



# **A Joint Protocol For Managing Unauthorised Encampments within the Staffordshire County Council and City of Stoke on Trent Council boundaries**

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# Managing Unauthorised Encampments

## A Joint Protocol between Staffordshire Police and Stoke-on-Trent City, Staffordshire County and Local Councils

The protocol sets out the procedures to be adopted by all agencies. The aim is to ensure that the protocol remains current, and reflects relevant changes in legislation and national policy thereby ensuring that Staffordshire Police, Staffordshire County Council, Cannock Chase District Council, East Staffs Borough Council, Lichfield District Council, Newcastle Borough Council, South Staffs District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Tamworth Borough Council and City of Stoke on Trent Council provide a fair, balanced and proportionate response. Each subsequent edition is numbered and carries the month and year of publication.

The joint protocol was created to ensure that where people are camped on unauthorised sites as trespassers and cause nuisance, or indulge in anti-social or criminal behaviour, they are dealt with under the law in the same way as those who behave in that manner from the settled community. Staffordshire County Council, Cannock Chase District Council, East Staffs Borough Council, Lichfield District Council, Newcastle Borough Council, South Staffs District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Tamworth Borough Council and City of Stoke on Trent Council and Staffordshire Police recognised their respective roles and will comply with the good practice guide, *'Managing Unauthorised Camping'* (and subsequent amendments, including *'Dealing with illegal and unauthorised encampments'*, March 2015), published by the Department for Communities and Local Government (DCLG). This is also supported by the National Police Chiefs' Council *'Operational Advice on Unauthorised Encampments'*, 2022.

Proportionate enforcement of the law involves a significant degree of discretion. The law provides a wide range of powers to remove people who are unlawfully on land. Each encampment must be individually considered on its merits, before a decision in relation to use of police powers is made. The starting point for a police response to any issue should be to: Protect life; prevent and detect crime; and maintain the Queen's peace. In making these decisions Guidance in this document should be considered.

A consideration should be whether an encampment is interfering with the lawful rights of others balanced against rights of the campers and any specific welfare needs. All breaches of the criminal law should be investigated by the police in an appropriate manner. Similarly, persons encamped are entitled to a life free from the fear of crime, harassment and intimidation and all reports of incidents against those people will be proactively investigated.

Staffordshire Police, Staffordshire County Council, Cannock Chase District Council, East Staffs Borough Council, Lichfield District Council, Newcastle Borough Council, South Staffs District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Tamworth Borough Council and City of Stoke on Trent Council are committed to ensuring that unauthorised encampments are dealt with in the most professional manner, taking into account the needs of all individuals concerned, and ensuring wherever practicable that their actions are reasonable and proportionate.

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**Council**

## **Contents**

Section	Page
Foreword	
1. Introduction	4
2. Safeguarding considerations and contacts	5
3. Equality and discrimination	6
4. Initial actions on report of an unauthorised encampment	7
5. Role of Staffs Police on notification of an illegal encampment	8
6. Illegal Encampments on land owned by the council	10
7. if the decision is not to evict immediately	12
8. Illegal encampments on privately owned land in Staffordshire	13
9. Police Powers; Criminal Justice and Public Order Act 1994	14

## **Appendices**

1. Code of Conduct
2. Unauthorised Encampment Assessment Form
3. Unauthorised Encampment Decision Record
4. Notice to Vacate Land

