

Public Document Pack

Mid Devon District Council

Community Policy Development Group

Tuesday, 18 September 2018 at 2.15 pm
Exe Room, Phoenix House, Tiverton

Next ordinary meeting
Tuesday, 20 November 2018 at 2.15 pm

Those attending are advised that this meeting will be recorded

Membership

Cllr B A Moore (Chairman)
Cllr Mrs E J Slade
Cllr Mrs E M Andrews
Cllr Mrs H Bainbridge
Cllr Mrs A R Berry
Cllr Mrs C P Daw
Cllr Mrs G Doe
Cllr R J Dolley
Cllr F W Letch

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies and Substitute Members**
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 2 **Minutes of the Previous Meeting** (*Pages 5 - 10*)
Members to consider whether to approve the Minutes of the last meeting held on 24th July 2018 as a correct record.
- 3 **Public Question Time**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 4 **Chairmans Announcements**
To receive any announcements that the Chairman may wish to make.

- 5 **Grant Funded Agency**
To receive a presentation from the Tiverton and District Community Transport Association
- 6 **Customer Care Policy** (*Pages 11 - 20*)
To receive a report on the 3 yearly review of the Customer Care Policy from the Director of Corporate Affairs and Business Transformation.
- 7 **Unauthorised encampments** (*Pages 21 - 78*)

To receive a report from the Deputy Chief Executive (S151) seeking Cabinet approval for the adoption of a corporate policy and procedure for responding to unauthorised encampments on land owned by Mid Devon District Council.
- 8 **Lifestyle, Diet & Nutrition**
To discuss any action required following members briefing on 16th August 2018 from Dr Dixon, Dr Chandler and Ruby Entwistle, Advanced Public Health Practitioner from Devon County Council.
- 9 **Financial Monitoring**
To consider a verbal report from the Principle Accountant presenting the financial monitoring information for the income and expenditure to date.
- 10 **Identification of Items for the Next Meeting**
Members are asked to note that the following items are already identified in the work programme for the next meeting.

Citizens Advice – Business Case for Additional Funding

Community Engagement Strategy and Action Plan 2018-2019.

Community Safety Partnership Action Plan

Corporate Health & Safety Policy

Draft Budget 2019-2020

Leisure Update

Financial Monitoring

Note: This item is limited to 10 minutes. There should be no discussion on the items raised.

Stephen Walford
Chief Executive
Monday, 10 September 2018

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Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

Tel: 01884 234209

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COMMUNITY POLICY DEVELOPMENT GROUP**
held on 24 July 2018 at 2.15 pm

Present

Councillors

B A Moore (Chairman)
Mrs A R Berry, Mrs C P Daw, Mrs G Doe,
R J Dolley, F W Letch and Mrs E J Slade

Apologies

Councillor(s)

Mrs E M Andrews and Mrs H Bainbridge

Also Present

Councillor(s)

C R Slade, Mrs M E Squires and Mrs J B Binks

Also Present

Officer(s):

Andrew Jarrett (Deputy Chief Executive (S151)), Andrew Pritchard (Director of Operations), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Joanne Nacey (Group Manager for Finance), Lee Chester (Leisure Manager), Corrine Parnell (Centre Manager), John Bodley-Scott (Economic Development Team Leader), Kevin Swift (Public Health Officer) and Carole Oliphant (Member Services Officer)

15 **APOLOGIES AND SUBSTITUTE MEMBERS (00.00.01)**

Apologies were received from Cllr Mrs E M Andrews and Cllr Mrs H Bainbridge

16 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.00.14)**

There were no declarations of interest made.

17 **MINUTES OF THE PREVIOUS MEETING (00.00.25)**

Cllr Mrs E J Slade stated that she had declared a personal interest as a member of the Tiverton Museum Executive Committee, not the Advisory Committee as stated in the draft minutes. The Minutes of the Meeting held on 29th May 2018 were duly amended and approved as a correct record and **SIGNED** by the Chairman.

18 **PUBLIC QUESTION TIME (00.01.25)**

There were no members of the public present.

19 **CHAIRMANS ANNOUNCEMENTS (00.01.51)**

The Chairman reminded the Group that a Members Briefing would take place on 16th August 2018 on Diet, Lifestyle and Nutrition at 2.00pm in the Exe Room.

20 **GRANT FUNDED AGENCIES (00.03.58)**

The Chairman introduced Vicki Rowe, Chief Executive Officer from Torridge, North, West and Mid Devon Citizens Advice who presented a report on the charity's activities including case studies of clients who had been helped. She explained that the charity was expecting a rise in enquiries due to the imminent roll out of Universal Credit across the District.

She explained that an outside donor had plugged the gap in the funding from the Council after the 3 year service level agreement had come into force but the donor had now stepped aside. She pronounced that there was now a shortfall in funding and that the Citizens Advice was looking to secure additional funding from the Council so that it could sustain its activities.

Discussion took place regarding the communication between the Citizens Advice and the Council's Outside Body (OB) representative. Cllr Mrs J B Binks, the OB representative explained to the Group that she had received no meaningful communication or invitations to meetings from the Citizens Advice Chief Executive Officer for over 16 months and was frustrated that a better relationship could not be forged. The Group explained to the Chief Executive Officer of Citizens Advice that the Council tried to support agencies but could not do that effectively without a line of communication.

The Chairman, referring to the request for the Group to consider increasing the funding already agreed to Citizens Advice, informed the Group that the Council was part way through the 3 year Service Level Agreement in which the level of funding had been discussed and agreed by the PDG. He said that the request for additional funding could be considered but he did not want to set expectations that any additional funding would be agreed.

The Deputy Chief Executive (S151) reiterated that Citizens Advice were in year 2 of a 3 year Service Level Agreement. He said it was unfortunate that the goalposts had changed due to the introduction of Universal Credit and he agreed to take the request for additional funding to the November PDG meeting. He repeated the Chairman's observation that agreement for additional funding could not be guaranteed as the Council were looking to reduce costs at this point.

The Group discussed the Council's own response to helping individuals who would require assistance when Universal Credit was rolled out and acknowledged that a lot of signposting had already been done by the Council to inform people of where help was available.

21 **TAP FUND SUMMARY 2018-2019 (00.34.18)**

The Group had before it and **NOTED** a *report from Group Manager for Growth, Economy and Delivery on the TAP Fund for 2017-2018.

He outlined the contents of the report and highlighted the summary of TAP fund allocations and explained the Communities Together Fund. He explained that the TAP fund was a joint fund between DCC and MDDC and that the applications were approved by a panel of DCC & MDDC councillors. Last year it had 60 applications, of these 80% were successfully funded.

He further explained that last year there were discussions on how the Council supported smaller parishes.

The Officer explained the move to the Communities Together Fund which underlined the original thinking, i.e. communities working together. The County Council wanted to ensure that projects were innovative and new projects were funded in order to stop repeat funding and maintenance projects. He said that it was important to work with Town and Parish Councils but also confirmed that communities and community groups could apply for funding. He explained that the Communities Together Fund deadline was September for applications and he asked Members to encourage groups in their parishes to apply.

The Cabinet Member for Community Well Being explained that details of the Communities Together Fund were on the DCC website.

It was **AGREED** that the link to the DCC website would be sent to Members of the Group and that a list of local TAP awards would be sent to Town & Parish Councils in a future edition of the Town & Parish Newsletter.

Note: * Report previously circulated and a copy attached to the minutes.

22 **SINGLE EQUALITIES POLICY & EQUALITY OBJECTIVE (00.43.07)**

The Group considered a *report from the Group Manager for Performance, Governance and Data Security outlining the Council's statutory duties under the Equality Act 2010 and seeking Members' approval for the revised Single Equality Scheme and Equality Objective.

She explained that an amendment was required in her original report. Appendix B – Summary of Equalities Legislation to remove a blank line

Discussion took place regarding how the Council would know its customers and that providing feedback was not possible for some members of the public.

It was **RECOMMENDED** that Cabinet approve the Single Equality Scheme and Equality Objective as attached in Annexe 1 subject to the amendment to Appendix B – Summary of Equalities Legislation to remove the extra line

(Proposed by the Chairman)

Note: - Report * previously circulated and attached to the minutes.

23 **COMMUNITY ENGAGEMENT UPDATE (00.50.08)**

The Group received a verbal update on the contents of the scoping document of the Scrutiny Committee Community Engagement Working Group from the Scrutiny Officer.

Discussion took place regarding the work of the Community Engagement Working Group with the Scrutiny Officer explaining that the Group had identified issues with regard to two way communication and the need to improve it. It was clear that

interaction with Customer First was key issue and that the process of handling complaints needed to be looked at.

He explained that the Working Group had agreed to send out a survey on the subject of communication with the District Council to the Town and Parish Councils to get an idea of what the issues were. He confirmed 10 surveys had so far been returned.

The Group requested that the Scrutiny Officer send them a list of the Councils who had not responded so that Members could encourage their Parish and Town Councils to participate.

The Group discussed the timing of the survey to the Town and Parish Council's as Members explained that most of them were off for August and the PDG recommended that timeframes for return of the survey were extended. The Scrutiny Officer confirmed that if the Community Engagement Working Group approved this then the survey return date could be extended.

24 REVENUE AND CAPITAL OUTTURN REPORT (00.55.43)

The Group had before it and **NOTED** a * report from the Deputy Chief Executive (S151) presenting the revenue and capital outturn figures for the financial year 2017/18.

The Group Manager for Finance outlined the contents of the report and highlighted the Community Development report on page 52 which showed that there was an overall overspend of £132k partly attributed to the Market and that the vast majority of this was depreciation. She explained that the Council had spent money on the Pannier Market, Tiverton but it had not increased the valuation and the figures were reported as per normal accounting practices.

Consideration was given to the request that future reports did not state 'Markets' as the figures only related to Tiverton Pannier Market.

The Group Manager for Finance explained the 55% difference in external income. She explained there was a change in both expenditure and income so the figures cancelled each other out.

At this point of the meeting the Chairman proposed that further consideration and discussion take place in closed session and therefore it was **RESOLVED** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 respectively of Part 3 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

(Proposed by the Chairman)

The Deputy Chief Executive (S151) and the Group Manager for Finance gave an overview of the remainder of the Outturn report and explained any variances.

Note: *Report previously circulated.

25 MEETING MANAGEMENT

The Chairman indicated that he intended (with the Groups approval) to take agenda item number 14 (Leisure Facilities – Visitor Numbers) as the next item of business as the meeting was already in closed session.

26 LEISURE FACILITIES - VISITOR NUMBERS

The Group received and **NOTED** a *report from the Leisure Manager on the effect on visitor numbers since the introduction of new prices and the refurbishment of the facilities at the Exe Valley Leisure Centre.

He explained there was increased participation across the Leisure centres and encouraging results.

Members thanked the Leisure Manager for his report.

The meeting then returned to open session.

Note: - *Report previously circulated

27 PERFORMANCE AND RISK (01.01.51)

The Group had before it and **NOTED** a report * from the Group Manager for Performance, Governance and Data Security providing Members with an update on performance against the Corporate Plan and local service targets as well as providing an update on the key business risks.

She explained that the covering report gave the 2017-2018 outturn figures and the appendix report showed the 2018-2019 figures to date.

The Group discussed the food safety compliance figures and the Director of Operations explained that it was the Local Authority's responsibility to inspect the premises on behalf of the Food Standards Agency. He explained businesses were not required by law in England to display their Food Hygiene Rating Scheme rating but they were in Wales and Northern Ireland.

There was a general discussion around the Food Hygiene Rating Scheme with Members expressing concern that the displaying of the rating was not compulsory.

The Group requested a written report be circulated which explained why the standards of food safety compliance had decreased in Mid Devon.

The Director of Operations asked that any Members who had specific queries about the Food Hygiene Rating Scheme to contact him direct and he would provide them with an answer.

