

Operational Advice on Unauthorised Encampments

The National Police Chiefs Council with the College of Policing has agreed to this revised operational advice being circulated to, and adopted by, Police Forces in England, Wales & Northern Ireland.

It is Official under the Government Protective Marking Scheme and any referrals for advice and rationale in relation to Freedom of Information Act disclosure should be made to the NPCC Central Referral Unit at npcc.request@foi.pnn.police.uk.

Document information

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This revised operational advice has been produced and approved by the NPCC Diversity, Equality and Inclusion Coordination Committee. Operational advice produced by the NPCC should be used by chief officers to shape police responses to ensure that the general public experience consistent levels of service. The implementation of all operational advice will require operational choices to be made at local level in order to achieve the appropriate police response. The Purpose of this advice is to assist force personnel to properly manage any contact they have with candidates and to assist them in conducting themselves during the pre-election period. It will be updated and re-published as necessary.

Any queries relating to this document should be directed to either the author detailed above or the NPCC Business Support Office on 020 3276 3800.



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Introduction

1. This document is guidance covering the options to be considered in dealing with any people who trespass on land owned by another with an intention to reside.
2. The Equality Act 2010 makes it unlawful to treat someone less favourably because of a range of protected characteristics, including race, nationality or ethnic or national origins. The following of a nomadic lifestyle is lawful, indeed it is a culture that is recognised and protected through legislation. Romany Gypsies and Irish Travellers have been granted protection under the previous Race Relations Acts. The Public Sector Equality Duty applies to the police and places a duty on constabularies to have due regard to the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations between persons of different racial groups.
3. There is no legal right to trespass, however trespass is a civil rather than a criminal offence. The co-ordinated use of powers available under the Criminal Justice and Public Order Act 1994 allows for a proportionate response to encampments based on the behaviour of the trespassers.
4. The establishment of an unauthorised encampment can raise many concerns with the landowner and neighbouring members of the settled community. Some of these concerns are unfounded, and may be based on ignorance and prejudice; however there still remains a significant number of encampments that cause high levels of anti-social behaviour and disproportionate disruption to the community into which they move.
5. This document explains the framework within which our staff should act, recognising the requirement to balance the needs of a range of interested parties. The decision to use police powers remains at the discretion of the senior officer present. His / her decision, however, should be made in accordance with this guidance, and the grounds for any action / inaction fully recorded. Any decision to evict must be made in conjunction with the relevant on duty senior officer.
6. It is essential that the police response takes account of the issues of behaviour, whether criminal, anti-social or nuisance, in combination with the impact on the landowner and settled community rather than simply because encampments are present at a specific location. Police powers to evict people from unauthorised encampments do exist, as provided for by Sections 61 and 62 A-E, Criminal Justice & Public Order Act 1994. These powers will be used where behaviour or conduct is considered to be inappropriate, or where the impact of an encampment on others is deemed unacceptable. This position is consistent with all other areas of enforcement within the community. Guidelines on the exercise of police powers concerning unauthorised encampments are given later in this document.
7. Decisions to evict or not must, of course, be balanced (as directed by legislation and Government guidance), and be compliant with the terms of the Human Rights Act 1998, demonstrating legality, necessity, and proportionality, as well as principles of common humanity. The grounds for each decision must be fully recorded by the decision maker and kept for audit processes or legal challenge for seven years.

8. The scope of this guidance does not cover the situation whereby individuals purchase land and occupy it, with or without planning permission. Such an incident would be an unauthorised development and the local / borough council would lead in this situation.
9. In managing unauthorised encampments officers must be sensitive to the fact that there is a lack of pitches on authorised sites across the country, making it difficult or even impossible for people to avoid setting up unauthorised pitches.