## 1. Introduction

- 1.1 Following consultation between Staffordshire Police, Staffordshire County Council, Local Councils and City of Stoke on Trent Council, this joint protocol was agreed which contains guidance for dealing with illegal encampments and which incorporates guidance from both the DCLG and the National Police Chiefs' Council.
- 1.2 A multi-agency approach can be very effective particularly in areas where encampments are a regular occurrence. This protocol is to be applied consistently across Staffordshire and Stoke on Trent to ensure a rationalised multi-agency response and appropriate management of unauthorised encampments.
- 1.3 Staffordshire County Council, the City of Stoke on Trent Council and Staffordshire Police recognised the importance of effective communication when managing what are potentially very sensitive issues. Effective communication is vital with those individuals and their families who are required to move, as well as local residents and other interested parties. Effective communication and liaison should be maintained between the Council Enforcement officer (CEO) and the Local Policing Team (LPT).
- 1.4 Increasing trust and confidence in the police amongst minority ethnic groups is a priority to all police forces. The Equality Act 2010 makes it unlawful for public bodies such as Local Authorities and police forces to discriminate on the grounds of protected characteristics including race. Case law has held that because of their shared history, geographical origin, distinct customs and language Romany Gypsies and Irish Travellers are distinct ethnic groups. This means that treating people less favourably, solely because they come from a Traveller community is unlawful and it is important that all of the measures explained in this protocol are considered on an individual case-by case manner.
- 1.5 To facilitate effective communication this Protocol will be available on Staffordshire Police and Staffordshire County Council, Cannock Chase District Council, East Staffs Borough Council, Lichfield District Council, Newcastle Borough Council, South Staffs District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Tamworth Borough Council and City of Stoke on Trent Council Internet web sites.

## 2. Safeguarding considerations and contacts

As with any encounter where young people and children are likely to be present or involved officers must be aware of potential safeguarding issues. A child is anyone under the age of 18. It is very important that action is taken straight away if it appears that a child may be abused or neglected.

2.1 A vulnerable adult is someone over the age of 18 'who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation.' It is very important that action is taken straight away if it appears that a vulnerable adult may be abused or neglected.

**If there are concerns that a child or vulnerable adult is at immediate risk the Police should be alerted on 999.  
The non-emergency number is 101.**

If the risk is not immediate, concerns should be reported to:

Staffordshire Children's Advice and Support Service	0300 111 8007 (Office Hours) 0345 604 2886 (Out of Hours EDT)
Staffordshire Adults Referrals Team	0300 111 8010/0345 604 2719 0345 604 2886 (Out of Hours EDT)
Stoke-on-Trent Safeguarding Children Referral Team	01782 235 100 01782 234 234 (Out of Hours EDT)
Stoke-on-Trent Adult Referrals Team	0800 561 0015
Staffordshire Police MASH Team (Professionals only)	01785 235 350
Midlands Partnership NHS Foundation Trust South Staffordshire	0808 196 3002
North Staffordshire or Stoke-on-Trent	0300 123 0907
Local Authority Contact Details	
Stoke-on-Trent	01782 232 372
South Staffordshire (Planning Team)	01902 232 372
Cannock Chase District Council	01543 462 621
East Staffs Borough Council	01283 508 000
Lichfield District Council	01543 308 000
Newcastle Under Lyme Borough Council	01782 615 599
Stafford Borough Council	01785 619 000
Staffordshire Moorlands District Council	0345 605 3010
Tamworth Borough Council	01827 709 709

### **3. Equality and discrimination**

- 3.1 The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination, promote equality of opportunity, and foster good relations between those who share a protected characteristic and those who do not when carrying out their functions. This duty covers all racial groups, including Gypsies and Irish Travellers who are recognised ethnic groups.
- 3.2 This protocol is not a policy on Gypsies or Travellers; rather it is a protocol on the agreed response to reports of persons residing as trespassers on land. It is, however, recognised that many unauthorised encampments will be occupied by Gypsies or Travellers.
- 3.3 Local Authorities and Police must always be able to show that they have properly considered the equalities implications of their policies/protocols and actions in relation to unauthorised encampments. They must be able to demonstrate that their policies/protocols and actions are proportionate bearing in mind all the circumstances of the case.