Note: * Report previously circulated; copy attached to the minutes

28 TRIM TRAILS (01.08.00)

The Group received a verbal report from the Public Health Officer on Trim Trails.

He gave a brief update having received 3 quotes out of a possible 5. He explained that at first sight the quotations looked good and would lead to interesting trim trails going forward. The Public Health Officer confirmed that there would be a decision soon and the installation of the trial Trim Trail in Tiverton would be before Christmas.

The Group asked if MDDC were contributing all of the monies for the Tiverton trial and the Public Health Officer explained that the funding was via a S106 contribution.

The Cabinet Member for Community Well Being explained that developers would be asked to provide trim trails on new developments being built in the Mid Devon area in the future. He asked for Members who knew of trim trails being considered or funded in the Parishes to let MDDC know so that there was no duplication of trails moving forward and that it could be checked if there was S106 money available.

29 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01.14.28)

There were no additional items identified for the next meeting.

(The meeting ended at 4.02 pm)

CHAIRMAN

COMMUNITY WELL BEING PDG 18 SEPTEMBER 2018

Review of Customer Care Policy

Cabinet Member(s): Councillor Margaret Squires
Responsible Officer: Group Manager for Business Transformation and Customer Engagement

Reason for Report: Review of the Customer Care Policy

RECOMMENDATION: To recommend the content of the reviewed Customer Care Policy

Relationship to Corporate Plan: To ensure that people have access to the services or information they need, via the channel of their choice.

Financial Implications: None

Legal Implications: To ensure that all staff are aware of data protection requirements, along with their duties under the Equality Act 2010.

Risk Assessment: None

Equality Impact Assessment: To be completed in conjunction with Channel Access Strategy.

1.0 Introduction

1.1 The Customer Care Policy was last reviewed in September 2014. The key requirements for providing a good customer service remain unchanged; the policy is therefore little altered from the previous version.

1.2 The provision of good customer service is important for every employee of Mid Devon District Council to understand. It is not service specific and applies across all services and posts.

1.3 This policy sets out the level of customer service that customers can expect from us when using the contact method of their choice.

2.0 Customer Contact Targets

2.1 As part of the Channel Access Strategy and Business Transformation work we will be reviewing our service targets to ensure that they are robust but achievable. See Appendix 1.

2.2 We continue to see a shift in our customer behaviour with an increasing shift to digital contacts. Number of Contacts – In 17/18 the council received the following contacts:

Face to Face	30,202
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Telephone	373,000 +
Emails	over 1 million
Web Forms Submitted	48,781

3.0 **Customer Charter**

3.1 Our Customer Charter is available in our reception area at Phoenix House and is published on our Website. It sets out what customers can expect from us and how they can help us to deliver a more efficient and effective service.

4.0 **The Future**

4.1 This policy will underpin the Channel Access and Community Engagement Strategies that are being reviewed. Changing technology alone does not make us more efficient, providing good customer services is a combination of having the right people, in the right place at the right time to serve our customer needs. The Channel Access and Business Transformation projects will guide the organisation toward understanding what our current and future customer need is and working with services and training staff to be able to deliver it.

Contact for more Information: Lisa Lewis, Group Manager for Business Transformation and Customer Engagement, Tel. 01884 234981, email: llewis@middevon.gov.uk

Circulation of the Report: Councillors Margaret Squires and Colin Slade, Group Managers, Leadership Team and Community PDG

List of Background Papers: Customer Care Policy 2014 v3

Mid Devon District Council

Customer Care Policy

August 2018

Version Control Sheet

Title: **Customer Care Policy**

Purpose: To detail the commitment of Mid Devon District Council in providing an excellent level of Customer service. To also detail the standards that can be expected from the Council and their officers to its customers.

Owner: **Group Manager for Business Transformation and Customer Engagement**

Email: llewis@middevon.gov.uk

Telephone number 01884 234981

Date: **8th August 2018**

Version Number: **3.0**

Status: **Draft**

Review Frequency: **Every 2 years**

Next review date: **Sept 2020**

Consultation **This document was sent out for consultation to the following:**

Group Managers

Leadership Team

Cabinet Member

Document History

This document obtained the following approvals.

Title	Date	Version Approved
Group Managers Team	20/08/18	
Leadership Team	04/09/18	
Community PDG	18/09/18	

1. Introduction

Mid Devon District Council ('the Council') is committed to ensuring that customer service excellence is an integral part of the planning, resourcing and delivery of all services.

This policy, in conjunction with others, will ensure that all sections of our diverse community accessing the Council's services will experience consistently excellent customer service.

To help us fulfil this pledge we have a range of equality and diversity policies and this customer care policy sets out what customers can expect from the Council when they contact us for any service.

2. Customer Service Promise

We will:

Have policies and procedures which support the right of all customers to expect excellent levels of service, and that meet the diverse needs of our customers.

Have staff that are polite and friendly to customers, and have an understanding of our customers needs.

Advise our customers and potential customers about our standards and what they can expect from our services in terms of timeliness and quality. (See Appendix 1)

Respond to the initial enquiry promptly and where there are known delays let the customer know why there is a delay, and what action is being taken, and whenever possible provide details of the likely overall time it may take to achieve the outcome required.

3. Customer Care Charter

We would like our customers to know the standards and behaviours they can expect from us. A Customer Care Charter has been agreed and sets out how staff will behave when dealing with customers. This is displayed in all of the Council's offices and on the Council's website.

The Charter also includes details on how customers can help us to give them the best service possible. (See Appendix 2).

A customer care guide is provided to all staff to ensure that they understand the importance of providing a good customer service for all customers regardless of how the customer contacts the Council.

Customer Service awareness training is provided to all new staff at their induction.

4. Customer Service Standards

We will:

Ensure the standards for our main services are challenging and take into account our responsibility for delivering national and statutory standards and targets.

Set appropriate standards for the timeliness of responses across all access channels. (See Appendix 1)

Respond to any failure in performance and take appropriate action to bring standards back to the agreed level.

In addition individual services may have standards and targets specific to their particular areas of work (e.g. housing benefit applications, planning applications, grass cutting).

5. Provision of Information

We will:

Protect customers' privacy both in face to face discussions and in the transfer and storage of information.

All staff complete data protection training at induction and have regular updates on their responsibility in relation to the protection of personal information.

Where customers are expected to provide documentation to support applications or for personal identification, we will make it clear what is required and only retain as much data as is required for that purpose.

6. Access and communication

We will:

Make our services easily accessible to all our customers through the provision of a range of access channels, these include:-

- offices that are open for 40 hours a week,
- a central customer service contact centre for telephone, e-mail and digital contact that is open for 42 hours a week with extended hours provided in partnership with others
- interactive website with a range of on-line services,
- outreach events at rural community locations
- provide visiting officers where appropriate.
- provide an out of hours service for 24 hour emergency contact.
- provide Wi-Fi access in our offices and leisure centres.
- provide information on where there is public access to ICT equipment and the internet within Mid Devon.
- provide information on changes to our own services using a variety of channels to engage with customers using channels that suite their needs
- continue to review our access channels and improve how we communicate with customers to ensure we can adapt to changes.

Ensure that where customers visit our premises our facilities are as clean and comfortable as possible, and have access for the disabled, provide hearing loops in our interview rooms and at the service desks and provide signage that is in the most appropriate format for customers with sight impairment.

Where customers require application forms or information about our services, we will provide the information digitally by default. Alternative formats will be available on request.

7. Complaints

We will:

Have an easy to use complaints procedure, which includes a commitment to deal with problems fully, resolve them if possible within agreed timescales and in all cases let the customer know the outcome of the investigation.

For more information please see the Complaints Policy.

8. Staff Training

All staff will receive information at their induction on the Council's Customer Service Standards and Charter, as well as any service standards that have been set for their own individual service.

Additional training should be provided by their line manager on responding to customers to ensure every member of staff is aware of their own responsibility for providing excellent customers service.

A staff guide on customer service standards is available on SharePoint.

Customer focus and customer service will be discussed with all staff at their annual appraisal.

Also as referred to earlier, all staff will have data protection training as part of their induction and have regular updates.

9. Review

A review of the policy will be carried out every three years.

Appendix 1

Customer Service targets

Access Channel	Agreed targets	Monitoring arrangements
Telephone to call centre	85% answered, the contact centre is manned from 8.30 to 5.00pm, calls are put into a queue.	Telephone call log available. Monitored by Customer First. Reported quarterly on Spar and monthly notices posted on the website.
Correspondence received in the post	95% of scannable post is scanned on date of receipt	Scanned items can be monitored on the Electronic Document Management systems. Items not scanned will be monitored by exception.
Email	95% responded to within 5 days	Monitored by exception and mystery shopping.
Visitors to reception	95% seen within 15 minutes of arrival.	Queue management reports available and monitored by Customer First.
Complaints	90% Resolved within 10 days or notified of additional time up to maximum of 12 weeks.	Reports from the Customer Services system monitored by Customer First.
Social media	Checked daily and responded to within 24 hours (week days) if response required.	Monitored by Communications.

Each service may also have individual service specific targets and Performance Indicator's, these are monitored on Spar.net

Appendix 2



Customer Care Charter

Mid Devon District Council is committed to providing the best customer service we can. We aim to do this by following the standards laid out below, ensuring fair treatment of all in accordance with the diverse needs of our customers. The Charter outlines our commitment to you.

We will:

- Always be courteous and polite
- Respond to the diverse needs of our customers, adapting our approach as required
- Provide a range of different contact methods to suit your needs, you can call into our offices, phone, email, use social media, write to us, or use our online services and where possible we will respond to you in your preferred contact method
- We will provide access to the internet in our offices
- Use plain English in all our written correspondence and information
- Apologise if things go wrong and do our best to put things right (please see our Complaints policy)
- Listen to your feedback, act on it and respond

How you can help us to help you:

- By treating us with respect - we will not be able to help you if you are aggressive, threatening, violent or use bad language
- By providing any documentation relating to your enquiry, as required
- By bringing a friend or asking for a translator if needed – we may need to make an appointment to provide this service
- By keeping to your appointment time, or letting us know if you cannot make a pre-arranged appointment
- Letting us know if your contact details have changed

We will have:

- Easily accessible offices, with private interview rooms, wherever possible - please discuss your needs with our staff
- Literature that is easy to understand and provided in other formats if required
- A contact centre open 42hrs a week to respond to calls, e-mails and other digital contacts
- Access to the internet and Wi-Fi in our main offices
- An interactive website available 24/7 for information and transactions even when our offices are not open
- Regular reviews of our working practices to ensure we are always offering the best service

These promises are about meeting the needs and expectations of you, our customers, and above all creating a service we can be proud of.

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Community PDG 18 September 2018

Unauthorised encampments

Cabinet Member: Cllr Ray Stanley

Responsible Officer: Andrew Jarrett, Deputy Chief Executive (S151)

Reason for Report: This report seeks Cabinet approval for the adoption of a corporate policy and procedure for responding to unauthorised encampments on land owned by Mid Devon District Council. Where the land is not owned by the Council the relevant land owner (where known) shall be notified and general advice provided as required.

RECOMMENDATION: To recommend to Cabinet, that the proposed corporate policy and procedure for managing unauthorised encampments as outlined in this report is adopted by the Council.

Relationship to Corporate Plan: Priority 3: Community- Aim 1.

Financial Implications: There is no existing budget for responding to unauthorised encampments. Any costs associated with managing such encampments shall continue to be absorbed by the General Fund and reported to Members via the Asset Directorate.

Legal Implications: The policy includes legal provisions the Council may adopt to remove unauthorised encampments from Council land.

Equality Impact Assessment: People with the protected characteristic of race, specifically Romany gypsies and Irish travellers, are likely to be impacted by this policy and procedure. The policy seeks to balance their rights with the needs of the Council and the wider community. Through the use of this policy, outcomes for these groups should improve more generally through the use of welfare assessments. In addition, the identification of clear officer roles and responsibilities should enable a quicker and more consistent response and reduce the risk of tension between gypsies and travellers and the settled community.