OPERATIONAL TACTICS

1. All police decisions and actions must be made in compliance with the provisions of the Human Rights Act 1998. Any action should only be such as is necessary for public safety, the prevention of crime or disorder, the protection of health, or for the protection of the rights and freedom of others.
2. All police actions should be conducted in a manner compatible with the operational principles of safety, lawfulness, necessity, proportionality and common humanity. Actions should be completed in a manner that is the least intrusive to achieve the purpose. It is necessary to achieve a balance in the protection of the rights and freedom of all persons concerned with a specified unauthorised encampment.
3. Where appropriate, it is recommended that the police visit newly established encampments, and that a local supervisory officer be informed. Visits should, wherever possible be done together with the landowner, Local Authority, and other relevant agencies. PCSOs should only be deployed to encampments as part of the local neighbourhood policing team response, not in relation to confrontational situations with the occupants of unauthorised camps when they are being initially set up.
4. Initial contact should be made with the people on the site, and an assessment made of the impact of its location, as well as the behaviour displayed by the occupants. The occupants should be spoken to in order to establish their identities and location of last site, and to ascertain their views on desired duration of stay as well as any pressing welfare needs.
5. Officers should identify any offences disclosed or apparent e.g. criminal damage caused to gain entry to land, obstruction of any footpaths or other highways, any other anti-social behaviour.
6. Officers should discuss with those present what constitutes unacceptable conduct. They may consider it appropriate to give them a copy of the recommended Code of Conduct, attached at Appendix A.
7. Officers should assess whether the location of the encampment, behaviour of residents or needs of the landowner justifies an eviction using police powers.
8. Liaison should be maintained with the landowner, those most affected by the establishment of the encampment and our partner agencies to assess the need for Police intervention. In accordance with guidance issued by the Ministry of Housing, Communities & Local Government (MHCLG) in England (or the Welsh Assembly Government (WAG) in Wales) the Local Authority, as lead agency for unauthorised encampments, should take an active role in engaging with the site residents and will in particular take the lead with sites established on their land, which do not require immediate Police action. Periodic visits by police officers to the site can also be beneficial to get to know site residents and also to pick up on any community tensions that may give rise to more serious incidents. These visits will be enhanced if completed along with designated Local Authority staff members. The absence of such visits will not prohibit the future use of police powers, but may help in justifying the use of these powers if this proves necessary. These visits will also provide an audit trail to support decision-making.

9. It is suggested that attending officers should complete an initial site assessment. A suggested form for this is attached at Appendix B; to be used by the senior officer present to determine the potential need to evict using police powers. This will usually only be the case where criminality, anti-social behaviour, or environmental damage is present.
10. The decision whether or not to utilise police eviction powers should be periodically reviewed to establish if circumstances have changed that will require the use of a police eviction to protect the rights of others. All information concerning the site and the site occupants should be shared with all involved agencies (subject to the provisions of the Data Protection Act), to ensure that a balanced common approach is adopted in fairness to all.
11. Assessment visits should only log details of vehicles and people where there are grounds to suspect those individuals of anti-social behaviour or criminal activity.
12. Where appropriate, vehicle and / or any person details should be checked on the Police National Computer (PNC) for 'markers' (which if present should be acted upon as appropriate). Any criminal intelligence should be submitted in the normal format using intelligence systems.
13. A separate log should be created for each unauthorised encampment notified to the Police. Any calls from the public relating to the encampment, or directly attributable to its occupants, should be recorded within the log, including any complaint calls.
14. Forces should ensure that there is a clear audit trail of decision making which sets out the rationale for all decisions made. A suggested Eviction Rationale Record is attached at Appendix C. Where separate Command and Control logs are created for specific incidents, which relate to the encampment, these should be 'incident-matched' to the main log once concluded. At the conclusion of the occupation of the encampment the log should be endorsed suitably with the outcome, including any eviction powers used, and the general behaviour and conduct of the residents.
15. All officers and police staff are responsible for ensuring that all crimes they become aware of in the course of their duty are identified for crime recording. The principles of the Home Office Counting Rules and the National Crime Recording Standards should be used by officers and staff in their assessment of all potential crimes arising from unauthorised encampment situations.

COMPLAINTS

1. Police may receive complaints relating to the behaviour of occupants at unauthorised encampments, or from the occupants relating to other people. The initial police response to such calls should, of course, be the same as for any other incident, and graded on its priority. If attendance to see a complainant is appropriate, or to investigate a report, then an appropriately staffed police resource should attend to investigate.
2. The allegation of a crime or identification of an individual suspect at an encampment should not be grounds alone for consideration of a full group eviction. However, if the grounds exist that require the use of S61 or S62 of the Criminal Justice & Public Order Act 1994, there is power to evict that individual and his / her vehicles. Indeed, this approach complies fully with Human Rights legislation and underlines the aim of dealing effectively with issues of anti-social behaviour. The factors must be weighed accordingly, and a decision taken on the necessary and proportionate action required, and so action that may be considered will include the giving of advice, arrests, eviction or a combination of all.
3. Where occupants at unauthorised encampments are victims of crime or anti-social behaviour, they must be given access to services in the usual way. If there is a perception that the incident is racially motivated then the matter should be dealt with in line with Hate Crime policy.