#### **4. Initial actions on report of an unauthorised encampment**

- 4.1 In considering any unauthorised encampment a balance must be struck between the rights of those encamped, of landowners and those lawfully entitled to use the land, and the local community. Each encampment must be considered on its own merits with police officers and Local Authority staff acting objectively.
- 4.2 The initial agency will seek to undertake an initial visit and assessment by making contact with the people on site. The assessment should consider the impact of its location, as well as the behaviour displayed by the occupants. The occupants should be spoken to in order to establish their identities and location of last site, and to ascertain their views on desired duration of stay as well as any pressing welfare needs. Issues to be taken into consideration include;
- The welfare needs of the group;
  - The nature, suitability or obtrusiveness of the encampment;
  - The size of the group, their behaviour and level of any nuisance;
  - The number, validity and seriousness of any complaints;
  - The level of damage caused by the occupiers.
- 4.3 Attempts should be made to establish if the land is private or council owned, identify the landowner and make contact with them.
- 4.4 Any offences should be identified such as criminal damage caused to gain entry to land, obstruction of any footpaths or other highways, fly tipping, any other anti-social behaviour.
- 4.5 The information should be recorded and where appropriate shared between District, County, City Councils and the Local Policing Team.
- 4.6 The initial agency attending should notify partners of its presence and activity being undertaken with a view to establishing a joint approach in line with this protocol. They should share the information recorded.
- 4.7 Police points of contact will be the Local Policing Team via 101 or by reporting online, however if emergency attendance is required calls should be reported via '999'.
- 4.8 Each Council area will have nominated points of contact to deal with unauthorised encampments.

## 5. Role of Staffordshire Police on notification of an Illegal encampments

5.1 Once Staffordshire Police officers become aware of an encampment they will notify the owner of the land and where appropriate, the relevant Local Authority Team.

5.2 A STORM incident log will be created in every instance and the Duty Officer will be informed. The incident log should include the following information:

- Date the occupiers arrived at the location;
- How the persons entered the land;
- Number of caravans and vehicles present and their registration numbers;
- The exact location of the encampment;
- Details of livestock (e.g. horses) and dogs present;
- What steps, if any, have been taken locally to request that the group leave;
- The identity of the land owner and whether they have been informed;
- What steps are being taken to secure the remainder of the property while the group is present;
- Whether there is anything especially valuable, sensitive or dangerous on the site (e.g. toxic waste, powers or gas installations);
- Information of any immediate health or welfare needs, especially that of children and elderly people;
- What steps will be taken to secure the premises once the group leaves;
- All calls from the public and/or complaints concerning the conduct of the persons (including incidents of verbal-abuse and anti-social behaviour) will be recorded on the incident log, in order to create a 'running' and complete record.

5.3 The police should seek to engage with the unauthorised campers and in doing so establish any welfare needs. Details of the persons present and any intentions for remaining at the site and the duration should be captured. The STORM incident will be graded according to the threat, harm and risk. This will determine if it graded as Urgent (Grade 1) identifying the need for immediate police attendance within 15 minutes or for example Priority (Grade 2). Grade 2 acknowledges that there is a degree of importance or urgency associated with the initial police action, but an emergency response is not required. Grade 2's should be attended within 60 minutes.

5.4 An Initial Site Assessment record should be commenced (see Appendix 2):

- This should take into account the impact of the location;
- The welfare needs of the group;
- The nature, suitability or obtrusiveness of the encampment;
- The size of the group, their behaviour and level of any nuisance;
- The number, validity and seriousness of any complaints;
- The level of damage caused by the occupiers.

5.5 The Police on attendance should seek to identify any criminal offences such as criminal damage to cause entry. An investigation should be commenced into any criminal damage caused and attempts made to identify the person (s) responsible. Should a person be identified then this should be dealt with in accordance with

normal processes of managing offenders. This would not normally give grounds for immediate eviction.

5.6 As part of the site visit it is necessary to understand and capture the impact of any damage or environmental issues. Officers should capture the condition of the site and where necessary record the site using body worn video (BWV).

5.7 The Police should issue to those present and remaining at the site the Code of Conduct notice that sets out expectations in terms of behaviour and support that will be provided (see Appendix 1).

5.8 The Police should as part of an assessment consider the previous presence or activity of the group in forming any decision as to the processes to be followed. Full intelligence checks will be completed on all parties present.