Risk Assessment: Identified risks are as follows:

- Reputational risks to the Council if it does not deal with unauthorised encampments in a consistent way and in line with relevant legislation.
- Risk of potential conflicts with local residential communities.

- Risk of damage to land and property.

1.0 Introduction

- 1.1 This report seeks Cabinet approval for the adoption of a corporate policy and procedure for responding to unauthorised encampments on land owned by Mid Devon District Council. Where the land is not owned by the Council, the relevant land owner (where known) shall be notified and general advice provided as required.
- 1.2 Having a clear policy and procedure for responding to unauthorised encampments will help ensure that the Council adopts a consistent and proportionate response. It shall also ensure that the Council acts lawfully and that the needs of the Council and those of the community are balanced with the rights of the individuals concerned.
- 1.3 It is therefore recommended that the proposed policy shown on the attached appendices are adopted and implemented.

2.0 Background

- 2.1 Unauthorised encampments could occur on Council land for a variety of reasons. The removal of illegal encampments would be costly for the Council to deal with, both in terms of staffing resources and potential clean-up costs.
- 2.2 The Council would currently rely on the expertise of one or two officers to deal with this issue. Whilst this approach would be generally effective, it is not seen as sustainable in the long term and a more formalised and corporate approach is required.
- 2.3 The Council does not currently have an agreed policy or procedure in respect of how it responds to these encampments. A policy is however needed in order to ensure that:
 - Officers, Members and the community more generally have clarity in terms of the actions that the Council can take and under what circumstances.
 - Action to tackle unauthorised encampments is undertaken promptly and effectively.
 - The Council adopts a proportionate and justified response to tackling unauthorised encampments and avoids the cost of unnecessary or legal action to gain possession of illegally occupied land.

- The Council engages effectively with key stakeholders, particularly Ward Members, residents and the Police.

3.0 Consultation

3.1 Officers considered this proposed policy within the context of the Government publications. Dealing with Illegal and Unauthorised Encampments A Summary of Available Powers (2015)” together with the Association of Chief Police Officers Guidance on Unauthorised Encampments 2011.

4.0 Assessment

4.1 A copy of the proposed policy/procedure can be referred to on the attached appendices.

4.2 The proposed policy contains the following key points:

- Nominated officers have been identified and will now take the lead in dealing with unauthorised encampments on Council land.
- All unauthorised encampments shall be moved on as quickly as is practicably possible.
- In all cases a proportionate approach shall be taken in respect of the use of legal proceedings to secure possession. In order to avoid unnecessary legal costs or abortive proceedings, a negotiated solution would generally be sought prior to the commencement of any legal action.
- The period given prior to the commencement of eviction proceedings will generally be within 2 working days.
- Where an encampment presents an immediate health and safety risk to either the public or the trespassers themselves immediate possession shall be sought.
- In the majority of other cases, for example in relation to unauthorised encampments on public open space located within a residential area, parkland or carparks, possession action would generally be sought by the Council as soon as practically possible.

4.3 The Council has a variety of powers at its disposal to regain possession of its land. This includes powers to seek injunctions to prohibit trespass under Section 222 of The Local Government Act 1972 as well as the power to seek possession of land under the Civil Procedure Rules Part 55.

4.4 Generally, the most appropriate power in relation to unauthorised

encampments is Sections 61, 62 and 77 of the Criminal Justice and Public Order Act 1994. Section 77 of that Act gives local authorities the power to give a direction to leave land to people residing in vehicles, including caravans, on land on which they are residing without the Council's consent. Failure to comply with such a direction means the local authority can apply to the Magistrate's Court for an order requiring the removal of the vehicles and occupants.

In addition, under certain circumstances, the Police have a discretionary power to take action in accordance with Sections 61 and 62 of the same Act. This gives the Police powers to direct trespassers to leave and remove any property or vehicles where the landowner has given a direction for the trespassers to leave and they have failed to do so. Trespassers must also have either:

- damaged land or property
- used threatening, abusive or insulting words or behavior; or
- have **six** or more vehicles.

- 4.5 Under these sections of the Act, failure to comply with the direction by leaving the land as soon as is reasonably practicable is an offence, however the Police response will take into account issues of behavior and the impact on the relevant land owner and settled community, each case is considered on its own merits. Attached to this report is a publication from the government that makes it clear on the Police powers apply where there is a suitable pitch available on a caravan site elsewhere in a local authority area.
- 4.6 Decisions regarding the length of any verbal notice period or decisions to commence legal action to move trespassers on shall be made by the Deputy Chief Executive (S151), delegated to the relevant officer and considered in the context of the findings from the site inspection and the outcomes of the welfare needs assessment.
- 4.7 Where trespassers do not move on at the end of any given verbal notice period the Council will take appropriate action including the use of private bailiffs to repossess its land.
- 4.8 It is acknowledged that any unauthorised encampment would generate numerous enquiries from the public, directed both towards the Council's Call Centre and local Ward Members. To mitigate against this it will be the responsibility of the nominated officer to keep both local Ward Members and Customer First updated regarding the actions being taken to manage the situation.
- 4.9 In order to support the wider communications attached to this issue a communications plan has been produced.
- 4.10 The policy covers instances of unauthorised encampments on Council owned land, however many encampments occur on land that is not

owned by the Council. In these instances the Council shall advise the relevant landowner and provide advice and assistance as required. It is the responsibility of that land owner to take any action they deem to be necessary to recover possession of their land.

5.0 **Financial Issues**

- 5.1 There is no existing budget for responding to unauthorised encampments. any costs associated with managing such encampments is absorbed by the Asset Directorate and reported to Members accordingly.

6.0 **Conclusion**

- 6.1 Having a clear policy and procedure for responding to unauthorised encampments will help ensure that the Council adopts a consistent and proportionate response. It shall also ensure that the Council acts lawfully and that the needs of the Council and community are balanced with the rights of the individuals concerned.

- 6.2 It is therefore recommended that the proposed policy is adopted and implemented.

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Appendices

Mid Devon District Council

Procedure for managing Unauthorised Encampments

Date of Policy: 18th September 2018

Review Date: 17th September 2021

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Preventing Further unauthorised encamping

Aim

This procedure has been developed in order:

- To put forward the Council's position in relation to unauthorised encampments within the District.
- To clarify working arrangements surrounding unauthorised encampments including the role of the Authorities included.
- To increase awareness of the responsibilities and constraints upon the powers of the Authorities.
- To ensure that unauthorised encampments are addressed swiftly and effectively.
- To prevent further unauthorised encampment within the District.
- To ensure that welfare issues arising as a result of unauthorised encampments are dealt with appropriately.
- To ensure that the correct method of enforcement is used in order to make enforcement action quicker and more cost effective.
- To be able to plan ahead to control problems and to avoid the need to deal with unauthorised encampments on a crisis basis.
- To ensure that the needs and legitimate expectations of Gypsies and Travellers, Landowners and the settled community are considered.
- To put a framework in place within which clear consistent and appropriate decisions can be made on unauthorised encampments with minimum disruption, whilst recognising the requirements to balance the needs of a range of interested parties.
- To ensure that the procedure reflects human rights of both the settled community and travelling communities and to comply with race relations legislation as set out in the background to this procedure.
- To prevent anti-social behavior and to take effective enforcement action against any perpetrators.

This procedure has been drawn up taking into account guidance provided by the Government in Dealing with illegal and unauthorised encampments: A summary of available powers published in March 2015 by the Department for Communities and Local Government. Reference has also been made to the Association of Chief Police Officer's Guidance on Unauthorised Encampments published in 2011.

It is recognised that this a sensitive subject and that it is important that everyone be treated with respect, giving consideration to the variety of ethnic and racial origins, different lifestyles, needs and welfare issues. It also recognises the rights of the settled community within the District.

Decisions to evict or not must be balanced and must be compliant with the terms of the Human Rights Act demonstrating legality, necessity and proportionality together with the principles of Common Humanity.

The Council will consult and work in partnership with all agencies. Each unauthorised encampment will be looked at on its own merits.

This procedure will be reviewed and monitored by the Group Manager Corporate Property and Commercial Assets, to ensure that it is useful in practice when dealing with unauthorised encampments and also to ensure that any legislative changes are incorporated.

Upon review if the policy is not working effectively changes will be made in order to address any issues.

Background

There is no specific legislative duty placed on Councils to deal with unauthorised encampments by Gypsies and Travellers. The powers available are optional and varied and are set out in detail at pages 9 to 13 of this guidance.

There are however various matters that must be taken into account when Councils are managing unauthorised encampments.

Equality Act

The Equality Act makes it unlawful to treat someone less favorably because of a range of protected characteristics. These protected characteristics include race, nationality or ethnic or natural origins. The following of a nomadic lifestyle is lawful and is a culture recognised and protected through legislation.

Policies for managing unauthorised camping are likely to affect Gypsies and Travellers significantly.

When evicting and enforcing authorities must act in a way which complies with their duties under the Equality Act and have minimum negative impact on the Gypsies and Travellers involved.

Human Rights

The Human Rights Act 1998 incorporates European Convention on Human Rights into domestic legislation. The main relevant rights that the Council must consider when dealing with members of an unauthorised encampment are as follows:

Article 8 of the Human Rights Act 1998: Right to respect for private and family life:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
3. Case law has established that, while neither eviction action against trespassers nor planning enforcement is incompatible with HRA, either could potentially breach Article 8 rights if not properly used. Authorities, and other public bodies covered by the HRA, must be able to demonstrate that all eviction and enforcement decisions are 'proportionate' in weighing individual harm (in the loss of 'home' for the

Gypsy or Traveller) against the wider public interest. Potential challenge under the HRA means that all decision-making must be fully recorded and evidenced to withstand scrutiny.

First Protocol, Article 1: Protection of property:

Every natural and legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

This Article might be seen as protecting the settled community's right to quiet enjoyment of their possessions, which might be threatened by nuisance, noise or anti-social behavior from a problematic unauthorized encampment. This should be one of the considerations to be borne in mind by local authorities and police when considering eviction action. To date there is no relevant case law.

First Protocol, Article 2: Right to education:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Education of Gypsy/Traveller children is often raised in cases dealing with eviction proceedings, and particularly with planning enforcement actions against unauthorized development. In such cases the question resolves itself to one of the balance between the individual harm to Gypsy/Traveller children's' educational needs and the public interest harm in allowing unauthorised development to persist. To date there is no specific case law on arguments relying on this Article in this context.

Article 14: Prohibition of discrimination:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property birth or other status.

While Article 14 rights are potentially engaged in any action concerning Gypsies and Travellers (as ethnic groups and national minorities), the Article can only be successfully argued if another Article is found to be breached. Where a claim under any Article is rejected, it follows that any claim under Article 14 also falls.

Welfare Checks/Service Provision for Gypsies and Travellers:

Gypsies and Travellers are entitled to access health, housing, education and welfare services in the same way as members of the settled community.

There is specific recognition to the needs of Traveller children in accessing education under the provisions of the Education Act 1996.

Housing/Site Provision

The Housing Act 2004 placed a duty on Councils to develop and implement strategies to address the needs of Gypsy and Traveller Communities.

Enforcement Powers Available for Dealing with Unauthorised Encampments:

There are various powers available when dealing with enforcement of unauthorised encampments. They are detailed as follows:

Common Law Powers (Tort of Trespass) – Used by Private Land Owners.

All private land owners can use their common law powers to recover land. This allows the person in possession of the land to evict an individual from their land, to seek damages from that individual and may also seek an injunction to prevent the trespass from reoccurring.

If the trespasser has entered the land peaceably they are entitled to a request to leave the land prior to being forcibly removed. If however a trespasser has entered the land with force and violence they can be removed without a request to leave having been given.