WORKING WITH OTHER AGENCIES

1. Forces should consider working with local authorities to agree Joint Agency Protocols for the management of unauthorised encampments. Forces should also consider establishing a liaison officer to work with local authorities on the implementation of joint protocols. This should be progressed within local Community Safety Partnership (CSP) forums in England and Wales or through other relevant local strategic frameworks.
2. Following on from the above, forces and local authorities should also consider working with other major landowners in their areas to agree similar protocols for the management of unauthorised encampments. Other major landowners may include Housing Associations, the National Trust or local farmers.
3. The lead role for decision making should rest with the local authority and the use of police powers should not normally be considered as a first response.
4. On occasions other agencies may request police officers to accompany them to an encampment to assist them for a lawful purpose. Such assistance is a matter for local discretion. Officers must take care to ensure that they do not become agents for the other parties, and on such occasions maintain neutrality from the other's purpose, but to provide reassurance to all involved that the peace will be maintained.
5. Where there are no authorised sites, and the authority reaches the view that the unauthorised encampment is not causing a level of nuisance which cannot be effectively controlled, it should consider providing services, such as toilets, a refuse skip and a supply of drinking water at that site.

USE OF POLICE POWERS

1. The lead role in the management of Unauthorised Encampments will be with Local Authorities. Forces should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments, including the use of police powers under Section 61 or 62 of the Criminal Justice & Public Order Act 1994 where:

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

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

ii) There is local disruption to the economy.

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

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

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

iv) There is a danger to life.

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

v) There is a need to take preventative action.

This might include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at this newly established site. This reasoning will take on greater emphasis if the land occupied is privately owned, as the landowner will be responsible for the cleansing and repair of their property.

2. The mere presence of an encampment without any aggravating factors should not normally create an expectation that police will use eviction powers. This should be communicated to the public, landowners, local authorities, and other agencies. If a decision is made to use police powers to evict then the rationale for the decision should be clearly set out and recorded. As stated above, a suggested eviction rationale record is set out at Appendix C.
3. In all cases, as stated above, relevant Human Rights processes must be applied to all decisions made i.e. that the elements of S61 are satisfied, and that it is necessary and proportionate to use the powers.
4. Section 61 Criminal Justice & Public Order Act 1994 relies upon reasonable steps being taken, by or on behalf of the landowner, to ask trespassers to leave in every case before

police powers can be used. A flow chart setting out the police powers to evict under section 61 of the Criminal Justice and Public Order Act 1994 is set out at Appendix D.

5. Section 62A of the Criminal Justice & Public Order Act 1994 creates a power for a senior police officer to direct a person to leave land and remove any vehicle or other property with him / her on that land if the senior police officer present at a scene reasonably believes that the conditions below are satisfied. The conditions are-
 - that the person and one or more others (the trespassers) are trespassing on the land;
 - that the trespassers have between them at least one vehicle on the land;
 - that the trespassers are present on the land with the common purpose of residing there for any period;
 - if it appears to the officer that the person has one or more caravans in their possession or under their control on the land, that there is a **suitable pitch** on a **relevant caravan site** for that caravan or each of those caravans;
 - that the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.
6. The conditions in this section are fewer than under Section 61 and concentrate more on the simple fact of trespassing for the purpose of residence. **The crucial section here refers to the need to prove that suitable alternative sites for caravans exist.**
7. The availability of suitable pitches at authorised sites or transit facilities will be an essential consideration before powers under Section 62 A-E can be used and liaison between police forces and their local authorities will be necessary to ascertain such availability or otherwise.
8. A flow chart setting out the police powers to evict under section 62 of the Criminal Justice and Public Order Act 1994 is set out at Appendix E.
9. The six recommendations for the Police, published in 'Common Ground' by the then Commission for Racial Equality (now the Equality and Human Rights Commission) Inquiry, a summary of which is set out below, should be incorporated into all police actions concerning Gypsies, Irish Travellers and unauthorised encampments.

"Police forces should:

- Include Gypsies and Travellers in mainstream neighbourhood policing strategies, to promote race equality and good race relations.
- Target individual Gypsies and Travellers suspected of anti-social behaviour and crime on public, private and unauthorised sites, and not whole communities, and work with people from these groups and local authorities to develop preventive measures.
- Treat Gypsies and Travellers, both when they are victims and suspects, as members of the local community, and in ways that strengthen their trust and confidence in the force.
- Provide training for all relevant officers on Gypsies' and Travellers' service needs, so that officers are able to do their jobs more effectively, and promote good relations between all groups in the community they serve.
- Review formal and informal procedures for policing unauthorised encampments, to identify and eliminate potentially discriminatory practices, and ensure that the procedures promote race equality and good race relations.