5.9 The information captured should be accurately recorded and shared with partners where it is appropriate to do so.

## **6 Illegal encampments on land owned by Staffordshire County Council, City of Stoke-on-Trent Council or Local Authority within Staffordshire.**

- 6.1 The Local Authority is empowered to initiate eviction proceedings in relation to illegal encampments on Council owned land, and will usually use Part 55 of the Civil Procedure Rules or Sections 77 and 78 of the Criminal Justice and Public Order Act 1994 (CJPOA).
- 6.2 It is jointly agreed that the Local Authority will be the lead agency where Unauthorised Encampments are established on council owned land, and as lead agency will coordinate information and gather appropriate evidence to provide a recommendation for further action.
- 6.3 The Local Authority will arrange for a joint visit to confirm the encampment with the Local Policing Team.
- 6.4 The lead agency will carry out the welfare check and make enquiries to identify the needs of the persons within the encampment. This should also seek to identify;
  - Location
  - Date of Arrival
  - Number of Caravans
  - Family Names (where known) and Estimated Numbers
  - Dangerous Dogs
  - Livestock Present
  - Humanitarian Considerations

Where a special humanitarian or welfare issue is identified, the relevant department will be notified.

- 6.5 The unauthorised encampments should be issued with a copy of the Code of Conduct by which the occupiers will be expected to regulate their behaviour whilst occupying the site (see Appendix 1). It may be necessary to explain these and provide details of helpful numbers (e.g. Doctors, schools, churches).
- 6.6 The unauthorised encampments should also be informed that the process for eviction will start immediately and ask them to leave. It may be necessary to issue a 'Notice to Vacate Land' initial notice requesting that the unauthorised encampments leave as soon as reasonably practicable or by a specified date and time (see Appendix 4).
- 6.7 If possible the provision of emergency measures to minimise environmental waste should be taken and provision of bin bags considered along with and other options.
- 6.8 Evidence of impact should be gathered with details of numbers of persons and vehicles present. A sketch of the area along with photographs should be sensitively obtained, taking into account human rights legislation such as

## Article 8.

- 6.9 Following the visit, the Local Authority will liaise with relevant partners to discuss the issues present and consider the next steps required. Attendance will be dependent upon the issues identified and may include, homelessness, Animal Welfare, RSPCA, Environment Agency amongst others.
- 6.10 6.10 If the Planning Enforcement Team believes, because of previous experiences with the persons concerned or through accurate intelligence, that it is the intention of the unauthorised occupiers not to comply with the Notice to Vacate Land, they may make an application directly to the Court for a 'Possession Order' under part 55 of the Civil Procedure Rules or Sections 77 and 78 of the Criminal Justice and Public Order Act 1994 (CJPOA) Notices. The encamped persons may make legal representation through a Solicitor. The factors taken into consideration may include:
- Previous history or experience of the persons concerned;
  - The encamped persons refuse to leave the land peacefully;
  - Sites which are frequently used by the public e.g. Public Open Spaces;
  - Sites with a history of regular occupation by unauthorised encampments.
- 6.11 On application by the relevant Local Authority Team, the Court may issue an order for possession of the land. This procedure can still take several days and during this time it is important that partners and the community are kept updated.
- 6.12 In all instances Staffordshire County Council, Cannock Chase District Council, East Staffs Borough Council, Lichfield District Council, Newcastle Borough Council, South Staffs District Council, Stafford Borough Council, Staffordshire Moorlands District Council, Tamworth Borough Council and City of Stoke on Trent Council and Staffordshire Police will endeavour to support lead action taken by the other party.
- 6.13 Police powers can be utilised at the discretion of the Senior Officer in charge (Local Commander/ Force Incident Manager). The procedure is outlined below.

## **7 If the decision is not to evict immediately**

- 7.1 Where Encampments do not give rise to complaints of nuisance, immediate action may not be considered necessary, however, a mutually acceptable date for leaving the site should be agreed. Some persons will indicate their unwillingness to enter into or honour agreements about their leaving date. It is important that these people understand that while there is no statutory obligation to provide information in order to make assessment, or to agree to

a leaving date, it is in their interests to cooperate. Non co-operation often stems from a mistrust of the motives of those involved, based on previous negative encounters and alone should not influence the decision to evict or not.

7.2 When the decision is not to evict immediately, the reason for this decision should be recorded and will be determined by the specific circumstances of the site and any specific needs of those camping, which may include:

- The educational needs of any children,
- The need for immediate medical treatment.

Any referrals to Children's or Adult Services can be discussed jointly between Local Authority and Police and advice sought where applicable. Where those camped indicate that it is their intention to stay in an area for a short period, and they are unlikely to cause disruption or damage during their stay, a departure date should be agreed with the stipulation that staying beyond the stated date may trigger proceedings for eviction. Welfare checks should be carried out in line with the NPCC guidance.