The eviction of the trespasser can be made by the land owner or a private bailiff who can use no more than reasonable force to remove the trespasser. Use of excessive force could give rise to a claim against the land owner by the trespasser.

Where a land owner is considering using this power they should inform the police in order that the police can be present to prevent any breach of the peace that might occur. If the police advise that they feel it is inappropriate to attempt eviction, eviction should be delayed until such time that the police believe it is safe.

The Local Authority should not use common law powers as government guidance states that Local Authorities should not take enforcement action which does not make reference to the court. There is no reference to the court under common law rules and there are similar statutory provisions in Part 55 Civil Procedure Rules which should be used as an alternative.

Part 55 Civil Procedure Rules – Used by Private Land Owner or Local Authorities:

Part 55 of the Civil Procedure Rules allow any land owner to regain possession of their land.

The first step is for the land owner to ask the trespasser to leave the land. If they refuse to do so or ask to be allowed to remain on the land for a period that the land owner feels unacceptable the land owner can then begin action against the unauthorised campers through the County Court.

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If the eviction is required urgently the court should be put on notice as soon as possible. The relevant documentation is completed and submitted to the court manager along with any relevant evidence. A hearing date will then be arranged.

The court will then provide the land owner with a Notice of hearing to serve on the unauthorised campers. If it is not possible to identify any individuals the Notice can be issued to "persons unknown". The Court rules state that the unauthorised campers must be given 2 clear days' notice of the hearing.

At the hearing evidence will be put before the judge and the judge will have to be satisfied that the unauthorised campers have been dealt with appropriately before granting a possession order. The Order will then be served on the unauthorised campers.

In most cases the unauthorised campers will leave the site within 24 hours of the Order for possession being served upon them. If they fail to do so then it will be necessary to apply to the Court for a warrant for possession of land. The Council will then work with the County Court Bailiff who will carry out the eviction.

After the eviction has taken place the land owner should sign a warrant of possession to acknowledge that the land has been regained.

This is the usual course of action taken by the Council because:

- occupants of unauthorised encampment change frequently. It is more effective to use this provision, which relates to the land itself rather than the power available under Section 77 CJPOA1994 (see below) which requires individuals or vehicles on the encampment to be identified.
- A Judge can affirm the decision to evict based on the available evidence.
- It is a relatively quick procedure. Possession of the land can be obtained on average within seven days. The process will take longer if a warrant proves necessary.

3. Sections 77-78 Criminal Justice and Public Order Act 1994 – Used by Local Authorities:

Section 77 Criminal Justice and Public Order Act 1994 gives local authorities the power to direct individuals to remove their vehicles and belongings from land which is occupied without the consent of the land owner. This power can be used by local authorities whether the land is owned by the local authority or any other public or private landowner.

Initially a Direction will be drawn up by the Council which instructs the unauthorised campers to leave by a particular date and time. The Direction should identify either individuals or vehicles on the unauthorised encampment.

The Direction should then be served by handing it to one of the individuals or by being affixed prominently to one of the vehicles.

If the campers fail to move and/or remove any of their vehicles and other property by the specified date or return to the same location within three months they will be committing a criminal offence and a prosecution may be brought against them.

In practice however it is probably more effective for local authorities to use the powers available under Section 78 Criminal Justice and Public Order Act 1994. This allows the Council to advise the Magistrates Court that there has been a contravention of a Direction under Section 77 and if the court is satisfied they may grant an Order for Removal of Persons and Vehicles.

Once granted the Order should be served on the unauthorised campers as soon as possible. Twenty four hours must elapse between the serving of the Order and any action to remove the unauthorised campers and their vehicles from the land. Police should be present during the removal to ensure that no breach of the peace takes place.

These powers are likely to be used by the Council where:

- The land is owned by the Council or any other Land Owner authorises the Local Authority to use them.
- The owner of the land on which the encampment is situated cannot be identified and the land is not owned by the Council, the Council may use these powers regardless as to who owns the land.
- It is appropriate to evict some but not all of the unauthorised campers, for example where one of them is ill or heavily pregnant. Or alternatively where certain members of the group are involved in anti-social behavior yet the rest of the group could be allowed for a period of time.
- The group of travellers or gypsies involved keep returning to a specific location as this provision prevents them from returning to that area for three months.

4. Sections 61-62 Criminal Justice and Public Order Act 1994 – Used by Police:

The Powers under this and the following section will be used where behaviour or conduct is considered to be inappropriate, or where the impact of an encampment on others is deemed unacceptable. The Police response will take into account issues of behaviour in combination with the impact on the

landowner and settled community rather than simply because encampments are present at a specific location. Each case is considered on its individual merits.

The Police are required to follow the guidance issued by the Association of Chief Police Officers that can be found at Appendix 13. Under Section 61 CJPOA1994 the police can direct unauthorised campers to leave land without reference to the courts. This power is used where a landowner has asked unauthorised campers to leave land by a certain date and they have failed to do so, and any of the three following conditions have also been met:

1. the unauthorised campers have caused damage to the land or property on the land
2. they have used threatening, abusive or insulting words or behaviour to the occupier, a member of their family or employee or agent
3. there are six or more vehicles on the land.

The initial step is for the land owner to request the help of the police a senior police officer will then consider whether it is appropriate to use the power based on the following factors:

- whether there are any other activities on the encampment, such as serious breaches of the peace, disorder, criminal activity or anti-social behavior which would necessitate police involvement under their wider powers
- given the impact of the unauthorised encampment on the environment and the local settled community, is it reasonable and proportionate to use police powers
- whether action by the police is legally sustainable
- whether sufficient resources are available.

If a decision is made to use these powers a uniformed officer will attend the unauthorised encampment and direct the unauthorised campers to leave by a certain time, he/she will also provide them with a copy of the legislation.

If the unauthorised campers fail to leave by the specified time or if they return to that location within three months of the direction, they are committing a criminal offence and may be prosecuted. Furthermore if a direction under section 61 is contravened the police can use their powers under Section 62 CJPOA1994 to seize and remove vehicles from the land.

This power should be considered where:

- Speed is important, for example where the presence of the encampment is seriously disrupting the ability of the settled community

to make use of facilities or to conduct their business. This will probably apply to land such as schools during term time and urban parks. This power would be the most appropriate provided all the conditions for its use are met. The police can act without reference to the court and can direct the travellers to leave within a couple of hours. This would be most effective if there is land available within the District which is deemed as a more acceptable unauthorised site.

- There are serious problems on the site such as anti-social behaviour, public order and criminal activity.
- The group of travellers or gypsies involved keep returning to a specific location as this provision prevents them from returning to that area for three months.

5. Section 62 A-E Criminal Justice and Public Order Act 1994 – Used by Police:

Where a pitch is available on a caravan site within the authority that is managed by a local authority, social landlord or other person or body as specified by the secretary of state Section 62 A CJPOA1994 allows the police to direct unauthorised campers to remove themselves and their vehicles and property from the land which they are on to the available caravan site.

This power can only be used where the following conditions are met:

- at least two persons are trespassing
- the trespassers have between them at least one vehicle on the land
- the trespassers are present on the land with the common purpose of residing there for any period
- it appears that the trespassers have one or more caravans in their possession and that there is a suitable pitch on a caravan site as stated above for every caravan in their possession
- the occupier of the land has asked the police to remove the trespassers from the land.

In the unauthorised campers do not leave the land or return within a period of three months they will be committing an offence and the police may use powers under Section 62B to arrest and detain them. Section 62C provides the police with powers to seize and remove vehicles on the land.

6. Anti-Social behaviour, Crime and Policing Act 2014:

This act enables a Local Authority to make a Public Spaces Protection Order if it is satisfied on reasonable grounds that 2 conditions are met;

- a) The activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality; and it is likely that activities will be carried on in a public place within at area and that they will have such an effect.
- b) The effect or likely effect, of the activities is, or is likely to be of a persistent or continuing nature, such as to make the activities unreasonable and therefore justifies the restriction imposed by the notice.

In order to get a PSPO in place the behaviour/events would need to be of a persistent or continuing nature, a one-off encampment would not meet the criteria of persistent. The Council would need to go through a period of consultation with our Partners, the community and the Police & Crime Commissioner before being approved.

A PSPO identifies the public place and prohibits specified things being done to the restricted area and/or require specific things to be done by persons carrying on specified activities in the area. The PSPO will result in a fixed penalty notice (of up to £100) to an individual. Failure to pay may result in the Council deciding to take court action which you mean up to a level 3 fine.

A PSPO may not have effect for more than 3 years and the Authority must consult with the Chief Officer of Police before issuing an Order. Failure to comply with the Order is an offence.

Other Issues Arising in Respect of Unauthorised Encampments:

Dealing with Anti-social/Criminal Behaviour on Unauthorised Encampments

As stated previously in this policy encampments must adhere to a certain standard of behaviour while they are within the District. If a member or members of the unauthorised encampment engage in anti-social/criminal activities it will not be allowed.

It will be the decision of the nominated officer whether to exclude the individual responsible for the behaviour from the encampment or where the behaviour is more wide spread whether it is necessary to evict the whole encampment.

Dealing with any criminal behaviour by the unauthorised encampment will be the responsibility of the police in accordance with their policies and procedures. Other enforcement agencies may become involved such as trading standards if the police detect a crime that is not within their remit. Reporting any such crimes to the relevant authority will be the responsibility of the police. Where the police feel that action is justified they will take appropriate action and will not be deterred from taking action against travellers and gypsies on grounds of expediency.

Where anti-social behaviour issues arise both the Council and the Police will work together in considering the use of the anti-social behaviour escalation process which may result in warning letters and Acceptable Behaviour Contracts. If the behaviour continues and is persistent the process would move onto the use of current legislation under the Anti-social Behaviour & Crime and Policing Act 2014 which includes Community Protection Notices, Civil Injunctions or Criminal Behaviour Orders. It may be possible to apply for some of these sanctions alongside the Local Authority application to court for an order to remove travellers from the land.

Keeping People Informed throughout the process

Unauthorised Encampments can be a sensitive issue within the District and it is therefore important to keep people informed. Communications and publicity arrangements are an important element when managing unauthorised encampments.

It is important to ensure that all agencies/departments, Gypsies and Travellers, elected members and members of the settled community are kept informed about what is happening and what can be expected to happen with encampments within the District .

The Council has a Frequently asked Questions page on its website. This gives details of all unauthorised encampments of which the Council is aware. It is regularly updated. A copy of the Frequently Asked Questions can be found at Appendix T7.

The webpage also gives details of how to report any unauthorised encampment and contact numbers.

There is also information on the page for private landowners and contact numbers if they need advice or assistance.

Gypsies and travellers will be provided with a code of conduct which contains details on who to contact should they have any queries. The Council intends to be proactive in working with travelling groups in Mid Devon and work towards positive outcomes and that this is articulated by the Council in its media articles

Most encampments will be of concern to the settled community and businesses within the area. The Single Point of Contact for the Council (SPOC) will brief elected members for the area in which the encampment is situated in order that the members can pass information onto their constituents. In addition contact email addresses should be taken from any complainants in order that they can be emailed directly by the SPOC where appropriate.

Where the encampment is large or high profile it may be necessary to regularly brief the local media in addition to taking the steps above. The SPOC will liaise with the Council's Media team to provide the regular updates in order to demonstrate that the authorities are taking a proactive approach.

The aim in providing such information is that by providing as much information as possible upfront and keeping people informed should keep the number of calls from complainants to a minimum. Also by being proactive the scope for rumour and misinformation should be reduced. It will also provide opportunity to manage the information released and keep negative media coverage to a minimum in turn reducing inter-community tension.

The Local Authority's Procedure for dealing with Unauthorised Encampments

The procedure comprises of 5 stages as follows:

- Stage 1 – Identification of Land Ownership
- Stage 2 – Action by the Council – Welfare
- Stage 3 – Action by the Council – Decision Making
- Stage 4 – Action by the Council – Enforcement
- Stage 5 – Action by the Council – Site Clean-up

The stages are simplified in a flowchart at Appendix T1 of this document.

