyd gennym fod o help i roi dealltwriaeth gynhwysfawr am y sefyllfa.

Dylid trosglwyddo gwybodaeth am achosion o droi allan sy'n digwydd, yn enwedig o dan Ddeddf yr Heddlu, i un o'r sefydliadau a restrir uchod.

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### *Dulliau esblygol o ddeall ystyriaethau lles*

Wrth i'n dealltwriaeth o'r ystyriaethau lles addasu, felly hefyd bydd y Templed Sgwrsio a'r Canllawiau Arfer Da yr ydym wedi'u cynllunio. Os ydych yn defnyddio ein Templed Sgwrs Lles ac Effaith Deddf yr Heddlu, Troseddu, Dedfrydu a Llysoedd, byddwn yn croesawu eich adborth a'ch argymhellion ar gyfer ei gwella. Mae'r fersiwn diweddaraf o'r ffurflenni a'r dogfennau hyn i'w gweld ar dudalen Grŵp Diddordeb Arbennig Sipsiwn, Roma a Theithwyr ar wefan BASW.



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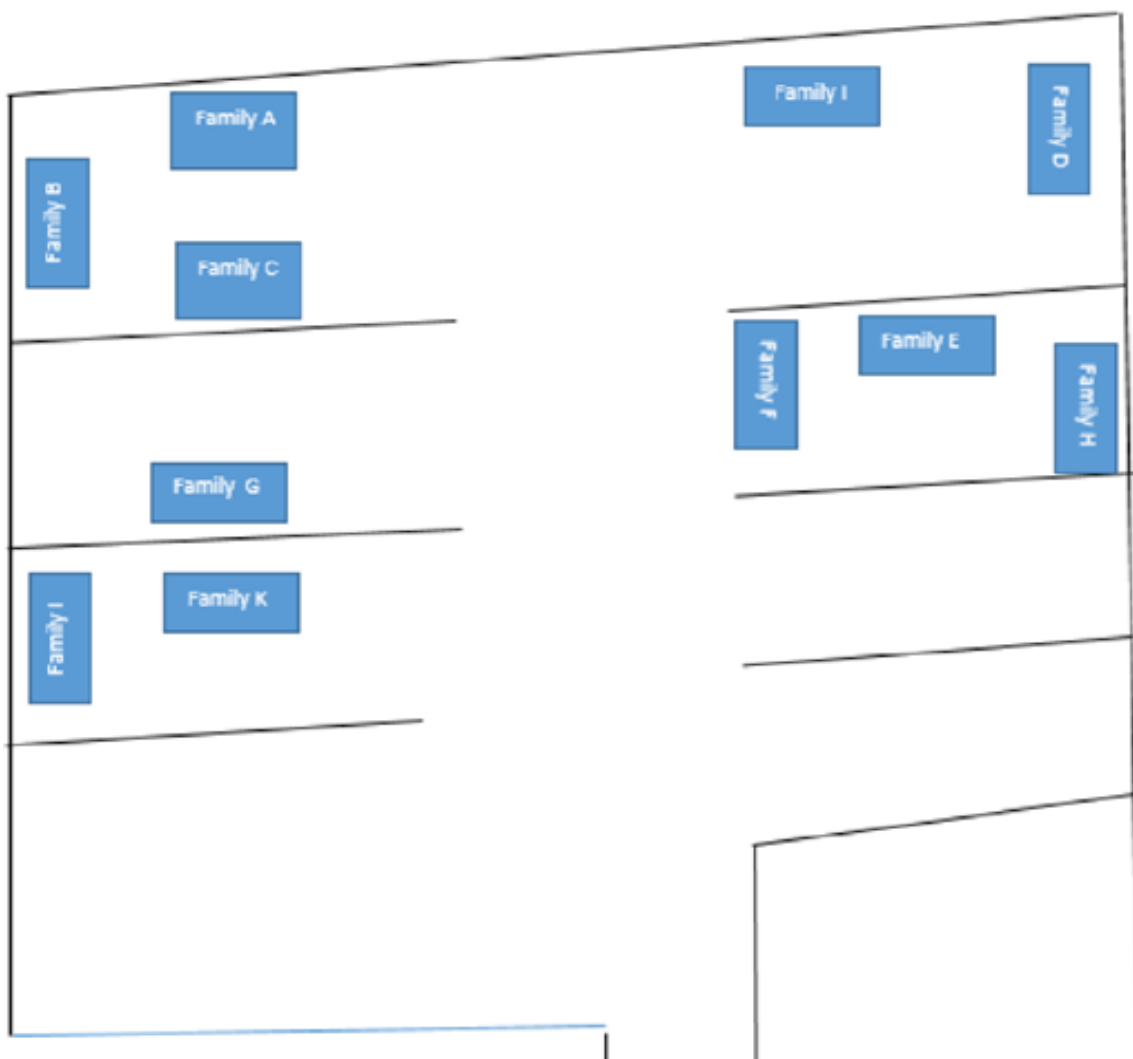
## Atodiad 1. Cyfreithiau a pholisiau sy'n cefnogi'r Canllawiau Arfer Da hwn

Mae'r templed sy'n cyd-fynd â'r canllawiau hyn wedi'u llywio gan y concordatiau polisi ac ymchwil allweddol a ganlyn:

- Deddf Plant 1989.
- Deddf Gofal 2014.
- Deddf Cydraddoldeb 2010.
- Deddf Galluedd Meddyliol 2005.
- Deddf Iechyd Meddwl 1983.
- Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014.
- Deddf Hawliau Dynol 1998.
- Deddf Diogelu Data 2018.
- 2018 Cydweithio i Ddiogelu Plant – Canllawiau Statudol.
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- 2002 Yr Adran Iechyd - Fframwaith yr Aseiad Cyffredin i Blant a Theuluoedd mewn Angen
- Confensiwn y Cenhedloedd Unedig ar Hawliau Plant a Phobl Ifanc 1989
- Mesur Plant a Phobl Ifanc (Cymru) 2011.
- Cyfraith a pholisi digartrefedd.

## Atodiad 2. Cysylltiadau teuluol

Weithiau, werth drafod ystyriaethau lles sy'n deillio o bwerau newydd Deddf yr Heddlu, mae'n bwysig i ddatblygu trosolwg o gysylltiadau teuluol. Yn yr enghraifft isod, darparwyd braslun elfennol o faes gweryslla diawdurdod. Er mwyn i ystyriaethau lles ac effaith fod yn hysbys, gall deall pa deuluoedd sy'n byw ymhle fod yn bwysig, yn enwedig os yw canlyniad y sgwrs yn cael ei ddefnyddio i lywio apêl neu i gadarnhau casgliad bod y weithred o droi allan yn achosi niwed sylweddol i'r unigolyn, y teulu neu gymuned.