7.3 Encampments are to be kept under review and should be subject to regular visits; complaints should be monitored and logged by the Local Authority and the Police. Changed or deteriorating circumstances and/or behaviour is likely to lead to the initiation of eviction proceedings. Examples of 'change' include:

- Increased levels of nuisance or environmental damage;
- Expansion of the initial encampment group by the arrival of further people and caravans/mobile homes;
- Anti-social or criminal activity.

7.4 Local planning authorities may also wish to consider that, by allowing camps to remain on an unauthorised site for a short period, public amenity or existing use of land or buildings may be unacceptably affected, meriting protection of the public interest. Depending on the circumstances however the effects of unauthorised use, for short periods may not be considered unacceptable. In this context the local authority should consider the length of time specified in Part 5 of Schedule 2 to the 1995 General Permitted Development Order (caravans staying on land without requiring specific planning permission).

7.5 Where it has been decided that, for the time being, an encampment is not to be evicted Local Authorities should ensure that other relevant bodies are informed either via telephone or email by the Planning Enforcement Team. This will include:

- Elected members and relevant ward members;
- The public, especially complainants;
- Local education service and health and welfare agencies.

7.6 Where an encampment is to be allowed to stay for a period of time, the Local Authority may offer temporary services such as the provision of rubbish collection sacks.

## **8. Illegal encampments on privately owned land in Staffordshire**

- 8.1 The Local Authority will provide advice to the land owner and also visit the scene to identify if there are any welfare needs that should be instigated.
- 8.2 When aware of an unauthorised encampment, Staffordshire Police will notify the affected landowner and the Local Authority of its existence.
- 8.3 Where appropriate, Police after consultation with the LPT Commander or Force Incident Manager may exercise powers under Section 61 Criminal Justice and Public Order Act 1994 (CJPOA) or consider the new legislation under Section 60 (C).
- 8.4 If it is not appropriate for the Police to use their powers under Section 61 the owner of the land should be advised of the reasons. Such reasons may include:
  - The persons have no intention to take up residence;
  - Insufficient number of vehicles;
  - Humanitarian grounds;
  - No instances of damage, nuisance or apparent criminal activity.

The owner of the land can be advised to seek to issue Court proceedings to secure possession of the land or seek the services of a reputable firm of bailiffs.

- 8.6 The Local Authority will not remove persons or property from private land. The Police may be called upon to assist either the County Court Bailiffs or the High Court Sheriff (with regard to a potential breach of the peace) in the event of an order resulting from a private application.

## 9. Police powers: Criminal Justice and Public Order Act 1994

9.1 Police powers to evict people from an unauthorised encampment are provided for by sections 61 and 62 of the CJPOA 1994. In all instances there will be early consultation/involvement with the Local Authority SPOC. Each Staffordshire LPT will be required to act in accordance with this protocol. The conditions that can be caught by the power to direct under 61(1) (a) have now been broadened. **These replicate the damage, disruption and distress included in the new offence but will not need to meet the threshold of “significant”.**

9.2 Should action be required then the matter will be overseen by a Senior Police Officer which will be the LPT Commander, Deputy Commander and/or Force Incident Manager supported by the Neighbourhood Team.

9.3 The senior officer present should consider their powers, taking all the circumstances into account with particular note of whether the following circumstances exist:

- There is a threat to public order, or
- There is obstruction of the highway, or
- When crime is, or has been, committed which can be linked to the illegal encampment.
- Impact on the wider community and impact on the Travellers themselves.

9.4 **On each occasion, prior to invoking Police powers consideration must be given to humanitarian and welfare issues.** Depending on the urgency of the particular circumstances the Local Authority will carry out enquiries in this regard. Such considerations should not cause an obstructive delay. However, the Local Authority may make an evaluation where issues such as a critical illness or treatment at hospital are valid reasons for not moving the persons present. Factors such as children attending school will not, generally, be regarded as being sufficient grounds for a delay. A risk assessment around potential housing needs must be carried out in consultation with the Local authority especially if caravans are seized.