STAGE 1 – IDENTIFICATION OF LAND OWNERSHIP

The relevant course of action will be determined depending on whether the land is privately owned land or land owned by the Council. Another factor which may need to be considered is what action should be taken where the

land is owned by the Gypsies or Travellers themselves. The SPOC will liaise with the appropriate departments to determine Land Ownership.

Privately owned land:

The Council will not take action to evict where there is an unauthorised encampment on privately owned land. It will be the responsibility of the land owner to arrange for evictions, where necessary with the support of the police.

The Council will notify the landowner of the encampment where they are not already aware and will give advice on how to effectively manage the unauthorised encampment and the powers available to recover possession of the land. In order to formulate a consistent approach to advice a hand out to be issued to landowners is contained at Appendix T4.

If the landowner has given the encampment permission to use the land and the encampment are not causing disruption to the settled community the matter should be referred to the Local Authority's Planning Department to look at taking enforcement action for an unauthorised development.

Where the owner does not take action to recover the land or the land owner cannot be found and the encampment is causing serious disruption or a nuisance to the settled community action should be taken by the authorities following the procedure for if the land was Council owned land. Initially by proceeding to stage 2 of this procedure.

Land owned by Gypsies or Travellers (Unauthorised Developments):

STAGE1- IDENTIFICATION OF LAND OWNERSHIP:

Where Gypsies and Travellers (or anyone else) buy land and develop it as a caravan site without planning consent, any enforcement action must be taken through the planning system.

Enforcement in this regard will be a matter for the Council Planning Department in accordance with their enforcement policy.

Local Authority Owned Land:

Where the land is identified as land which is owned by the Council the SPOC will consider whether or not it is appropriate to use an external service to remove the travellers. Factors to be taken into consideration are the location of the site and the level of disruption caused.

If it is decided to use an external service the SPOC will make the necessary arrangements.

If it is decided not to use an external service then proceed to Stage 2.

STAGE 2 – ACTION BY THE COUNCIL – WELFARE

Property Services will be responsible for managing this stage of the procedure and will monitor progress and report back to the nominated officer accordingly.

As soon as it is agreed that the Council will take action a representative from the Council will attend the site to carry out an initial welfare assessment to identify relevant welfare issues. This person will also distribute refuse sacks to be used by members of the encampment in order that the duties regarding refuse under the code of conduct can be adhered to. This person will have regard to the Council's risk assessment. This person will then report back to the Property Services who will then contact the relevant person should any welfare issues have been identified.

If any welfare concerns are raised welfare support will be provided by the following:

<u>Potential Issue</u>	<u>Support</u>
Education	Ethnic Minority Achievement Service
Homelessness	Strategic Housing Service
Health	Public Health – Health Protection & Civil Contingencies
Animal Welfare	RSPCA RSPCA
Child Care	Safe Guarding Procedure , MASH, DCC Care Direct.
Adult Care	Safe Guarding Procedure , MASH, DCC Care Direct.

Full contact details of the above services/agencies are at Appendix T5.

Where possible welfare support should be provided within 2 working days.

STAGE 3 – ACTION BY THE COUNCIL – DECISION MAKING

A decision will be made by the Group Manager for Corporate Property and Commercial Assets on the best course of action. The decision will be recorded.

If serious or urgent welfare issues need addressing the removal of the encampment should be delayed where possible unless the site is particularly hazardous or sensitive, in which case the unauthorised campers should be asked to relocate to a more appropriate location in the vicinity.

Once any welfare issues have been addressed with the Deputy Chief Executive (S151), in discussion with Elected Members will need to make a decision on whether to enforce or allow the campers to stay until the welfare issues are resolved. This decision will be based on a number of factors including, type of land, number of campers, behaviour of campers and the effect that the encampment is having on the settled community within the vicinity of the site.

Generally the following should be considered:

Is it possible to allow the encampment for any length of time? For example where the encampment is not causing a nuisance, is not in a populated area and not causing any disruption to the settled community. If so it may be possible to come to an agreement with the campers to allow them for a certain period of time on their agreement to leave by a certain date and adhere to certain behavioural conditions which are set out in the code of conduct.

Where an encampment cannot be allowed to remain eviction action may have to be taken:

There are various methods of enforcement action available to remove unauthorised campers. Although many encampments can be dealt with through negotiation there will be times when eviction is the only option. The Government believe that local authorities should always follow a route which requires a court order and this should be taken into consideration by the authorities when making any decisions. Different cases will require different courses of action and when making its decision the Council should take into account the factors. In the majority of cases the Council will use the services of the external service.

STAGE 4 – ACTION BY THE COUNCIL - ENFORCEMENT

Once the decision to evict has taken place the procedure taken to secure eviction will differ depending on the decided course of action.

The most likely course of action to be taken by the Council will be by private Bailiffs or through the County Court.

Step by step approach – Civil Procedure Rule 55 County Court:

NOTE: These steps will only be taken once the Council has carried out its initial welfare assessments and a member of the Leadership team has approved this course of action.

- Legal Services will draw up the relevant documentation which includes a witness statement detailing the action taken by a Member of the Property Services team.
- Legal Services will attend Court, usually accompanied by the Enforcement Officer to issue the papers and obtain a hearing date.
- The Group Manager for Corporate Property and Commercial Assets will arrange for the service of the Notice of Hearing and accompanying documentation.
- If the unauthorised campers fail to leave the site Legal Services will attend Court with the Enforcement Officer to obtain an Order for possession.
- A Member of the Property Services team will serve the Order for possession and keep the necessary stakeholders informed.
- If the unauthorised campers fail to leave the site Legal Services will apply for a warrant for possession of land.
- A member of the Property Services Team will work with the County Court/Bailiffs who will carry out the eviction.

STAGE 5 – ACTION BY THE COUNCIL – SITE CLEANUP

Although the Council provides unauthorised encampments with refuse sacks and arranges collection there will still be some circumstances where cleaning up will be required.

The Street Scene service should be notified by The Enforcement Officer as soon as the unauthorised encampment has left the site.

The Council will then attend as soon as reasonably practicable.

Preventing Further Unauthorised encamping

Injunctions– may be used to prevent gypsies and Travellers from returning to an area where they have caused problems in the past or are taking up unauthorised camping throughout the District.

Site protection measures – could be further considered in locations where they are vulnerable to unauthorised encamping. Some measures are listed below that is not an exhaustive list:

- a. Substantive steel gate with anti-tamper locks
- b. Substantial height barriers
- c. Width restrictions (that allow cars to pass but not caravans) installed with substantial posts or large concrete blocks/ boulders
- d. Fencing/ ditching
- e. Closing off seldom used accesses – under highways act if there are more commodious routes available.
- f. CCTV surveillance to be installed on particularly vulnerable sites and or officer patrols to be carried out in the local authority area to ensure sites are secure and any follow up steps to make sites secure is undertaken.

Referral to the Police – where trespass has taken place upon Council owned land and security fencing/ locks/ any type of security measure has been breached by way of removal or cutting should be referred to the Police who will make a decision whether to further investigate a crime based upon, and balancing, the following principles:

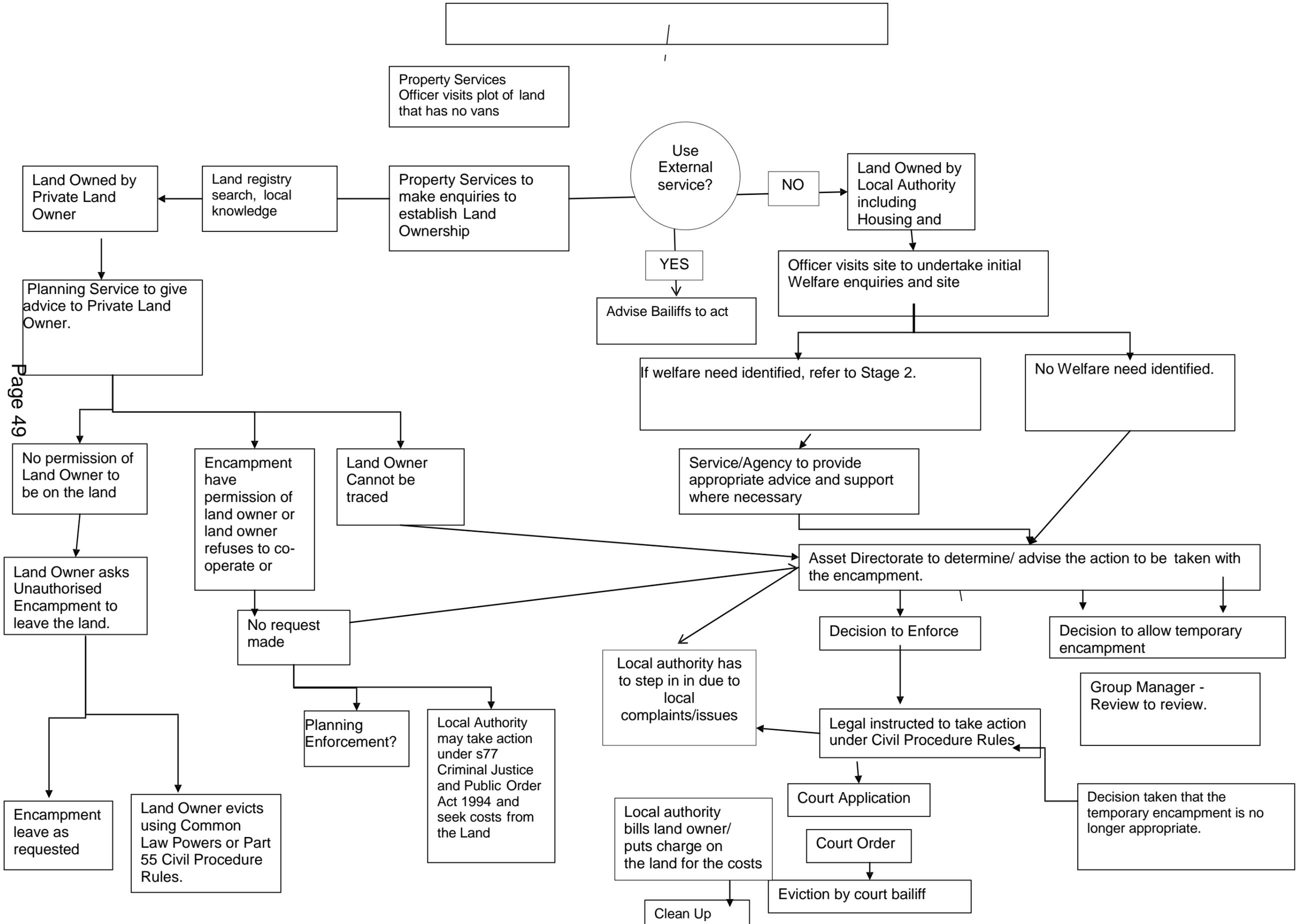
- Being victim focussed.
- Protecting the public.

Appendices:

Appendix T1 –	Flowchart Appendix
Appendix T2 –	Time Chart
Appendix T3 –	Handout advice for Travellers
Appendix T4 –	Code of Conduct for Travellers
Appendix T5 –	Contact List
Appendix T6 –	Definitions
Appendix T7 –	Frequently Asked Questions
Appendix T8 –	Communications strategy

Form T1 – Flow Chart

Detailed over the page is a simplified flowchart of the procedure/ steps to be taken on receipt or notification of an unauthorised encampment.