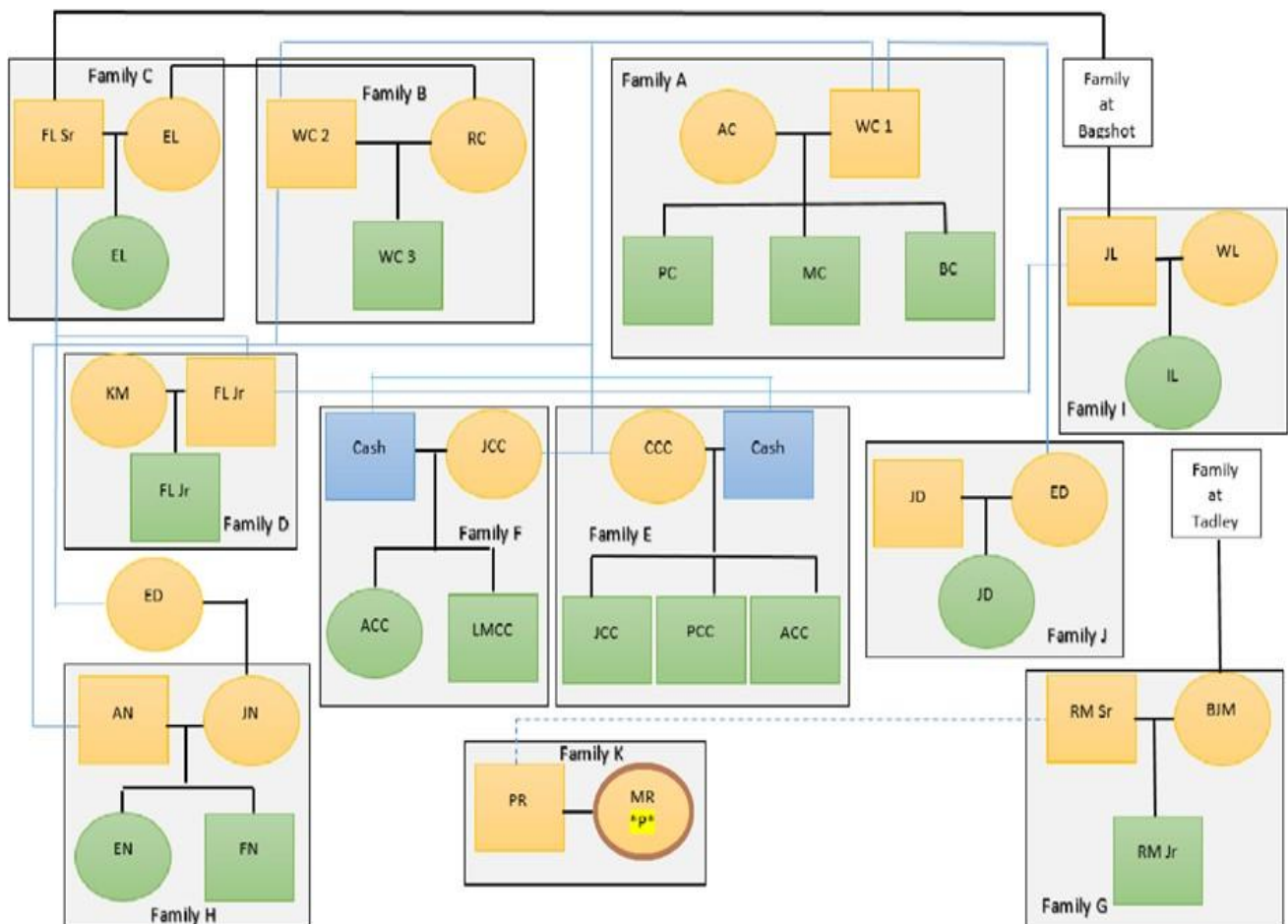


Unwaith i fraslun cael ei wneud o'r safle, mi fydd yn ymarfer da i ddangos cysylltiadau teuluol ar y map. Yn gyson â thechnegau eco-fapio, mae'r llun canlynol yn dangos sut y gellir dangos cysylltiadau teuluol.

Yn yr enghraifft isod, cynrychiolir gwrywod gan sgwariau a chynrychiolir benywod gan gylchoedd. Mae oedolion yn cael eu dynodi gyda'r lliw oren ac mae plant (rhai dan 18 oed) wedi'u lliwio'n wyrdd.

Dangosir y fenyw yn Nheulu K fel cylch gwyrdd wedi'i lenwi ag Oren. Mae hyn oherwydd bod y fenyw yn 17 oed, yn feichiog ond yn briod. Mae'r Gwrywod yn Nheulu E ac F wedi'u lliwio mewn glas i gynrychioli eu safle fel y prif gysylltiadau enwebedig a all helpu i drefnu sgwrsiau gydag aelodau eraill o'r gymuned.

I ddangos cysylltiadau teuluol, mae llinell ddu gref yn dynodi perthynas agos â theulu trwy enedigaeth neu briodas. Mae'r llinell las denau yn dynodi teulu agos fel neiniau a theidiau, gor-deidiau, wyrion, gor-wyrion, modrybedd, ewythrod, brodyr a chwiorydd yng nghyfraith a chefnodryd. Mae llinell doredig yn dynodi cyfeillgarwch agos.



Wrth ddisgrifio ystyriaethau lles, ceisiwch fapio cysylltiadau teuluol bob tro fel y gall llys ddeall yn well beth yw natur y cymorth y mae aelodau eraill o'r teulu yn ei gynnig i'w gilydd o fewn y gymuned. Er bod crynodebau teulu unigol yn bwysig, mae deall a darlunio'r 'system' y mae teulu'n gweithredu oddi mewn iddi, fel cymuned, yn

hanfodol. Gallai'r enghraifft a ddangosir uchod eich galluogi i egluro i'r llys sut mae'r gymuned yn cynnig mecanwaith o gyd-gefnogaeth mewn materion sy'n ymwneud ag iechyd meddwl, cymorth cymdeithasol, a gofal plant. Gallai'r esboniad hwn hefyd eich galluogi i gadarnhau'r rhesymau pam mae troi allan yn cynrychioli pryder i iechyd cyhoeddus a allai wthio teuluoedd i argyfwng. Gall effaith hysbys yr amhariad posibl y gallai troi allan ei gael yn y 'system' hon hefyd eich galluogi chi i ddisgrifio'r ffactorau amddiffynnol presennol gan roi tystiolaeth a all arwain at benderfyniad mwy cymesur.

### Atodiad 3. Arwyddion Diogelwch Signs of Safety®

Dechreuodd model Arwyddion Diogelwch (Signs of Safety®) yn y 1990au. Fe'i datblygwyd gan Andrew Turnell a Steve Edwards (Turnell, 2012) gan dynnu ar therapi sy'n canolbwyntio ar atebion a phrofiadau teuluoedd. Mae bellach yn ddull cynhwysfawr ac aeddfed sy'n cael ei weithredu ledled y byd.

Mae Signs of Safety® yn parhau i esblygu o fewn ei fframwaith craidd gan adlewyrchu arloesedd gan y rhai sy'n ei ddefnyddio mewn gwahanol leoedd a sefyllfaoedd. Wedi'i ddefnyddio o fewn Templed Sgwrs Lles ac Effaith gyda Deddf yr Heddlu, Troseddau, Dedfrydu a Llysoedd, gall Arwyddion Diogelwch fod yn hynod ddefnyddiol wrth drawsnewid dealltwriaeth o ystyriaethau lles, polisi, dysgu ac arweinyddiaeth.

Mae Signs of Safety® yn fframwaith integredig ar gyfer sut i ddeall lles a risg. Gellir defnyddio ystod o offer ar gyfer sgysiau a gwneud penderfyniadau ond y prif fodolau a fabwysiadwyd yn Dempled Sgwrs Lles ac Effaith Deddf yr Heddlu, Troseddu, Dedfrydu a Llysoedd yw'r dull "tair colofn" a "chwestiwn graddio". Un dull arall y gellid ei ddefnyddio yn yr asesiad hwn, yn dibynnu ar amgylchiadau a hyder yr aseswr, yw'r model tri thŷ, neu wedi'i addasu i berthnasedd, y model "tri threlar":



Trelar Pryderon

Trelar Pethau Da

Trelar Breuddwydion

Mae'r model "tri threlar", syniad a ddatblygwyd gan Michael Ridge, yn adnodd y gellir ei ddefnyddio'n eang i helpu plant i adnabod y pethau yn eu bywyd y maent yn teimlo'n bositif amdanynt, y pethau sy'n eu poeni, ac i egluro beth yw eu gobeithion yn eu breuddwydion a'u dyheadau.