- Review the way guidance is put into practice, to make sure organisations and individuals take a consistent approach, resources are used effectively and strategically, all procedures are formalised, and training needs are identified.”

Appendix A

Unauthorised Encampments

Code of Conduct

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 your 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 Liaison Officers can direct you to Civic Amenity Sites (Council tips) where you will be able to pay to dispose of trade waste.
- Use of 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.

Forces should consider how best to deliver the above information and ensure that those people to whom it is given fully understand the content.

Appendix B**INITIAL SITE ASSESSMENT FORM**

DATE:		TIME:	
SITE NUMBER: LOCATION: URN: (BCU ID/	(BCU ID / No. / Year) (This should include numbers of vehicles and people without individual detail)		
LANDOWNER:			
WELFARE ISSUES:	Any welfare issues that require reporting to relevant agencies.		
	(Are there any issues that would prevent eviction of all or some of the occupants? Were these issues present before this site was occupied?)		
TRAVELLERS SPOKEN TO:	<input type="checkbox"/> YES <input type="checkbox"/> NO	CODE OF CONDUCT ISSUED	<input type="checkbox"/> YES <input type="checkbox"/> NO
ETHNIC STATUS:	Romany Gypsy / Irish Traveller New Age Traveller / Non-Traveller		
ANY DAMAGE PRESENT:	(Damage to gain entry & that caused whilst in situ. Also damage that had occurred prior to occupation)		
LITTER or WASTE PRESENT:			

<p>ANIMALS PRESENT:</p>	<p>(Numbers tied-up/untied. Have group been advised to tie up animals? What is the risk to the public?)</p>
<p>WHAT IS THE IMPACT TO THE PUBLIC / LANDOWNER?</p>	<p>Unacceptable / Significant / Minimal <i>(Give reasons)</i></p>
<p>ANY OTHER INFORMATION</p>	

OFFICER NAME:

.....

Appendix C

EVICTON RATIONALE RECORD

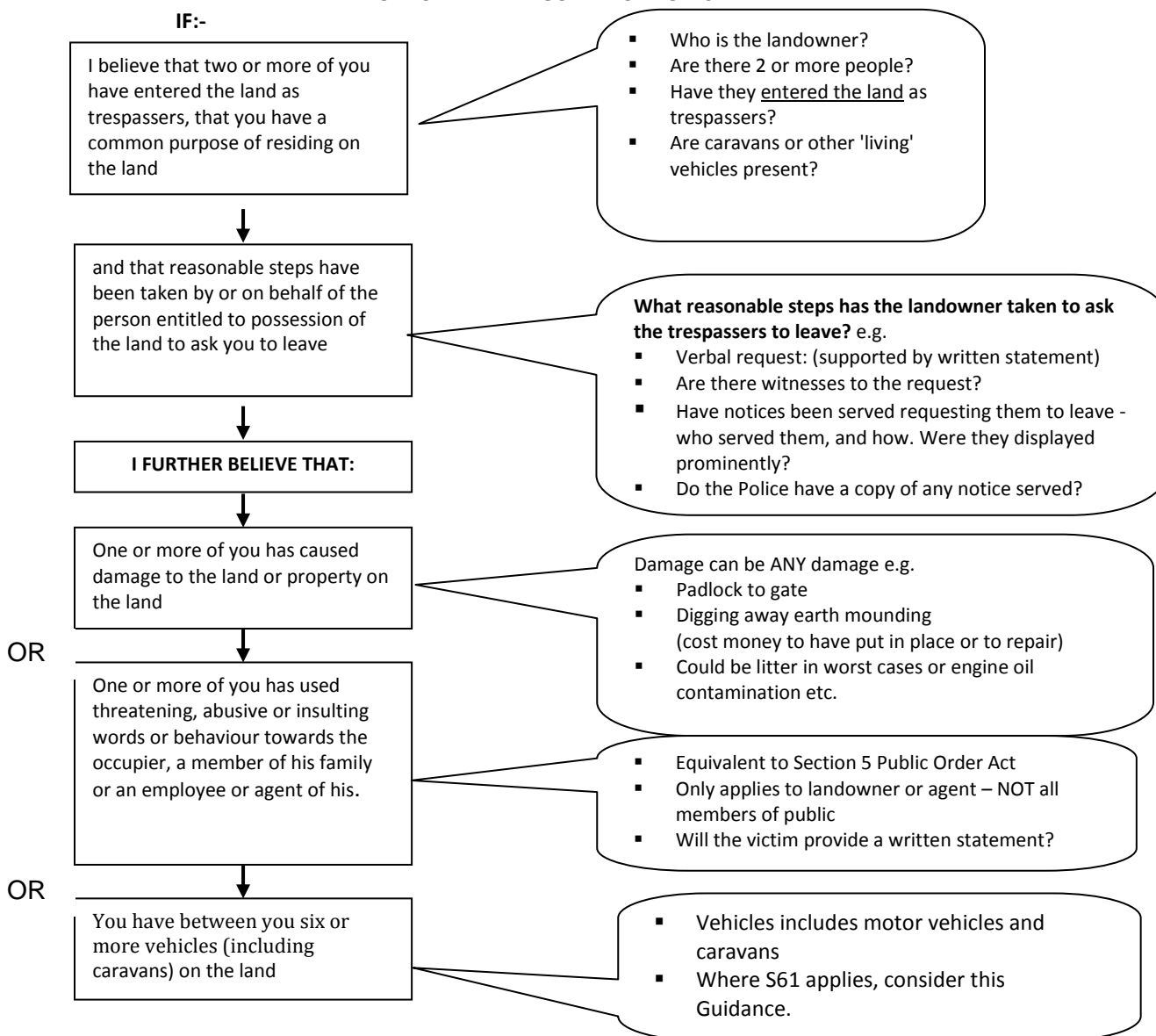
<p>1. Location:</p> <p>Date first to notice of Police:</p> <p>Land Owner:</p> <p>Encampment Reference No:</p>	
<p>2. General Information / Summary:</p>	
<p><i>Where/what/when/why/how was the encampment established, who owns the land, how are they and others affected? Any previous history of the site and / or occupants?</i></p>	
<p>3. Factors relating to the unauthorised encampment:</p>	
<p><i>Record the number of caravans and vehicles present here, together with the factors that have been taken into account regarding the need to evict, such as anti-social behaviour and impact on other communities.</i></p>	