T2 – Time Chart

1. Identification of Land Ownership will be undertaken immediately following notification and/ or complaint of Unauthorised encampment to Local Authority.
2. Where land is privately owned dialogue will ensue with private landowner and either private landowner will take necessary action or discuss assistance required from Local Authority and arrangement agreed.
3. Where land owned by Local Authority the following time periods apply (response times may vary):
 - a. Day 1 – Health and welfare assessment to be undertaken and reported back to Public Health and Regulatory Service as to whether or not any reasons why unauthorised encampment to be allowed.
 - b. If no reason to allow unauthorised encampment the matter will be referred to the external service or proceedings will be commenced in the County Court.
 - c. Day 4 –
 - i. Hearing at County Court (if travellers still remain on land) for Order of possession.
 - ii. Order then served upon unauthorised encampment giving 24 hours to leave the site.
 - a. Day 5 – If travellers remain on land application made for warrant for possession.

Form T3 –Advice re Travellers on unauthorised encampments on privately owned land:

Does the Council have a duty to move travellers when they are camped without the landowner's permission?

The Council has no specific legislative duty to move travellers from land which is not Council owned. It is the responsibility of the land owner to do so.

If Travellers are on my land without permission what should I do?

There are powers available to private landowners under common law and under Part 55 Civil Procedure Rules to enable you to be able to remove the travellers from your land. Advice should be sought from your own solicitor as to the best course of action. Landowners may also contact Legal Services on 01884 255255 for advice.

You should also contact the Council to put them on notice that there is an unauthorised encampment within the District. Please use the Council's website or telephone 01884 255255.

What could I do to deter travellers from camping on my land?

There are a number of preventative measures to prevent travellers from gaining access to your land as follows:

- Make earth barriers.
- Plough the land so that vehicles sink in.
- Reduce access width and/or headroom with the use of barriers.
- Place locked gates across the entrance.

You may need to consult your solicitors or insurers prior to making such changes.

Do the police have a duty to help private landowners in the eviction process?

The police have a duty to preserve peace and prevent crime. This applies to the community as a whole including travellers. Trespass on land alone is therefore not a matter for the police.

You should however inform the police that the encampment has arrived within the District in order that they are aware. Also if the travellers have caused damage to your property or have used threatening or abusive behaviour towards you, a member of your family or an employee or agent the police may be able to assist under Section 61 Criminal Justice and Public Order Act 1994.

There are certain factors that will need to be taken into consideration which can only be determined by a senior police officer. Each case will be considered on its own merits. The Senior Police Officer must have regard to guidance issued by the Association of Chief Police Officers.

What should I do once I have a date for eviction?

You should notify the police that you are to carry out an eviction in order that they can assess whether or not their attendance will be required to avoid any breach of the peace that may occur.

Useful Contacts/Sources of information:

Council Contact:	Planning Enforcement Team	01884 255255
	Legal Section	01884 255255

Police Contact: Tel: 101

REMEMBER – PROTECTION OF YOUR PROPERTY IS YOUR RESPONSIBILITY

Code of Conduct for Travellers on Unauthorised Campsites

To ensure those members of both the settled and travelling communities can live together in a peaceful and unprejudiced way we expect you to comply with this Code of Conduct. We expect you to treat the land you have occupied with respect, and that you respect the rights and freedoms of other people who also wish to use the area.

Behaviour that may result in you eviction from a site includes the following:

- Camping upon any land designated as a public amenity, such as parks, recreation areas, school fields and similar locations (not an exhaustive list).
- Interfering with the rights and freedoms of other members of the public, including interrupting the operation of legitimate businesses.
- Forcing entry to land, by causing damage to any fixtures, fittings or landscaping (including planted areas). This includes digging away of earthwork defences, which have been placed at landowner's expense to prevent trespass.
- Causing any other damage to the land itself, or property on it. Particular care should be taken not to cause damage to those features provided as public amenities.
- Driving vehicles along any footpath, or other highway not specifically designed for road vehicles. This practice is not only unlawful but is also highly dangerous.
- Parking vehicles or caravans on any road, footpath or other highway that causes an obstruction to other people wanting to pass by. This includes parking immediately next to footpaths.
- Dumping or tipping rubbish, waste materials or trade waste such as tree cuttings, rubble, etc. It is your responsibility to keep the site clean and tidy. Council Traveller Council Officers can direct you to Civic Amenity Sites (Council tips) where you will be able to pay to dispose of trade waste.
- Use the area as a toilet. You must not deposit or leave human waste openly in public areas.
- Abuse, intimidation or harassment of any person who is lawfully using the area.
- Excessive noise or other forms of anti-social behaviour.
- Animals that are not kept under control or that attack persons lawfully on the land, or nearby.
- Interference with electrical, water or gas supplies. Any person(s) found abstracting electricity, or wasting quantities of water may be subject of criminal proceedings.

These codes are the same standards of behaviour that are expected of the settled community. The police are committed to ensuring that all policing issues that affect you are balanced; however behaviour that is deemed unacceptable within society will not be tolerated.

Please note that if you are considering moving to another unauthorised location, be aware that encampments on certain land will not be allowed and eviction will be sought immediately. Such sites include school grounds, playgrounds, public car parks, industrial estates/leisure centres and polluted land.

USEFUL CONTACTS

LEGAL ADVICE

If you need general legal advice please contact the Citizens Advice Bureau on 0300 3301153.

HOUSING

Some Gypsy/Traveller families have expressed an interest in moving in to Local Authority Housing. Tel Housing Services 01884 255255.

EDUCATION

If you want help with your children(s) education please contact Devon County Council on 08451551007.

SOCIAL WELFARE

Should you have any worries about aspects of your welfare or your children or relatives welfare please contact Devon County Council on 08451551007.

HEALTH

If you want advice on any health issues there is a 24 hour NHS helpline you can call '111'.

T5 – Contacts List

Officer	Role	Contact No.
Group Manager for Corporate Property and Commercial Assets	Single Point of Contact for MDDC to log and disseminate actions following notification/complaint of an unauthorised encampment	Tel:- 01884 255255 Email:- propertyservices@middevon.gov.uk
Customer First	Appointed contact centre for the Council to take details of all complaints to communicate to the appropriate department, and in relation to unauthorised en Single Point of Contact campments to the appointed	Tel:-01884 255255 Website: https://www.middevon.gov.uk/
Standby	Out of hours contact - Appointed contact centre for the Council to take details of all complaints to communicate to the appropriate officers, and in relation to unauthorised encampments.	Tel:- 01884 255255
Police	In case of all emergencies.	Tel:- 101 for a non-emergency incident
Fire and Rescue Service	In case of fire and rescue situations.	Tel:- 999
NHS Health Outreach and Inclusion	For medical health support.	Tel:-111.
RSPCA	For incidents relating to neglect or cruelty towards animals.	0300 123 4999

Adult & Childcare	For any immediate adult and child welfare concerns.	0345 6000388 or 0845 6000388.
Animal Welfare, petrol and explosives	For concerns about animal welfare, use of petrol or explosives.	01392 499499

T6

Definitions

‘Authorities’

Devon & Cornwall Police, Devon County Council and Mid Devon District Council.

‘Local Authority’

Mid Devon District Council.

‘Police’

Devon & Cornwall Police.

‘Unauthorised Encampment(s)’

Trespassing on land by persons which do not own or have a legal right to occupy the land.

‘Gypsies and Travellers’

Persons with a cultural tradition of nomadism or of living in a caravan and all other persons of a nomadic habit of life, whatever their race or origin.

‘Enforcement’

Taking legal steps to remove unauthorised Encampments from land.

‘SPOC’

Single Point of Contact for the Council in relation to unauthorised encampments.

T7

Frequently Asked Questions

What we will do

Log the report or call.

Aim to visit the site within 4 hours of receiving a report in order to ascertain the number of caravans involved and to plot the exact location.

Should the unauthorised encampment be on land that is under the ownership of Mid Devon District Council we will work within our legal framework to address the situation.

In the majority of cases we utilise a specialised provider to liaise with members of any unauthorised encampments this usually results in the unauthorised encampment vacating the site within a 2 to 3 day period.

In a small number of cases the Council will need to take into consideration specific issues relating to health and wellbeing etc in such cases this will result in extended stay periods.

Once the site is vacated, we will ensure that any waste material is removed as soon as possible.

Please note - private landowners are responsible for the removal of waste from land under their control.

What the Police will do:

All incidents of criminal activities should be reported directly to the Police.

The Police will only intervene in the removal of unauthorised encampments in exceptional circumstances such as issues of major public order offences.

Unauthorised encampments - frequently asked questions:

The Council recognises and accepts the rights of travellers/gypsies and also those people on whose land unauthorised camping takes place.

Gypsies and travellers are protected from discrimination by the Equality Act 2010 and the Human Rights Act 1998, together with all ethnic groups who have a particular culture, language or values.

These FAQ explain how the Council and other official agencies will work to try to balance the rights of all those involved.

Why do gypsies/travellers pursue a travelling lifestyle?

There is a past history and tradition for some people to live in caravans or move around the country. However, encamping on someone's land without their consent is unlawful and in certain circumstances, it is not just a breach of civil law, but also criminal law.

Does the Council or Police have a duty to move gypsies/travellers when they are camped without the landowner's permission?

No.

The powers given to local authorities and the police are discretionary and can only be used when certain conditions exist. Failure to comply with both civil and criminal procedures would render the Council and Police liable to successful challenge in the Courts.

What about trespass?

The duty of the Police is to preserve the peace and prevent crime. Trespass on land itself is not a crime - it is a civil matter. Prevention of trespass is the responsibility of the landowner, not the Council nor the Police.

What about criminal activity associated with some authorised encampments?

Most gypsies and travellers are law-abiding citizens. The Police will deal with crime committed by gypsies/travellers when there is a complaint and evidence to support it, just as they would when committed by anyone else.

When can the Police move them on?

The Police may activate their powers under section 61 of the Criminal Justice and Public Order Act 1994 to require gypsies/travellers to leave.

The Police are able to activate these powers where they are satisfied that two or more people are trespassing on the land, and the landowner has taken reasonable steps to make them leave (and they have failed to do so). In addition, one of the following also has to apply:

- damage has been caused to the land or property, or
- threatening / abusive / insulting behaviour has been used against the occupier, his family or agent, or
- the trespassers have six or more vehicles.

Any enforcement of section 61 requires considerable resourcing and consideration has to be given to having sufficient police officers available etc, which may in itself take some time to arrange.

When can the Council move them on?

If gypsies/travellers are camped on Council land, the Council can recover possession of their land if their land is occupied without their consent.

If the gypsies/travellers are on Council land and are causing problems they will be moved on as soon as is possible and reasonable. The Council will consider each case on its merits. In all cases the site is visited and every effort made to make sure that the gypsies/travellers keep the site tidy and do not cause public health problems.

If they are on private land, it is usually the landowner's responsibility.

Can the Council remove gypsies/travellers from their land immediately?

No, the Council must:

- show that the Gypsies/Travellers are on the land without consent.
- make enquiries regarding the general health, welfare and children's education.
- ensure that the Human Rights Acts 1998 has been fully complied with.
- establish ownership of land.

How long will it take for the gypsies/travellers to be removed?

This will depend upon the circumstances of each individual case. The Council will need to take account of the issues outlined above however in normal cases we look to serve notice within 5 days of notification and would expect them to move on within a further 24 hours.

What can I do if unauthorised encampments occur on my land?

Firstly talk to them to see if a leaving date can be agreed.

If you are not willing to tolerate the encampment any longer, you or your solicitor can go to a County Court and obtain an Order granting you possession of your land.

Do we have any authorised sites in the District ?

YES/NO?

Who do I complain to about unauthorised encampments?

The Council's Contact Centre is the first point of contact for complaints about unauthorised encampments. Instances occurring on Council owned land will be directed to the service responsible for its management who will investigate the complaint and instigate action as appropriate.

T8

Unauthorised encampments Communications strategy

Background

This document supports Mid Devon District Council's procedure for managing unauthorised encampments and sets out how communications will support the procedure.

Unauthorised encampments can be a sensitive issue in the District and can generate a high number of enquiries from elected members and members of the public, putting a strain on resources and staff. If not dealt with appropriately and swiftly they can also generate negative media coverage for the council.