Er bod y dechneg hon yn cael ei defnyddio'n aml gan weithwyr cymdeithasol mewn lleoliad amddiffyn plant, gellir ei haddasu'n hawdd ar gyfer gweithio gyda phlant a theuluoedd sy'n wynebu heriau sy'n gysylltiedig â'r pwerau newydd sydd wedi'u cynnwys yn Neddf yr Heddlu. Am y rheswm hwn, fe argymhellir defnyddio'r model "tri threlar" lle bynnag y bo modd.

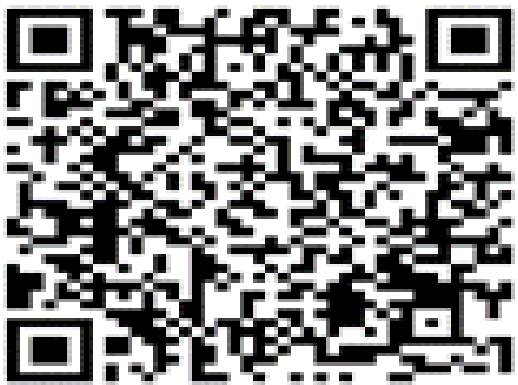


## Asesiad Lles ac Effaith Deddf yr Heddlu, Troseddu, Dedfrydu a Llysoedd: Canllawiau Arfer Da

Ysgrifennwyd y Canllawiau Arfer Da hyn gan Gymdeithas Gwaith Cymdeithasol Sipsiwn, Roma a Theithwyr (GRTSWA). Wedi'i sefydlu gan weithwyr cymdeithasol Romani a Theithwyr, nod y sefydliad hwn yw darparu ymateb ymarfer, polisi ac ymchwil i'r heriau a wynebir gan gymunedau Sipsiwn, Roma a Theithwyr. Mae'r Canllawiau Arfer Da hyn wedi'i ysgrifennu gan weithwyr cymdeithasol Sipsiwn, Roma a Theithwyr ar gyfer Sipsiwn, Roma a Theithwyr.

Gobeithiwn y bydd y Canllawiau Arfer Da hyn yn rhoi cyflwyniad i chi i Ddeddf yr Heddlu, Troseddu, Dedfrydu a'r Llysoedd a'i fod yn gosod sylfaen gadarn ar gyfer gwell dealltwriaeth o ystyriaethau lles a allai ddeillio o gamau gweithredu gan awdurdodau lleol a'r heddlu.

I ddarganfod mwy am Gymdeithas Gwaith Cymdeithasol Sipsiwn, Roma a Theithwyr, a'r gwaith sydd ei angen i ddatblygu asesiadau lles ac effaith, sganwch y cod QR isod.



Mae'r GRTSWA yn cefnogi Cynllun Gweithredu Gwrth-hiliaeth (Cymru) sy'n cydnabod bod angen llety diogel, diwylliannol priodol er mwyn i unigolion cael ffynnu yn y rhannau eraill o'u bywydau ac i fynd i'r afael â'r diffyg darpariaeth o safleoedd ac ansawdd gwael llety Sipsiwn, Dynion Sioe a Theithwyr ym Mhrydain gyda chyfres o gamau gweithredu ystyrlon i gyrraedd y nod hwn.

# Good Practice Guide

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## UNDERSTANDING THE WELFARE IMPACT OF THE POLICE, CRIME, SENTENCING AND COURTS ACT

JULY 2022



## Foreword

The Travellers Advice Team advises and represents Gypsies and Travellers throughout England and Wales. We are extremely concerned at the potential disastrous consequences of the new criminal trespass offence introduced by the Police Act 2022. In these circumstances, Guidance will be very important to try and ameliorate some of the worst potential effects of the use of this new offence. We therefore welcome this excellent Guidance from BASW and doubtless we will be quoting from it extensively.

**Chris Johnson**

Travellers Advice Team at The Community Law Partnership Limited.

## Acknowledgements

This Good Practice Guide was written by Dan Allen of Manchester Metropolitan University with support of the Gypsy, Roma and Traveller Association.

Dan Allen and the Gypsy, Roma and Traveller Association would like to thank the British Association of Social Workers for providing the opportunity to complete and disseminate this guide. Without their commitment to equality and social justice, this guide would not have been possible.

The authors would also like to thank Trudy Aspinwall, Travelling Ahead, Chris Johnson, The Community Law Partnership and Marc Willers QC, Garden Court Chambers, who provided expert peer reviews of the final draft of the guide.

This publication was produced by the British Association of Social Workers, but the content of this publication is the sole responsibility of the authors.

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## Executive Summary

The Police, Crime, Sentencing and Courts Act 2022 (the Police Act) is in effect as of 28th June 2022, creating a new offence that aims to greatly increase eviction powers that will disproportionately affect Gypsy, Showmen and Traveller communities living on an unauthorised encampment. Failing to recognise that unauthorised encampments arise from the lack of provision of adequate pitches (permanent, transit and emergency) and the failure of many Local Authorities to enter into negotiated stopping agreements, the actions taken under the Police Act could mean that the lives of 10,000 families living on unauthorised encampments could be made even more vulnerable.

Where the Police Act is being used, the Home Office requires the police to consider whether welfare considerations exist before the new powers are enforced. However, there is no standardised method or format that can be used to inform an approach to understand what welfare considerations may exist because of police action is taken.

The aim of this Good Practice Guide is to provide a template that can be used by police officers, housing officers, environmental health officers, highways officers, enforcement planning officers, National Park wardens, community advocates, teachers, social workers, community support officers and all others involved in supporting Gypsy, Showmen and Traveller families residing on an unauthorised encampment. It has been designed to inform a better understanding of welfare considerations, so that the principle of proportional justice can be fully considered.

By producing this guide, we recognise that welfare considerations result from actions taken under the Police Act. In line with the duty contained in Housing (Wales) Act 2014 Section 103, It is hoped that the identification of the same will highlight assessed need for more authorised encampments and support Judicial Review on the grounds that new powers contained in the Police Act are incompatible with the Human Rights Act in England and Wales.

**The Gypsy, Roma and Traveller Social Work Association**

## Chapter 1: Introduction

The Police, Crime, Sentencing and Courts Act 2022 (the Police Act) is in effect as of 28th June 2022, creating a new offence under the Criminal Justice and Public Order Act 1994 sections 60C to E.

This new offence greatly increases eviction powers that will disproportionately affect Gypsy, Showmen and Traveller communities. Although local authorities and other public bodies (including the police) should take account of welfare considerations before deciding to use this Act, approaches taken to achieve this duty are often fragmented. Therefore, the Gypsy, Roma and Traveller Social Work Association (GRTSWA) believe that the welfare impact of these new powers will be greatly underestimated as the distress caused by eviction proceedings is overlooked, the importance of key deadlines is ignored and the opportunity to seek a challenge by way of Judicial Review is missed.

Incorporating relevant laws and social policies from across Britain, this Good Practice Guide has been written to support the implementation of two accompanying welfare conversation templates. These two templates, Part A and Part B, have been written by the GRTSWA in partnership with the British Association of Social Workers and Manchester Metropolitan University to support meaningful conversations with Gypsy, Showmen and Traveller families facing action under the Police Act.

The aim of this Good Practice Guide is to provide a brief introduction to the types of conversations that can lead to a reliable and verifiable understanding of welfare considerations that result from police action. This information may then be used to support a legal challenge or appeal against the Police Act on the grounds that the act of eviction is incompatible with the Human Rights Act in England and Wales. It has been written to support any individual or organisation that works to end racism and discrimination and to protect the right of Gypsy, Showmen and Traveller communities to pursue a nomadic way of life.