9.5 Consideration may be given to the use of powers contained in alternative legislation e.g. Wilful obstruction of the highway (Section 137 Highways Act 1980).

9.6 Should the Police determine not to use their powers then this must be kept under review and periodically assessed to establish if circumstances have changed that will require an eviction to protect others.

9.7 The grounds for decisions must be fully recorded. The decisions maker should ensure that there is a clear audit trail of decision making which sets out the rationale for the decision made. An eviction rationale is attached (see Appendix 3).

9.8 The primary conditions of the new criminal offence are contained in Section 60C (1) of the Criminal Justice and Public Order Act 1994, as amended by the PCSC Act 2022. The offence applies where:

- a) a person is aged 18 or over;
- b) a person is residing, or intending to reside, on land without the consent of the occupier of the land;
- c) a person has or intends to have at least one vehicle with them on the land;
- d) one or more conditions in subsection 60C (4) of the CJPOA are met (see below);
- e) the person is requested to leave and/or remove their property by the occupier, a representative of the occupier or police.

Section 60C (2) goes on to say that a criminal offence is committed when a person meets all the conditions in Section 60C (1) as above and also meets one of the following:

- a) a person fails to comply with the request to leave as soon as reasonably practicable;  
or
- b) a person re-enters or enters the land with an intention of residing there without consent and has, or intends to have a vehicle with them, within 12 months of the request being made.

Specific conditions related to harm – Section 60C (4)  
The conditions are —

- a) in a case where a person is residing on the land, significant damage or significant disruption has been caused or is likely to be caused as a result of their residence;
- b) in a case where a person is not yet residing on the land, it is likely that significant damage or significant disruption would be caused as a result of their residence if they were to reside on the land;
- c) that significant damage or significant disruption has been caused or is likely to be caused as a result of conduct carried on, or likely to be carried on, by that person whilst on the land;
- d) that significant distress has been caused or is likely to be caused as a result of offensive conduct carried on, or likely to be carried on, by that person whilst on the land.

People **aged 18 or over** would commit the proposed offence if they: -

- reside or intend to reside on land without consent and:
- they have or intend to have at least one vehicle with them;
- they cause or are likely to cause **significant damage, disruption or distress** as a result of either residing / intending to reside on the land or their conduct / potential conduct whilst on the land;
- they fail as soon as reasonably practicable to leave when directed to by the owner, someone representing them or the police, or return within the prohibited period of 12 months.

9.9 Section 61 gives police the powers to direct trespassers on land who have the common purpose of residing there for any period.

The power applies where the senior officer present reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following have occurred:

- a) any of the trespassers has caused, damage, disruption, or distress or
- b) the trespassers have between them six or more vehicles on the land.

**The conditions that can be caught by the power to direct under 61(1) (a) have now been broadened. These replicate the damage, disruption and distress included in the new offence but will not need to meet the threshold of “significant”.**

Failure to comply with the direction, by failing to leave the land as soon as reasonably practicable, without reasonable excuse, is an offence. Similarly, it is an offence for a trespasser who has left the land in compliance with a direction to re-enter it as a trespasser within 12 months of the direction being given.

**The period of prohibited return has now been extended from 3 months to 12 months.**

If breached, without reasonable excuse, police will be able to exercise powers of arrest and seizure.

If a person fails to remove their vehicle as directed, without reasonable excuse, or enters the land as a trespasser within 12 months of the direction to leave being given, the police officer may seize and remove that vehicle under section 62 of the CJPOA.

**A direction under 61 can be issued to trespassers on land that forms part of a highway, but only where other conditions are met.**

9.10 S62 of the Criminal Justice and Public Order Act 1994. Supplementary powers of seizure.

- (1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—
  - (a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or
  - (b) entered the land as a trespasser with a vehicle within the period of three months

beginning with the day on which the direction was given, the constable may seize and remove that vehicle.

(2) In this section, “trespasser” and “vehicle” have the same meaning as in section 61.

9.11 62A of the Criminal Justice and Public Order Act 1994. Power to remove trespassers: alternative site available

(1) If the senior police officer present at a scene reasonably believes that the conditions in subsection (2)

are satisfied in relation to a person and land, he may direct the person—

(a) to leave the land;

(b) to remove any vehicle and other property he has with him on the land.