It is important that all stakeholders are kept informed about what is happening and what can be expected to happen with encampments in the District.

The strategy is to take a more proactive approach to communicating with residents when the council and its partners are dealing with an unauthorised encampment.

It is important that appropriate language is used when communicating with stakeholders about any encampments.

This document shows the activity involved, along with budget details, objectives, and stakeholders.

Objectives

The objectives of this plan are to:

- Improve the way residents can report an encampment to the Council.
- Mitigate negative media coverage of the council and its partners when there is an encampment in the District.

Key messages

It has been agreed that Mid Devon District Council will use a proactive approach with external communications. The council has a new policy to act swiftly and efficiently when dealing with an unauthorised encampment.

Audiences

A members briefing session will be planned with elected members to ensure they know the process and what to expect when there are travellers in the District .

Other stakeholders who may need to be kept regularly informed:

- Residents.
- Cabinet member, Chief Executive and Directors.
- Mid Devon District Council Officers.
- Devon and Cornwall Police
- Local and regional media.
- Local businesses.
- Other partner agencies.

Budget

There is no formal budget allocated for dealing with unauthorised encampments.

Activity plan

External Website

A dedicated webpage will be set up on Mid Devon District Council's website which residents can be signposted to when there is an unauthorised encampment in the District. This will not include the status of current encampments as there is the potential to draw attention to where such encampments are and with the potential risk for these to become targets for hate crime and intimidation.

There will be FAQs on the webpage and will be regularly updated with information about the latest encampment to keep residents fully informed.

There will also be information for private landowners and contact numbers if they need advice of assistance.

Internal

Elected members:

As set out in the unauthorised encampment procedure, the Single Point of Contact for the Council (SPOC) will brief elected members for the area in which the encampment is situated in order that the members can pass information onto their constituents.

In addition, contact email addresses should be taken from any complainants in order that they can be emailed directly by the SPOC where appropriate.

Officers:

A script will be agreed for contact centre staff to follow when the council becomes aware of an encampment so they can keep residents fully informed. This will reduce calls being put through to the planning enforcement team and improve the reputation of the council.

Internal communications protocol:

SPOC is alerted to encampment



SPOC brief elected members, Chief Executive, Deputy Chief Executive, Directors



SPOC liaises with planning enforcement



Relevant partners are informed

Planning enforcement officers are alerted to encampment and begin process



Planning enforcement alert via Communications

Monitoring and evaluation

Monitoring and evaluation systems will be put in place to ensure that each of the project's objectives is regularly checked to ensure they are on track to be met.

At the end of the project, an overall evaluation report for the project will be completed.

Objective	Monitoring method	Evaluation method
Improve the way residents can report an encampment to the Council.	Website views.	Number of calls to planning team/ feedback from officers on call.
Mitigate negative media coverage.	Media and social media coverage.	Coverage marked as positive, negative or factual.

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Department for
Communities and
Local Government



Home Office



Ministry
of Justice

Dealing with illegal and unauthorised encampments

A summary of available powers



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Dealing with illegal and unauthorised encampments: a summary of available powers

This guide sets out the robust powers councils, the police and landowners now have to clamp down quickly on illegal and unauthorised encampments.

As part of the government's commitment to protecting the nation's green spaces, these powers will help protect Green Belt land and the countryside from illegal encampments. With the powers set out in this guide available to them, councils and the police should be ready to take swift enforcement action to tackle rogue encampments and sites.

Recent experience has shown us the problems that can be caused for communities by the illegal occupation of land. It is often thought that local authorities and other enforcement bodies have limited powers available to tackle illegal and unauthorised encampments and the nuisance that they can cause. In fact there are extensive powers which are summarised below.

Public bodies should not gold-plate human rights and equalities legislation. Councils and the police have been given strong powers to deal with unauthorised encampments and when deciding whether to take action, they may want to consider for example, (a) the harm that such developments can cause to local amenities and the local environment, (b) the potential interference with the peaceful enjoyment of neighbouring property, (c) the need to maintain public order and safety and protect health – for example, by deterring fly-tipping and criminal damage, (d) any harm to good community relations, (e) that the state may enforce laws to control the use of an individual's property where that is in accordance with the general public interest.

Whilst there is a clear leadership role for local authorities in tackling illegal and unauthorised encampments, they should work collaboratively with other agencies, such as the police or the Highways Agency, depending on where the most appropriate powers sit.

This summary of powers is primarily aimed at public authorities but is also intended to be helpful to land owners and others involved with illegal and unauthorised encampments.

Being prepared and acting swiftly: Questions local agencies will want to consider:

- Is there land particularly vulnerable to unlawful occupation/trespass?
 - What is the status of that land? Who is the landowner?
 - Do any special rules apply to that land (e.g. byelaws, statutory schemes of management, etc) and, if so, are any of those rules relevant to the occupation/trespass activity?
 - Has a process been established for the local authority to be notified about any unauthorised encampments?
- If the police are notified of unauthorised encampments on local authority land, do they know who in the local authority should be notified?
- If the power of persuasion by local authority officers (wardens/park officers/enforcement officers) does not result in people leaving the land/taking down tents, is there a clear decision making process, including liaison between councils and local police forces, on how to approach unauthorised encampments? At what level of the organisation will that decision be made? How will that decision-maker be notified?

To plan and respond effectively, local agencies should work together and consider:

- Identifying vulnerable sites.
- Working with landowners to physically secure vulnerable sites where possible.
- Preparing any necessary paperwork, such as applications for possession orders or injunctions, in advance.
- Working with private landowners to inform them of their powers in relation to unauthorised encampments, including advance preparation of any necessary paper-work.
- Developing a clear notification and decision-making process to respond to instances of unauthorised encampments.
- The prudence of applying for injunctions where intelligence suggests there may be a planned encampment and the site of the encampment might cause disruption to others.
- Working to ensure that local wardens, park officers or enforcement officers are aware of who they should notify in the event of unauthorised encampments.
- Working to ensure that local wardens or park officers are aware of the locations of authorised campsites or other alternatives.
- Identifying sites where protests could be directed / permitted.

Local Authority Powers	
Power	When can the power be applied?
Temporary Stop Notice	<p>Section 171E of the Town and Country Planning Act 1990 stops any activity that breaches planning control for a period of 28 days. This allows the local planning authority time to decide whether further enforcement action, such as issuing an enforcement notice, possibly with a stop notice, should be taken. Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (section 171G).</p> <p>A temporary stop notice differs from a stop notice (see below) in that it does not have to wait for an enforcement notice to be issued and the effect of the temporary stop notice is immediate.</p> <p>The Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005 were revoked on 4 May 2013. The revocation removes a previous restriction on the use of Temporary Stop Notices; this allows Local Planning Authorities to decide if enforcement action against a caravan, used as a main residence, is necessary and proportionate in the circumstances.</p> <p>New guidance states that it may be appropriate in some circumstances for the local planning authority to issue a temporary stop notice where the breach of planning control has occurred on land owned by a third party, including the local authority or another public authority.</p>
Injunctions to protect land from unauthorised encampments	<p>If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities could consider applying to the courts for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area.</p>
Licensing of caravan sites	<p>The Caravan and Control of Development Act 1960 prohibits the use of land as a caravan site unless the occupier holds a site licence issued by the local authority. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including touring sites and single sites. However, it does not include sites where caravans are kept for storage only (driveways, retailers, storage parks) or where a caravan is used as additional accommodation for an existing dwelling. Violation of licensing terms brings a £100 fine for a first offence, and a £250 fine for any subsequent offence.</p>
Tent site licence	<p>Section 269 of the Public Health Act 1936 gives the local authority powers to control the use of movable dwellings and to license the use of land as a site for such as a dwelling. If the land is to be used for more than 28 days in total in any calendar year, planning permission must be obtained. A site which is used for more than 42 days consecutively or 60 days in total in any consecutive 12 months, must have a site licence for the area concerned. The local authority may also decide to license tented areas on existing sites which operate within the 28 day planning allowance period. Violation of licensing terms brings a £2 fine per day.</p>

<p>Possession Orders</p>	<p>A possession order under Part 55 of the Civil Procedure Rules can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property. A claim can be issued in the High Court in exceptional circumstances where there is a risk of public disturbance and harm to persons or property that requires immediate determination. Local authorities should also be prepared to advise private landowners about their rights to recover land from trespassers through the courts or using common law powers. It is also possible that local authorities may be called upon to assist other Government bodies such as the Highways Agency.</p> <p>The “ordinary” possession order may be used regardless of whether the property is a building or open land, and regardless of the type of squatter or trespasser. The landlord may combine the application for the possession order with suing the squatter for damages and/or an occupation rent for the period of squatting as well as the court fees. A possession order may be secured quickly against trespassers (a minimum of 2 days’ notice before a hearing can take place if the property is non-residential, or 5 days for residential property), but not as quickly as an interim possession order, and is not backed up by criminal sanctions, unlike the interim possession order (see below).</p>
<p>Interim Possession Order</p>	<p>If trespassers have occupied premises (rather than open land), a local authority or private landowner could also consider applying (under Section III of Civil Procedure Rules Part 55) for an interim possession order, an accelerated process for regaining possession of property. Once the court has granted such an order and it has been served, trespassers who fail to leave within 24 hours of service of the order or return to the premises within the currency of the order are guilty of an offence under section 76 of the Criminal Justice and Public Order Act 1994.</p> <p>The interim possession order has the obvious advantages of speed and being backed up by the criminal law. It is, however, not a final order, and there is a return date at which the court will decide whether to make the order final. If the court decides that the interim order was not justified, the landlord may have to pay damages. The interim possession order is also more restricted in that it may only be used where the property is or includes a building, not open land, and may not be used where the landlord also wishes to claim damages and/or an occupation rent.</p>

<p>Local Byelaws</p>	<p>Section 235 of the Local Government Act 1972 enables the local district council or London borough council to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in a public place etc.</p> <p>Section 150 (2) of the Police Reform and Social Responsibility Act 2011 enables local authorities to attach powers of seizure and retention of any property (which could include tents and sleeping equipment) in connection with any breach of a byelaw made under section 235 and enables the courts to order forfeiture of any such property on conviction for contravention of any byelaw. Local authorities could use this byelaw as a pre-emptive tool to prohibit encampments, if the local authority considers it has an area at risk of encampment protest. This will save having to go through costly injunctions after any encampments have been set up. Local authorities should consider this option as part of their local risk assessment and mitigation plan; as such a byelaw would still be required to go through the normal processes for amending or introducing new byelaws. Westminster City Council has already introduced such a byelaw, which came into force for a specified area around Parliament Square on 30 March 2012.</p>
<p>Power of local authority to direct unauthorised campers to leave land</p>	<p>Where people are residing in vehicles (including caravans) on land the section 77 of the Criminal Justice and Public Order Act 1994 gives local authorities in England and Wales power to give a direction to leave the land. The power applies only to land forming part of a highway, any other unoccupied land or occupied land on which people are residing without the consent of the occupier.</p> <p>It is an offence to fail to comply with such a direction. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (section 78). Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is usually recommended that the police attend such evictions in order to prevent a breach of the peace. Please note this power does not apply to other campers i.e. those sleeping under canvas.</p>