### *Context*

Since the 16th century, legislation has been used to control the nomadic traditions and customs of Gypsy, Showmen and Traveller communities living in Britain (Vanderbeck, 2005). Today, these communities experience an increasing lack of authorised stopping places, and a failure of planning laws to provide a realistic method for

families to set up their own sites. This means that there are approximately 10,000 families who have no legal safe place to stop in Britain (Friends, Families and Travellers, 2020).

With no legal place to stop, Gypsy, Showmen and Traveller communities are forced to reside on unauthorised encampments. Here individuals, families and communities set up encampments on carparks, playing fields or by the roadside. It must be made clear that unauthorised encampments occur as a direct result of the legislation that serves to limit freedoms and the development of authorised encampments. Put plainly, if there were more authorised encampments, families would not need to stay on carparks, playing fields or by the roadside.

The lack of authorised encampments also impacts on cultural traditions. Although the practice of 'nomadism' is a protected characteristic for some Gypsy and Traveller communities, the way that families are forced to use unauthorised encampments means that those who continue to 'travel' can encounter significant hardships that impact on their mental and physical health, wellbeing, education, and employment (Okely, 1997). Despite these hardships, many families continue to live on unauthorised encampments as they seek to practice their nomadic cultures and traditions (Comarty, 2019).

The direct impact of laws that have been passed to control the nomadic traditions and customs of Gypsy, Showmen and Traveller communities means that they experience significant levels of deprivation and inequality. The British government has already acknowledged the relationship between unauthorised encampments and social determinates of health. In 2012, Communities and Local Government concluded:

*“Gypsies and Travellers living on unauthorised sites can face additional difficulties accessing health and education services and the precarious nature of their homes can further exacerbate inequalities and stifle life chances.”*

Emphasising the true impact of 'stifled life chances', the report concluded that Gypsy, Showmen and Traveller communities experienced some of the worst health and social care outcomes compared to all other groups (Communities and Local Government,



2012). This finding is supported by several studies others (Barry et al., 1987; Parry et al., 2004; Baker, 2005; Rose-Walker, 2008; Office for National Statistics, 2011; UK Parliament, 2019; Allen and Hamnett, 2022) which show significant inequalities in matters related to education, health and social justice (see Box 1 below).

*Box 1: Examples of inequalities in education, health and social justice*

- 39% of Gypsies and Travellers have a long-term illness compared with other ethnic minority groups.
- Irish Travellers are 3 times more likely to have chronic cough or bronchitis, even after smoking is considered.
- 10 - 22% of Gypsies and Travellers reported having asthma and 34% reported chest pain compared to 5% and 22% of the general population.
- Gypsy, Showmen and Traveller communities provide the highest levels of unpaid care compared to other groups.
- Gypsies and Travellers are nearly three times more likely to be anxious than average and just over twice as likely to be depressed.
- Irish Travellers are 3 times as likely to die by suicide than the general population.
- There is an excessive prevalence of miscarriages, stillbirths and neonatal deaths in Gypsy, Showmen and Traveller communities and high rates of maternal death during pregnancy and shortly after childbirth.
- A high prevalence of diabetes has been reported in Gypsy, Showmen and Traveller communities, and a lack of community knowledge of the risk factors.
- Gypsy, Showmen and Traveller women live 12 years less than women in the general population and men 10 years less, although recent research suggests the life expectancy gap could be much higher.
- Gypsy and Traveller children are 3 times more likely to be referred to children and family services and 3 times more likely to enter state care compared to all other ethnic minority groups.

## ***Police, Crime, Sentencing and Courts Act (2022)***

In addition to the hardships that are already faced by Gypsy, Showmen and Traveller communities in Britain, the Police Act delivers on the Government's commitment to strengthen police capabilities to prosecute those living on unauthorised encampments. This includes a new power of arrest and the power for police to seize the vehicles of Gypsy, Showmen and Traveller families. According to the Home Office (2022a):

*“The Act creates a new criminal offence of residing with a vehicle on land without permission. The new offence will be committed when someone causes significant damage, disruption or distress in the conditions described, but has been framed in such a way as to ensure that the rights of those wishing to enjoy the countryside are not impacted.”*

In summarising The Police Act, the Home Office fails to recognise that the problem of unauthorised encampments arises from the lack of provision of adequate pitches both permanent, transit or emergency, and the failure of many Local Authorities to enter into negotiated stopping agreements. The Caravan Sites Act 1968 introduced a duty to facilitate the provision of sites but that duty was repealed by the Criminal Justice and Public Order Act 1994.

By prosecuting those residing with a vehicle on land without permission, the Police Act is clearly targeting Gypsy, Showmen and Traveller people living on unauthorised encampments. In relation to the centuries of laws that have been used to control the nomadic traditions and customs of Gypsy, Showmen and Traveller communities, the Police Act is targeting people who have been forced to reside on land without permission because of other Acts of law that prevent the development of authorised encampments. For those people who seek to practice their nomadic cultures and traditions, as protected by law, this legal 'no-win situation' means that the 10,000 families who have no legal safe place to stop in England and Wales could soon be made even more vulnerable.

As Webb et al., (2021) and Bywaters et al., (2019) show, inequalities in education, health and social justice increase where there is deprivation and a lack of opportunity. By enabling police to arrest and

seize the vehicles and homes of Gypsy, Showmen and Traveller families living on an unauthorised encampment, we believe that the powers contained in the Police Act will reduce opportunity and create further deprivation for some of the most marginalised and vulnerable groups in Britain. It is therefore essential that those who work to support Gypsy, Showmen and Traveller families living on unauthorised encampments are better prepared to deal with the associated impact that police action will have.

### *Why is a response needed?*

The primary ambition of all those who support Gypsy, Showmen and Traveller families living on unauthorised encampments should reflect the need to help secure their welfare and safety through the provision of more authorised encampments. In line with the duty contained in Housing (Wales) Act 2014 Section 103, it is essential that the assessed need for sites can counterbalance the new offence and the amendments to existing offences. As work needed to effect legislative change and planning policy is now threatened by the Police Act, urgent action is needed to ensure that the power of arrest, and the power for police to seize the vehicles, does not further jeopardise the health, safety and welfare and safety of Gypsy, Showmen and Traveller families.

Local authorities and other public bodies (including the police) should take account of welfare considerations before deciding whether to evict an encampment, as the existing Government guidance on unauthorised encampments (both in England and in Wales) remains in place. Additionally statutory guidance to Police has just been issued by the Home Office and further guidance from the National Police Chiefs' Council has been issued. The latter guidance will be especially important for those advising Gypsies and Travellers (Johnson, 2022).

Where the Police Act is being used, the Home Office (2022b: 12) requires the police to consider whether welfare considerations exist before the new power of arrest and the power for police to seize the vehicles of Gypsy, Showmen and Traveller families is enforced:

*‘Police should ensure that, in accordance with their wider equalities and human rights obligations, proper welfare enquiries are carried out to determine whether there are pressing needs presented by those on unauthorised*

*encampments and that, where necessary, the appropriate agencies (including Local Authorities) are involved as soon as possible...If necessary, enforcement action against those on the unauthorised encampment could be delayed while urgent welfare needs are addressed.'*

Despite this statutory guidance, we know that local authorities and other public bodies (including the police) do not routinely ask about these matters, or delay enforcement actions until a welfare enquiry has been conducted. Most existing forms that could be used to guide and inform a welfare enquiry are not fit for practice, and no good practice guidance, that could be used to understand how best to coordinate a full and accurate welfare enquiry, exists.

A generic conversation framework is therefore needed to enable the police, local authorities and other public bodies to meet the requirement set by the Home Office. It is also important to point out that the Home Office (2022b) brief advice to understand welfare issues do not go far enough. To fully meet their responsibility to minimise wider inequalities and promote human rights obligations, the police must also understand how the powers contained in the Police Act may themselves cause an urgent welfare consideration (Willers and Jonson, 2020).