(2) The conditions are—

(a) that the person and one or more others (“the trespassers”) are trespassing on the land;

(b) that the trespassers have between them at least one vehicle on the land;

(c) that the trespassers are present on the land with the common purpose of residing there for any period;

(d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;

(e) that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

(3) A direction under subsection (1) may be communicated to the person to whom it applies by any constable at the scene.

(4) Subsection (5) applies if—

(a) a police officer proposes to give a direction under subsection (1) in relation to a person and land, and

(b) it appears to him that the person has one or more caravans in his possession or under his control on the land.

(5) The officer must consult every local authority within whose area the land is situated

as to whether there is a suitable pitch for the caravan or each of the caravans on a relevant caravan site which is situated in the local authority's area.

## **Use of Police Powers**

The coordinated use of powers available under the Criminal Justice and Public Order Act 1994 allows for a proportionate response to incidents covered by this guidance based on the behaviour of the trespassers.

Current legislation affords the police and local authorities a range of powers, the use of which is subject to a range of factors. Groups of known individual families where there are small numbers in acceptable locations, not causing anti-social behaviour or crime, can be allowed to remain in that location longer than would otherwise be the case if the law were different. This approach leads to the Gypsies and Travellers having a real incentive to act in a responsible manner.

Sections 60C to 60E of the Criminal Justice and Public Order Act 1994 set out the criminal offence relating to residing on land without consent, in or with a vehicle, and associated seizure and forfeiture powers.

In cases where no significant harms or any criminal offence have been committed, police may decide to take other enforcement action using Sections 61 or 62 of the Criminal Justice and Public Order Act 1994, providing the conditions of this are met.

Forces should consider becoming involved in bringing about the prompt and lawful removal of groups trespassing without consent using Section 61 or 62 powers where:

### **i) Local amenities are deprived to communities or significant impact on the environment.**

This could include, for example, occupying any part of a recreation ground, public park, school field, village green, or depriving the public use of car parks. The fact that other sections of the community are being deprived of the amenities must be evident before action is taken.

### **ii) There is local disruption to the economy.**

Local disruption to the economy would include occupying a shopping centre car park, or in an industrial estate, if it disrupts workers or customers, or agricultural land, if this results in the loss of use of the land for its normal purpose.

### **iii) There is other disruption to the local community or environment.**

This might include where other behaviour, which is directly related to those present is so impactful that a prompt eviction by police becomes necessary, rather than by other means.

### **iv) There is a danger to life.**

An example of this might be a group gathered adjacent to a motorway, where there could be a danger of children or animals straying onto the carriageway.

### **v) There is a need to take preventative action.**

This might include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at this newly established site. This reasoning will take on greater

emphasis if the land occupied is privately owned, as the landowner will be responsible for the cleansing and repair of their property.

The mere presence of a group without any aggravating factors should not normally create an expectation that police will use eviction powers. This should be communicated to the public, landowners, local authorities, and other agencies. Forces should develop a local communication strategy, ideally together with local authorities, to ensure the rationale for the use or otherwise of legislation is clear to all parties.

An Officer should be mindful that if the threshold of “significant” is met, they should consider the appropriate offence.

If a decision is made to use police powers to evict then the rationale for the decision should be clearly set out and recorded.

In all cases, as stated above, relevant Human Rights legislation must be applied to all decisions made i.e., that the elements of Sections 60, 61 or 62 are satisfied, and that it is necessary and proportionate to use the powers.

- Section 62A of the Criminal Justice & Public Order Act 1994 creates a power for the senior police officer present to direct a person to leave land and remove any vehicle or other property with him / her on that land if the senior police officer present reasonably believes that the conditions below are satisfied. The conditions are:
- that the person and one or more others (the trespassers) are trespassing on the land;
- that the trespassers have between them at least one vehicle on the land;
- that the trespassers are present on the land with the common purpose of residing there for any period;
- if it appears to the officer that the person has one or more caravans in their possession or under their control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;
- that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

The availability of suitable pitches at authorised sites or transit facilities will be an essential consideration before powers under Section 62 A-E can be used and liaison between police forces and their local authorities will be necessary to ascertain such availability or otherwise.