<p>Addressing obstructions to the Public Highway</p>	<p>If tents are erected on the public highway, so as to constitute a “nuisance”, the relevant highway authority may serve a notice requiring their removal under the Highways Act 1980 (England and Wales only). If the recipient fails to comply, the highway authority can apply to the Court for a removal and disposal order. The key issue is the need to demonstrate that the tents etc that are deposited on the highway are causing a clear, actual obstruction (a “nuisance”).</p> <p>The Highways Act provides other grounds on which highway authorities may take action in relation to protest activity on the highway. For example, under sections 1 and 263 of the Act, the freehold title of a highway maintained at public expense is vested in the highway authority. This means that, in some circumstances they could seek a possession order through the courts.</p> <p>Under section 137, it is the duty of the highway authority to protect the rights of the public regarding the use and enjoyment of the highway and to prevent the obstruction of the highway. This allows the authority to seek an injunction in relation to protests on the highway that restrict public use or create an obstruction.</p> <p>Normally a highway authority would take the time to initiate a dialogue with any party that is potentially causing an obstruction and would only use court procedures if it was obvious the party causing the obstruction won’t back down. However, as with section 149 of the Highways Act 1980 (Removal and disposal orders) if the object, e.g tents, was causing a danger then there is a provision for their immediate removal. The power won’t be effective where the obstruction is temporary and formal proceedings are likely to be frustrated by the voluntary removal of the object before any court proceedings can bite. In these circumstances liaison and persuasion are the best option.</p>
<p>Planning contravention notice</p>	<p>Section 171C of the Town and Country Planning Act 1990 provides the power to serve a planning contravention notice. This may be used where it appears that there may have been a breach of planning control and the local planning authority require information about the activities on the land or to find out more about the nature of the recipient’s interest in the land.</p> <p>A notice can therefore be used to invite its recipient to respond constructively to the local planning authority about how any suspected breach of planning control may be satisfactorily remedied.</p> <p>These notices enable local planning authorities to take action quickly following complaints and may be sufficient to reach a solution to the problem without taking any further formal action. Penalty for non-compliance is a maximum £1,000 on summary conviction (section 171D). A second conviction for continuing non-compliance can be penalised by a daily fine. A false or misleading response to a planning contravention notice (either deliberately or recklessly) is subject to a maximum fine of £5,000.</p>

<p>Enforcement Notice and Retrospective Planning</p>	<p>Section 172 of the Town and Country Planning Act 1990 is the power to issue an enforcement notice, requiring steps to be taken to remedy the breach of planning control within a given period. The steps can include demolition and restoration of a site or alterations to a building. There is a right of appeal to the Secretary of State against an enforcement notice (section 174). If the notice is upheld, the penalty for failure to comply is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (section 179).</p> <p>An enforcement notice should be written in plain English and should enable every person who receives a copy to know –</p> <ul style="list-style-type: none"> • exactly what, in the local planning authority’s view, constitutes the breach of planning control; and • what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach. <p>If an enforcement notice has been issued, the local planning authority may decline to determine a retrospective planning application for development that would grant planning permission for any of the matters specified in the enforcement notice (section 70C of the Town and Country Planning Act 1990 as inserted by section 123 of the Localism Act 2011).</p>
<p>Stop Notice</p>	<p>Section 183 of the Town and Country Planning Act 1990 This has the effect of quickly stopping any activity which contravenes planning control guidelines and where there are special reasons which justify doing this: for example to prevent further environmental damage or to stop the construction of an unauthorised building. A stop notice may only be served with or after an enforcement notice relating to the same activity. Penalty for non-compliance is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment (section 187).</p>
<p>Breach of Condition Notice</p>	<p>Section 187A of the Town and Country Planning Act 1990 enables a breach of condition noticed to be served where there is a failure to comply with any condition or limitation imposed on a grant of planning permission. Penalty for non-compliance is a fine of up to £2,500 on summary conviction.</p>
<p>Powers of entry onto land</p>	<p>Sections 196A, 196B and 196C of the Town and Country Planning Act 1990 provides powers of entry for authorised officers of the local planning authority for them to obtain information required for enforcement purposes. This may be without a warrant at any reasonable hour (with 24 hours’ notice for a dwelling house), or with a warrant if access has been or is expected to be refused, or it is an emergency. Wilful obstruction of an authorised person is an offence: penalty is a fine of up to £1,000 on summary conviction.</p>

Police Powers	
Power	When can the power be applied?
Power of the Police to direct unauthorised campers to leave land	<p>Should trespassers refuse to adhere to a request to leave the land, sections 61- 62 of Criminal Justice and Public Order Act 1994 gives the police discretionary powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer 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:</p> <ul style="list-style-type: none"> a) that any of the trespassers have caused damage to land or property; b) that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or c) that the trespassers have between them six or more vehicles on the land. <p>Failure to comply with the direction by leaving the land as soon as reasonably practicable is an offence. Similarly it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.</p>
Police Powers to direct trespassers to an alternative site	<p>Police have powers under sections 62 A-E of Criminal Justice and Public Order Act 1994 to direct both trespassers and travellers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.</p>
Offence of squatting in a residential building	<p>The offence of squatting in a residential building, which came into force on 1 September 2012, was created by section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The offence is committed where a person is in any residential building as a trespasser, having entered as a trespasser, knows or ought to know he or she is a trespasser, and is living in the building or intends to live there for any period.</p> <p>Although the new offence does not cover squatting in non-residential buildings or on land, squatters who have broken into those premises, removed items or caused damage might be guilty of other offences such as criminal damage or burglary and should be reported to the police.</p>

Post site clean up powers	
Power	When can the power be applied?
To act in respect of Fly-tipping	<p>Fly-tipping is the illegal deposit of waste on land that does not benefit from an appropriate environmental permit contrary to section 33 of the Environmental Protection Act 1990 and local authorities and the Environment Agency may prosecute for the offence. There is an associated offence relating to the unlawful deposit of waste from a motor vehicle whereby the person who controls or is in a position to control the vehicle shall be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.</p> <p>Prosecution may be taken by the local authority or in more serious cases by the Environment Agency where there is evidence that a person either deposited the waste or knowingly caused or permitted the deposit.</p> <p>This power is ineffective where it is uncertain whether the waste is controlled waste under Environmental Protection Act 1990. Such uncertainty might arise where the waste is not considered household, commercial or industrial.</p>
Removal of waste from land	<p>Local authorities are under an obligation to remove fly-tipped waste from public land, but on private land it is the responsibility of the landowner to remove the waste and dispose of it legally. Landowners are therefore often the victims of fly-tipping. Local authorities should advise landowners what local facilities are available to enable them to clear fly-tipped waste. Section 59 of the Environmental Protection Act 1990 allows local authorities and the Environment Agency to require owners or occupiers of land to remove waste they <i>knowingly</i> caused or permitted to be deposited illegally. If the waste is not removed, the local authority or the Environment Agency can enter onto the land to clean up the waste and can charge the landowner the costs incurred.</p> <p>This power is effective where a person is still in occupation of land or where a landowner has refused to take steps to prevent fly-tipping or has allowed fly-tipping to occur (in most cases the landowner is the victim). However, it cannot be used against the offender unless they are the occupier or landowner or where there is doubt whether the deposit is an illegal deposit.</p>
Power to remove any thing abandoned without lawful authority	<p>Section 6 of the Refuse Disposal (Amenity) Act 1978 provides a general power for local authorities to remove “any thing in their area, other than a motor vehicle, [which] is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway”, provided that they have given notice to the occupier of the land and they have not objected within 15 days, in accordance with the Removal of Refuse Regulations 1967. The local authority may be entitled to recover the costs of removal from the person who deposited the articles.</p>

<p>Harm to public health</p>	<p>Local authorities have certain duties and powers to control “statutory nuisances” pursuant to sections 79 to 81 of the Environmental Protection Act 1990 (as amended). Various matters constitute “statutory nuisances” under this legislation. These include any premises and land that are in such a state as to be prejudicial to health or a nuisance. Something will be ‘prejudicial to health’ if it is ‘injurious or likely to cause injury to health.’ A ‘nuisance’ is unacceptable interference with the personal comfort or amenity of the nearby community.</p> <p>The statute requires local authorities to inspect their areas for statutory nuisances and to take such steps as are reasonably practicable to investigate complaints of statutory nuisance made by residents in their areas. A local authority has a duty to serve an abatement notice if it is satisfied that a statutory nuisance exists, or is likely to occur or recur. The abatement notice should generally be served on the person responsible for the statutory nuisance but can be served on the owner of the land if the person responsible (e.g. a tenant or leaseholder) cannot be found or if the nuisance has not yet occurred or recurred. If the abatement notice is not complied with, the local authority has the power to take further steps to deal with the nuisance (but it not obliged to take these steps). A local authority may abate the nuisance itself. In doing so the local authority may do whatever may be necessary in execution of the notice and may be able to recover expenses from the landowner, if necessary through a charge on the land. A local authority also has the power to take criminal proceedings against a person who fails to comply with an abatement notice if it considers that doing so is in the interests of the inhabitants in its area. If the local authority considers that the criminal procedure is inadequate (e.g. in an emergency) it has a power to seek an injunction in the High Court to deal with the statutory nuisance.</p> <p>Overall this power is effective in tackling statutory nuisance issues that may arise from illegal occupation (e.g., noise, smells, accumulation of material, fumes, dark smoke). The statutory nuisance regime cannot be used to require people who are responsible for a statutory nuisance to move from a site, even if they are occupying the site illegally.</p>
<p>Clearing of land</p>	<p>The scope of works under section 215 of the Town and Country Planning Act 1990 enables a local authority to make good the loss of public amenity. If it appears that the amenity of an area is being adversely affected by the condition of neighbouring land and buildings these powers allow local authorities to serve a notice on the owner requiring that the situation be remedied.</p>

<p>Power to deal with accumulations of rubbish in the open air</p>	<p>The Public Health Act 1961 gives local authorities powers to deal with accumulations of rubbish in the open air. In particular, section 34 of the Public Health Act creates a power for local authorities to remove rubbish on land in open air which is seriously detrimental to the amenity of the neighbourhood. For the power to be exercised a number of conditions must be met:</p> <ol style="list-style-type: none"> 1. There must be rubbish. "Rubbish" is defined to mean "rubble, waste paper, crockery and metal, and any other kind of refuse (including organic matter)", however "any material accumulated for, or in the course of, any business" will not fall under this definition. 2. The rubbish must be on "land in the open air" in the local authority's area. 3. The presence of the rubbish must be "seriously detrimental to the amenities of the neighbourhood." 4. The local authority must have given 28 days prior notice to the owner and occupier of the land requiring the removal of the specified rubbish. 5. The recipient of a notice has the right to serve a counter-notice stating that they will remove the rubbish themselves. If a counter-notice is served the local authority must not remove the rubbish unless the person who served the counter-notice fails to take or complete the steps in the counter-notice within a reasonable time. 6. The recipient of a notice may appeal to the magistrates' court on the grounds that the authority should not take action under section 34 (for example, if they allege the rubbish is not seriously detrimental to the amenity of the neighbourhood) or the steps proposed in the notice are unreasonable. If an appeal is brought against the notice, the local authority must not remove the rubbish unless and until the appeal is finally determined its favour or withdrawn. <p>This power could be used to deal with the accumulation of rubbish on land resulting from illegal occupation. This power does not extend to removing "material accumulated, for or in the course of, any business." Therefore, where illegal occupants are carrying on a business careful consideration will need to be given to whether the items the local authority wishes to remove fall under this exclusion.</p> <p>This power could not be used to evict the occupants from the unauthorised encampment.</p>
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<p>Power to seize a vehicle</p>	<p>Power to seize a vehicle</p> <p>From 6th April 2015 where a vehicle is suspected of being involved in the commission of an offence relating to the illegal deposit of waste or other waste offences (e.g. breach of duty of care; carrying controlled waste while unauthorised to do; operating an illegal waste site), a local authority or the Environment Agency or Natural Resources Wales may instantly seize a vehicle and its contents in accordance with the provisions of the Control of Pollution (Amendment) Act 1989 / the Environmental Protection Act 1990 and the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015.</p> <p>This power can be used where a vehicle is suspected of having been involved in the commission of an offence but there is insufficient information concerning who committed the offence. It can also be used to 'flush out' owners where it is unclear who is the registered keeper and to disrupt and prevent illegal waste activities, reducing the impact of waste crime on the environment.</p>
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Contacts

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