## Chapter 2: Welfare Enquiry: Part A

To help understand some of the welfare considerations caused by the Police Act, we have designed a template that can be used by housing officers, environmental health officers, highways officers, enforcement planning officers, National Park wardens, community advocates, teachers, social workers, community support officers and all others involved in supporting Gypsy, Showmen and Traveller families residing on an unauthorised encampment.

The 'Welfare Enquiry: Part A' form that accompanies this Good Practice Guide can be used on any occasion to collect useful information about how actions taken under the Police Act impact family life. Even if the family plan to move on, Part A has been designed to help a local authority other public body to carry out welfare enquiries and develop a better understanding of the reasons why a family is residing on an unauthorised encampment. Wherever possible, this information could then be used by the local authority and other public bodies (including the police) to assess and plan alternative accommodation provision, in support of a more formal accommodation assessment. Even if the family indicated their intention to move on following the application of the Police Act, they should still be signposted to the services listed on page 19.

As welfare enquiries are often overlooked, we encourage local authorities and other public bodies to adopt the 'Welfare Enquiry: Part A' form, along with this Good Practice Guide, in the development of their own written policy for managing unauthorised encampments and carrying out essential welfare enquiries. The GRTSWA would welcome discussions with local authorities and public bodies who wish to adopt this model.

If, during the completion of Part A, it is determined that action taken under the Police Act will cause significant welfare considerations, the Part B form has been designed to support a more detailed conversation. With the individual's consent, the additional information provided by Part B should then be brought to the attention of the local authority or other public body. Where possible, and again with consent, the welfare considerations identified in Part B should also be passed onto a Gypsy, Showmen and Traveller organisation so that free legal advice can be given. The list of Gypsy, Showmen and Traveller organisations is also listed on page 19 of this guide.

## Chapter 3: Welfare Enquiry: Part B

The 'Welfare Enquiry: Part B' form has been informed by the key policy and research concordats listed in Appendix 1. Like Part A, Part B could be used by anyone who has the responsibility or opportunity to identify emerging problems and potential welfare considerations that result from action taken under the Police Act. Unlike Part A, Part B has been created to enable a fuller and consistent identification of emerging welfare considerations.

Whenever the 'Welfare Enquiry: Part B' form is used, the purpose of it is always to gather verifiable information (See Box 2).

### *Box 2: Purpose of the Part B form*

In addition to Part A, a Part B form has been designed to enable you to:

- Gather important information about an individual, child and community.
- Analyse needs and/or the nature of any welfare considerations.
- Decide whether action taken under the Police Act will create additional welfare considerations, breaching equality and human rights law.
- Identify support needed to address those needs to safeguard welfare and where necessary ensure that the individual, family or community is safe.

Throughout a welfare impact conversation that is guided by the Part B form, conclusions should be evidence-based. There should be clear information about the action to be taken and services to be provided to prevent welfare considerations escalating to a point of crisis. The person who leads the discussion should provide help to the individual, family and community, they should act as an advocate and co-ordinate the delivery of identified support services.

The completion of Part B is likely to be complex and require the knowledge and values of a skilled and experienced practitioner. In all cases, a GP, family support worker, school nurse, social worker, teacher, community advocate, health visitor and/or special educational needs co-ordinator or religious leader, or another with experience of working with Gypsy, Showmen and Traveller communities, should be asked to support its full completion.

The Part B form has been designed to be used with the agreement of the individual, family and community, involving the child and family as well as all the practitioners who are working with them. It should take account of the child's wishes and feelings wherever possible - their age, family circumstances and the wider community context in which they are living. Those completing the welfare enquiry should inform individuals that their data will be recorded and shared, and the purpose explained to them. If at any time it is considered that any child may be in need, or that they have suffered significant harm or are likely to suffer harm, a referral should be made immediately to local authority children's social care. This referral can be made by anyone.

## Chapter 4: How to undertake a good welfare enquiry

The welfare and impact conversations needed to complete Part A and Part B should be sufficiently dynamic to analyse and respond to the changing nature and level of need and/or risk faced by the individual, family and community. It is important that the impact of what is happening because of the Police Act is clearly identified and that information is gathered, recorded and checked systematically, and discussed with the individual, family and community to verify accuracy.

Good conversations support an understanding of the welfare considerations related to any action being taken under the Police Act. An understanding of the support needs of parent, carers, non-parent carers, and adults within the family and elder community may therefore be required. For this reason, high quality welfare enquiries are:

- **Person-centred.** All decisions should be made in the individual's, family's or community's best interests and informed by evidence
- **Focused on action and outcomes.** All decisions should be designed to reduce or minimise welfare considerations created by the Police Act
- **Holistic in approach.** Addressing the needs and welfare of the individual, family or community
- **Focussed on equal opportunity.** Underpinned and inclusive of equality and human rights legislation
- **Able to involve children.** Ensuring that the child's voice is heard and that appropriate support to enable this where the child has specific communication needs
- **Able to identify risks.** The safety and welfare of children, family and community must be established.
- **Able to build on strengths as well as identifying difficulties.** The individual, family and community are likely to be experiencing enormous pressure because of the Police Act. They also may have significant resilience and coping strategies too.
- **Focussed on positive action.** Try to list the actions that are



needed including the provision of services.

- **Transparent.** Due to systemic and institutional racism, any welfare impact assessment of Gypsy, Showmen and Traveller families experiencing new powers enabled by the Police Act is likely to be questioned by local authorities and other public bodies and open to challenge. It is therefore essential that the record of the conversation only contains honest, credible, substantiated and verifiable information.
- **Preventative.** As emphasised by McAlister (2022), in the government commissioned review of children's social care, what is currently needed is a culture change away from taking children into state care. Adopting this Good Practice Guide, and associated Conversations Template, is aligned to this recommendation and relevant welfare legislation across adults and children services.

The GRTSWA is confident that a systematic approach to complete Part A and Part B is the best way to deliver a comprehensive view of welfare considerations.

To aid completion, various models have already been built into the Part B form. Designed to provide an opportunity to consider the generic needs of the individual, family and community Part B is intended to enable a sensitive conversation that can empower and enable those facing action under the Police Act. Some other models to support the completion of the two forms that accompany this guide can be found in Appendix 2 and 3.

### ***A sensitive conversation***

It is important to recognise that any conversation about the welfare impact of the Police Act is likely to come at a time when the individual, family and community are experiencing a great deal of distress and anxiety. The questions presented in Part A and Part B might also appear unusual to those who are not used to talking about the difficulties, distress and anxiety that they are experiencing.

The purpose of the conversation needed to understand the welfare impact of the Police Act should be primarily concerned with supporting individuals, families and communities who are at risk of criminalisation, or eviction. However, the overriding goal of the conversation is to enable people to overcome welfare considerations by responding to

actions that can deny the rights and privileges that many others take for granted. By tailoring the conversation to reflect the relationship between individuals and their environment, the purpose of the discussion should reflect a relationship-based approach.

### ***Building a relationship***

The statutory guidance issued by the Home Office and the National Police Chiefs' Council has been interpreted by Friends Families and Travellers and the Community Law Partnership, two organisations that specialise in supporting Gypsy, Showmen and Travellers. However, the unequal attention given to guidance on how to conduct a welfare enquiry has created disparity in the knowledge, values and skills that may be needed to inform an approach to identifying welfare impact considerations. Specifically, within the picture that is created by the stereotypical representation of Gypsy, Showmen and Traveller families living on unauthorised encampments, there emerges an image of an entire group of powerless individuals, families and communities who are waiting for someone who can represent their views and lead them to a better life. Not only is this image condescending, but it is also wrong. It assumes that individuals, families and communities lack the resources, capacity, capital and power to help themselves.