Section 61 Criminal Justice & Public Order Act 1994 relies upon reasonable steps being taken, by or on behalf of the landowner, to ask trespassers to leave in every case before police powers can be used. **There is no longer the requirement to meet the significant threshold for this power.**

A decision to use Section 61 will also be based on various additional factors:

- The impact of the encampment on the environment and the local settled community
- Any evidenced welfare issues identified.
- Is it reasonable and proportionate to use Police Powers over other available methods?

The availability of sufficient resources

Section 62A of the Criminal Justice & Public Order Act 1994 creates a power for a senior police officer to direct a person to leave land and remove any vehicle or other property with them on that land if the senior police officer present at a scene reasonably believes that the conditions below are satisfied. The conditions are:

- that the person and one or more others (the trespassers) are trespassing on the land;
- that the trespassers have between them at least one vehicle on the land;
- that the trespassers are present on the land with the common purpose of residing there for any period;
- if it appears to the officer that the person has one or more caravans in their possession or under their control on the land, that there is a **suitable pitch** on a **relevant caravan site** for that caravan or each of those caravans;
- that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

The conditions in this section are fewer than under Section 61 and concentrate more on the simple fact of trespassing for the purpose of residence. **The crucial condition here is that it appears to the officer that suitable alternative sites for caravans exist.**

The availability of suitable pitches at authorised sites or transit facilities will be an essential consideration before powers under Section 62 A-E can be used and liaison between police forces and their local authorities will be necessary to ascertain such availability or otherwise.

The six recommendations for the Police, published in 'Common Ground' by the then Commission for Racial Equality (now the Equality and Human Rights Commission) Inquiry, a summary of which is set out below, should be incorporated into all police actions concerning Gypsies, Irish Travellers and unauthorised encampments.

"Police forces should:

- Include Gypsies and Travellers in mainstream Neighbourhood policing strategies, to promote race equality and good race relations.
- Target individuals suspected of anti-social behaviour and crime on public, private and unauthorised sites, and not whole communities, and work with people from these groups and local authorities to develop preventive measures.
- Treat Gypsies and Travellers, both when they are victims and suspects, as members of the local community, and in ways that strengthen their trust and confidence in the force.
- Provide training for all relevant officers on Gypsies' and Travellers' service needs, so that officers are able to do their jobs more effectively, and promote good relations between all groups in the community they serve.
- Review formal and informal procedures for policing unauthorised encampments, to identify and eliminate potentially discriminatory practices, and ensure that the procedures promote race equality and good race relations.
- Review the way guidance is put into practice, to make sure organisations and individuals take a consistent approach, resources are used effectively and strategically, all procedures are formalised, and training needs are identified."

## Key Things to Remember:

### **Damage, disruption or distress:**

- SIGNIFICANT – Section 60C (1) Criminal Justice & Public order Act 1994 (NEW)
- Not significant – Section 61 Criminal Justice & Public Order Act 1994 (REVISED)
- When an alternative site is available e.g. Transit Site – Section 62A Criminal Justice & Public Order Act 1994 (NO CHANGE)

### **What is SIGNIFICANT?**

It includes (but is not limited to):

- Communities not being able to access/use facilities (e.g. car park, sports field, park)
  - Damage to land (e.g. agricultural)
    - Environment damaged
  - Interference with water or energy supplies
    - Impact on workers or customers
- Distress from offensive conduct (verbal or threatening)

### **When is an offence committed?**

When all conditions are met in Section 60C (1) and (4) and:

- A person fails to comply with the request to leave as soon as reasonably practicable or,
- A person re-enters or enters the land (with intention to reside without consent and has, or intends to have a vehicle with them), within **12 months** of the request being made.

Even if a person commits SIGNIFICANT damage, disruption or distress but leaves on the request given no offence is committed unless they return within the prohibited 12 months period (other offences may apply e.g. Criminal Damage or Public Order)

**Reasonable excuse defence**  
No offence committed IF they can show they have a reasonable excuse for failing to comply (or re-entering the land)  
NOTE that 'broken down vehicle' is *unlikely* to be considered a reasonable excuse