Whilst it is important to recognise that many of the people facing action under the Police Act will experience a deep sense of powerlessness, it is also important to recognise that this deep sense of powerlessness has a cause, often compounded by strict deadlines associated to an eviction notice.

For some, powerlessness emerges from socio-economic deprivation, marginalisation, stigmatisation, and a lack of support services. For others, powerlessness emerges from a sense of insecurity, a lack of opportunity, social injustice, a lack of authorised or transit encampments and an unfair social system. In all cases, the art of supporting individuals, families, and communities to manage and overcome the root cause of their powerlessness is central to the premise of empowerment and enablement.

### ***Empowerment and enablement***

Both terms, empowerment, and enablement, require you to recognise that you are not the expert in the lives of the people whose views you are seeking to represent. Instead, you should seek to use your skills to

support individuals, families, and communities to become strong enough to influence and change the events and systems that are affecting their own lives.

The aim of empowerment relies on your ability to facilitate opportunities for people to gain skills and knowledge. Enablement is on your ability to support people to exercise their own power to influence change in their lives and in the lives of those who they care about.

An important strategy aimed at the promotion of social change requires you to empower people to become their own resource in managing and improving their own lives. Once you transfer this power, you are working to support enablement by identifying opportunities to build on individual strengths, whilst, at the same time, providing people with the means, ability, and opportunities to overcome the challenges that they face.

Individuals, families and communities who have received empowering and enabling support benefit through improved self-efficacy resulting in improved social outcomes and quality of life. If you can facilitate empowerment and enablement through relationship-based practice you too may have a sense of achievement, confidence and improved job satisfaction as you begin make sense of the full range of inequalities that exist.

### ***Advice for anyone carrying out a welfare enquiry***

The GRTSWA support the duty to meet assessed need for sites under Housing (Wales) Act 2014 Section 103 so that Gypsy, Showmen and Traveller families have access to a legal place to station their vehicles and have secure, quality accommodation with access to facilities, health, education, and work whilst living in traditional extended family groups. The GRTSWA also support the principle that safe accommodation and site provision is necessary 'to provide a route for Gypsies and Travellers to maintain a nomadic way of life' a right enshrined in Article 8 of the ECHR. When conducting a welfare enquiry, you can help to the GRTSWA secure these rights by:

- **Remembering that people are human.** Take personal responsibility for working in a compassionate, empathic, humanistic, creative and anti-racist way.

- **Being honest.** Demonstrate openness, transparency and candour in all of your interactions. Take time to explain your role, answer questions and carefully describe the reason for your involvement. Do not promise to stop an eviction and be honest about what the outcome of the welfare conversation might be.
- **Role modelling.** Take personal responsibility for ensuring that you practice in accordance with the requirements of equality law, your regulatory body (if applicable), code of ethics and demonstrate respect of culture, equality and diversity.
- **Not blaming.** Recognise that the challenges being experienced by Gypsy, Showmen and Traveller individuals, families and communities is not attributed to a lifestyle choice, rather their situation reflects an oppressed position in society underpinned by a law that that works against this community of people.
- **Listening and being inclusive.** Ensure that individuals, families and communities are involved in all aspects of the welfare impact conversation, being sensitive to the need to respect confidentiality as and where appropriate.
- **Being an advocate.** Support individuals, families and communities and ensure that their rights are always upheld whilst being mindful of the need to respect people's privacy and confidentiality.
- **Promoting strengths.** Value the importance of family and community systems and work in partnership with people to identify and harness the assets of those systems.
- **Working together.** Support individuals, families and communities to work together to achieve a common goal.
- **Facilitating change.** Apply your knowledge and skills to enhance quality of life and wellbeing to be an agent of change.
- **Challenging yourself and others.** Employ models of reflective and reflexive practice. Take note of any potentially concerning behaviour of other agencies involved in the eviction and raise concerns about organisational wrongdoing and cultures of

inappropriate and unsafe practice.

- **Keep yourself safe.** Some unauthorised encampments can be busy places and tensions can be high. Comply with the lone working policy of your agency and request a review of the same if it does not include unauthorised encampments.
- **Debrief.** Seek out regular and formal opportunities to debrief with a colleague through organised supervision or similar activities.

## **Chapter 5: Supporting a person who has been arrested**

If the police do not agree to withdraw the notice by the deadline, Friends, Families and Travellers (FFT), a Charity that works to end racism and discrimination against Gypsy, Showmen and Traveller people and to protect the right to pursue a nomadic way of life, explain that it may be better if the individual, family and community leave the land to avoid being arrested and having their vehicles impounded.

Given the very short deadlines that are likely to be in place, it may be very difficult to prevent the eviction unless there are acute welfare considerations, but that does not mean that the opportunity of advocacy and principles of good practice should be abandoned. As FFT explain, even if the individual, family, or community must leave the land in response to a notice, it may still be possible to bring a challenge and make it clear how actions taken under the Police Act have caused a significant risk to welfare.

If a significant risk to welfare does prevent an individual, family or community from leaving the land, they may be arrested, and their vehicles may be impounded. It is for this reason that the Part B form has significant importance.

### ***Using the Part B form to highlight welfare considerations***

To convict an individual under the Police Act, the police would need to take the matter to Court. However, one problem that the Community Law Partnership envisages is that it may be very unlikely that actions taken under the Police Act are brought to the court. If the relevant deadline given in the notice is reached, the families concerned will (understandably) leave the site because otherwise they risk arrest and impoundment of vehicles (which actions can take place before a court Order is obtained). For this reason, the Community Law Partnership believes that the matter will not arrive at court for discussion of the various issues to take place.

Despite this circumstance, it may be important to try and encourage Gypsy, Showmen and Travellers families who have to leave land to seek a challenge by way of Judicial Review. Here they can challenge the decision of the Police and/or the Local Authority where it is felt that the actions have been carried out unlawfully or where it is important to

seek further guidance from the courts as to how this offence (and the amendments to the existing offences) should be dealt with on the ground. For a full discussion of this issue, see the brilliant Friends, Families and Traveller training pack. If a family do wish to seek a challenge by way of Judicial Review, the Part B form that accompanies this guidance could provide essential evidence that could be used to challenge the decision of the Police and/or the Local Authority.

If a person is arrested, and their vehicle is impounded, it is essential that they seek expert advice in respect of any allegation made against them. The earlier that this is done then the better. The presence of a significant welfare consideration should not stop a request for legal advice to ensure that there is no miscarriage of justice.

### ***Support for those who are arrested***

The Public Defender Scheme and the Criminal Law Solicitors' Association are recommended organisations that provide anyone attending a police station for interview free legal advice under the legal aid scheme regardless of means. For anyone under 18 years old who is arrested, the National Appropriate Adult Network (NAAN) is recommended as an organisation that works to ensure that their welfare is safeguarded effectively by an appropriate adult.

## Chapter 6: Useful contacts and further information

A general legal challenge may be brought against the Police Act on the grounds that it is incompatible with the Human Rights Act as it raises significant welfare considerations. Specific challenges may be possible with regard to individual instances of eviction, potentially even after the Gypsies and Travellers concerned have left the land in question.

Any general challenge (as opposed to specific challenges in individual instances of eviction) will inevitably take some time to progress and will not offer a quick solution to the situation that is happening.

If you need legal representation in challenging an eviction you can call any one of the following organisations:

- **The Travellers' Advice Team at The Community Law Partnership (CLP) operates helpline, which is available on 0121 685 8677 between 9:00 am and 1:00 pm Monday to Friday.**
- **Gypsies and Travellers Wales operate a helpline, which is available on 0292 021 4411 between 10:00 am and 2:00 pm Monday to Thursday.**
- **Friends Families and Travellers operate a helpline, which is available on 01273 234 777 between 10:00 am and 4:30 pm open Monday to Friday, excluding Bank Holidays.**
- **London Gypsies and Travellers operate a helpline, which is available on 0208 533 2002 between 10:00 am and 4:30 pm open Monday to Friday, excluding Bank Holidays.**
- **Derbyshire Gypsy Liaison Group operate a helpline, which is available on 07799443830 between 10:00 am and 2:00 pm open Monday, Wednesday and Friday, excluding Bank Holidays.**
- **Travelling Ahead operate a helpline, which is available on 08088020025 between 10:00 am and 4:30 pm open Monday to Friday, excluding Bank Holidays.**
- **Drive2Survive operate a helpline, which is available on 07903 198 022 or 07840 979 302 between 9:00 am and 1:00 pm Monday to Friday.**



- **Shelter operates a helpline, which is available on 0808 800 4444 (England) 08000 495495 (Wales) between 8:00 am and 8:00 pm. Freephone**
- **Showman's Guild operates a helpline, which is available on 01784 461805 between 9:00 am and 5:00 pm Monday to Friday.**

Gypsy, Showmen and Traveller organisations will need to know what is happening in each case and the welfare impact Conversation Template that we have designed should help provide a comprehensive understanding of the situation.

Information about evictions that are taking place, especially under The Police Act, should be passed to one of the organisations listed above.

### ***Useful policy documents***

Johnson, C. (2022) Understanding eviction powers: the Police, Crime, Sentencing and Courts Act 2022 and the impact on nomadism. Produced for Friends, Families and Travellers. Supported by Baring Foundation. <https://gypsy-traveller.org/police-act-full-guide/>

Friends, Families and Travellers. Supported by Baring Foundation. (2022) A Short Guide to the Policing Act: What it means for Gypsy, Showmen and Traveller camps. [Police-Act-Booklet.pdf \(gypsy-traveller.org\)](#)

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### ***Evolving approaches to understand welfare considerations***

As our understanding of the welfare considerations adapts, so too will the Conversation Template and Good Practice Guidance that we have designed. If you use our Police, Crime, Sentencing and Courts Act Welfare and Impact Conversation Template, we welcome your feedback and recommendations for improvement. The most recent version of these forms and documents can be found on the Gypsy, Roma and Traveller Special Interest Group page of the BASW website.

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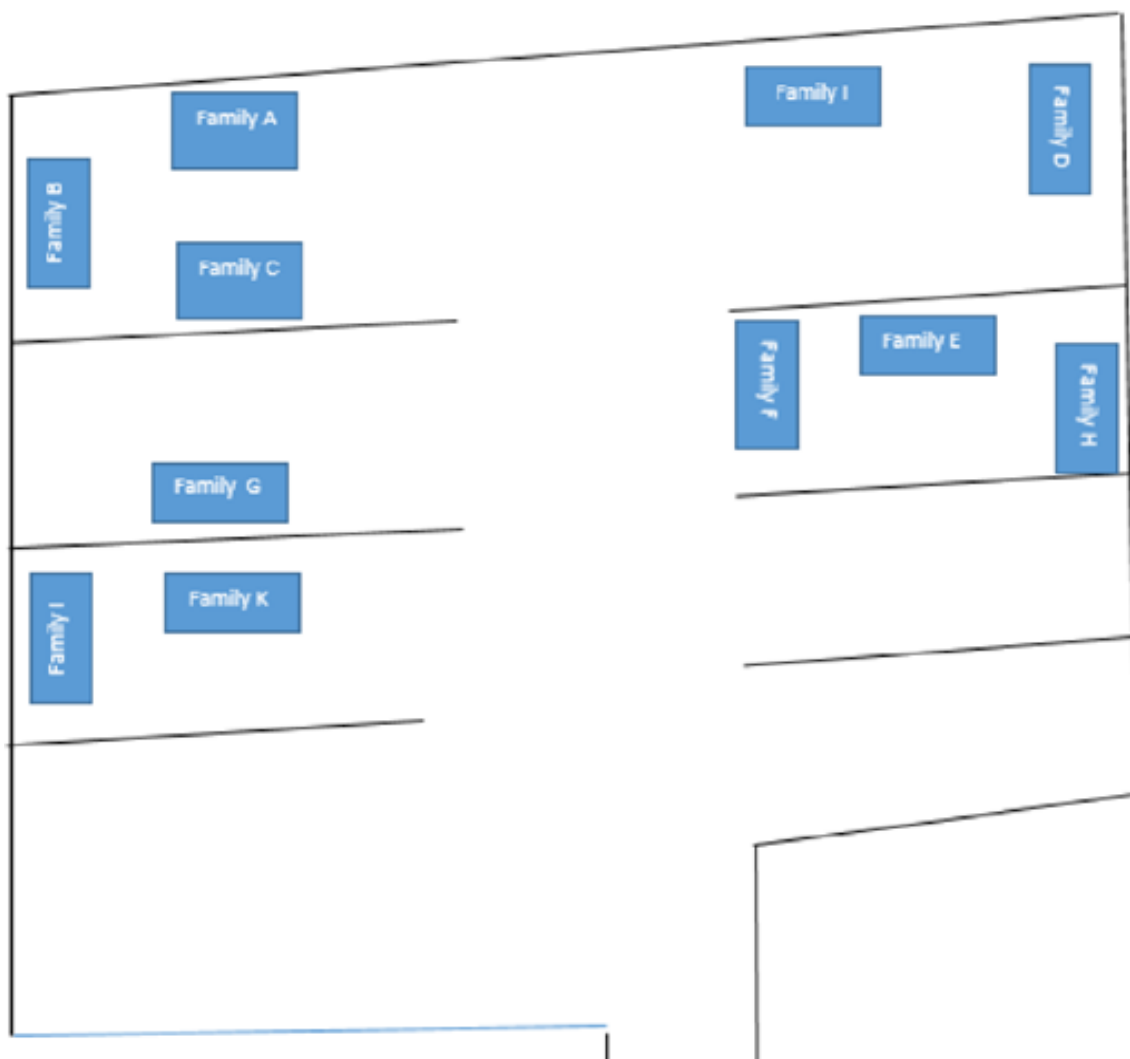
## Appendix 1. Laws and policies that support this Good Practice Guide

Template that accompanies this guide has been informed by the following key policy and research concordats:

- Children Act 1989.
- Care Act 2014.
- Equality Act 2010.
- Mental Capacity Act 2005.
- Mental Health Act 1983.
- Social Services and Well-being (Wales) Act 2014.
- Human Rights Act 1998.
- Data Protection Act 2018.
- 2018 Working Together to Safeguard Children Statutory Guidance.
- Turnell, A. and Edwards, S. (1999). Signs of Safety: A safety and solution-oriented approach to child protection casework, New York: WW Norton.
- 2002 Department of Health Common Assessment Framework for Children and Families in Need.
- United Nations Convention on the Rights of Children and Young Persons 1989
- Children and Young Persons (Wales) measure 2011.
- Homelessness law and policy.

## Appendix 2. Family connections

Sometimes, when discussing the welfare considerations that result from the new powers of the Police Act, it is important to develop an overview of family connections. In the example below, a rudimentary sketch of an unauthorised campsite has been provided. For welfare and impact considerations to be known, understanding which families live where can be important, particularly if the outcome of the conversation is being used to inform an appeal or to substantiate a conclusion that the act of eviction represents significant harm to the individual, family or community.



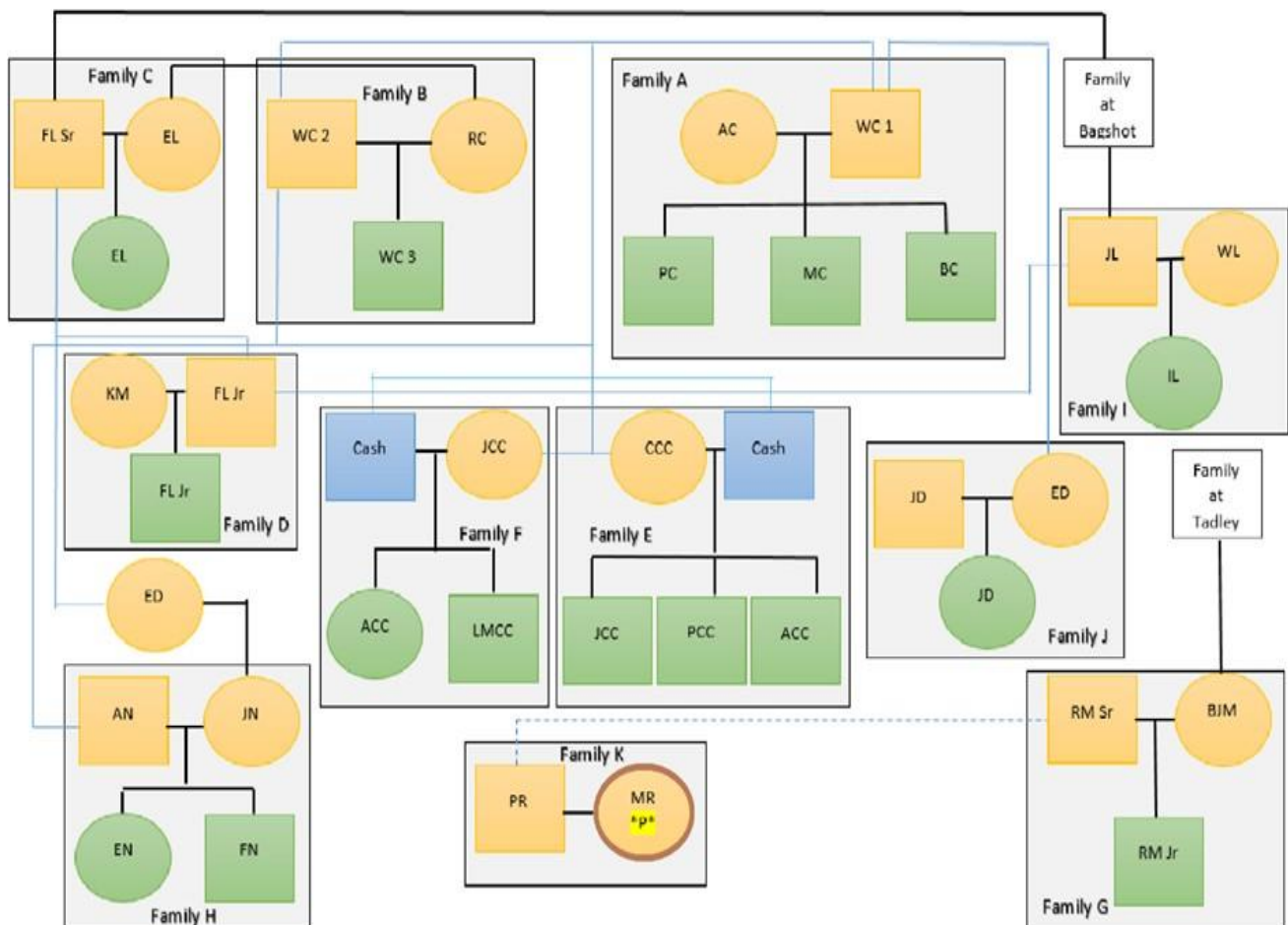
Once the site has been sketched; it is good practice to map family connections. Consistent with eco-mapping techniques, the following diagram shows how family connections can be illustrated.

In the below example, males are represented by squares and females

are represented by circles. Adults are indicated with the colour orange and children (those under 18 years) are coloured green.

The female in Family K is presented as a green circle filled in with Orange. This is because the female is 17 years old, pregnant but married. The Males in Family E and F are coloured in blue to represent their position as the nominated lead contacts who can help to schedule conversations with other community members.

To indicate family connections, a strong black line indicates immediate family related by birth or marriage. The thin blue line indicates immediate family such as grandparents, great-grandparents, grandchildren, great-grandchildren, aunts, uncles, siblings-in-law and cousins. A dotted line indicates a close friendship.



When describing welfare considerations, always try to map family connections so that a court can better understand the nature of support that other family members offer to one another within the community. Although individual family summaries are important,

understanding and illustrating 'the system' within which family operates, as a community, is essential. This illustration example above could enable you to explain to the court how the community offers a mechanism of mutual support in matters related to mental health, social support, and childcare. This explanation could also enable you to substantiate the reasons why eviction represents a public health concern that might push families into crisis. The known impact of the potential disruption that eviction might have in this 'system' might also enables you to describe existing protective factors provide evidence that can lead to a more proportionate decision.

### Appendix 3. Signs of Safety®

The Signs of Safety® model began in the 1990's. It was developed by Andrew Turnell and Steve Edwards (Turnell, 2012) drawing on solution-focused therapy and the experiences of families. It is now a comprehensive and mature approach that is being implemented all over the world.

Signs of Safety® continues to evolve within its core framework reflecting innovation by those who use it in varying places and applications. Used within a Police, Crime, Sentencing and Courts Act Welfare and Impact Conversation Template, Signs of Safety can be extremely helpful in transforming an understanding of welfare considerations, policy, learning and leadership.

Signs of Safety® is an integrated framework for how to understand welfare and risk. A range of tools for conversations and decision making can be used but the main models adopted in the Police, Crime, Sentencing and Courts Act Welfare and Impact Conversation Template are the “three columns” approach and a “scaling question”. One further approach that could be used in this assessment, depending on the circumstance and confidence of the assessor, is the three houses model, or adapted for relevance, the "three trailers" model:



The “three trailers” model, an idea developed by Michael Ridge, is a resource that can be widely used to help a child identify things in their life they feel positive about, things they are worried about, and to explain what their hopes dreams and aspirations are.

Whilst this technique is often used by social workers in a child protection setting, it can be readily adapted for working with children



and families facing challenges associated to the new powers contained within the Police Act. For this reason, the "three trailers" model is recommended for use wherever possible.

## Police, Crime, Sentencing and Courts Act Welfare and Impact Assessment: Good Practice Guide

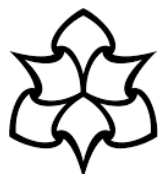
This Good Practice Guide has been written by the Gypsy, Roma and Traveller Social Work Association (GRTSWA). Founded by Romani and Traveller social workers, the aim of this organisation is to provide a practice, policy and research response to the challenges faced by Gypsy, Roma and Traveller communities. This Good Practice Guide is written by Gypsy, Roma and Traveller social workers for Gypsy, Roma and Traveller people.

We hope that this Good Practice Guide provides you with an introduction to the Police, Crime, Sentencing and Courts Act and that it establishes a solid basis for the better understanding of welfare considerations that might result from local authority and police action.

To find out more about the Gypsy, Roma and Traveller Social Work Association, and the work needed to develop welfare and impact assessments, scan the QR code below.



The GRTSWA supports the Anti-Racist (Wales) Action Plan which recognises that safe, culturally appropriate accommodation is necessary for individuals to flourish in other parts of their lives and to address the lack of site provision and poor quality of Gypsy, Showmen and Traveller accommodation in Britain with a series of meaningful actions to achieve this goal.



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