4. Mitigating Factors relating to the camp (including welfare issues):	
Have welfare enquiries been carried out? Y / N (if Y attach welfare enquiry record)	
<p><i>If possible, the Local Authority Traveller Liaison Officer or local Health Visitor should attend to complete health and welfare assessments. Although the s61 legislation does not prevent eviction action by the Police where no formal welfare enquires have been completed, such enquiries should be made wherever practicable. In any event, police should complete welfare enquiries at the time of service of the s61 eviction order, with any issues noted on the eviction form.</i></p>	
5 Eviction decision:	
POLICE POWERS USED:	
OBSTRUCTION OF THE HIGHWAY SECTION 61 CJPOA 1994 DAMAGE THREATS ETC 6 VEHICLES OR MORE	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<p><i>A record of the grounds for the decision, including any action taken to resolve either aggravating factors or welfare issues that may have arisen. A summary of the impact on the human rights of all parties involved should be included, highlighting the legitimacy, proportionality and necessity of the eviction action.</i></p>	
What date are notices to be served?:	
When should the Travellers leave by: Time:	Date:
Signed:	PRINT RANK/NO./SURNAME
Date:	

Appendix D

POLICE EVICTION POWERS

SECTION 61 CRIMINAL JUSTICE & PUBLIC ORDER ACT 1994 FLOW CHART AND GUIDANCE NOTES



THEN S61 MAY BE APPLIED. IF IT IS,

- S61 Notices must be served and copies kept (carbon)
- Details of people and vehicles must be recorded
- A 'reasonable' time (in the circumstances) must be given for them to leave the land
- Trespassers welfare issues must be taken into account

FAILURE TO COMPLY

- Power of arrest - any person who fails to comply without reasonable excuse to leave the land
 - Power to seize any vehicle not removed

HUMAN RIGHTS TESTS

Is the eviction proposed:

- Legal - are the elements of Section 61 present?
- Necessary - is it necessary to evict the group?
 - Would other policing methods suffice e.g. high profile patrols, or individual arrests for other offences?
- Proportionate - is the decision balanced?
 - Have the needs of the landowner or settled community been balanced with the needs of the trespassers?
 - Do all the trespassers need to be evicted or can specific individuals be identified?
- Accountable - is the rationale behind the decision recorded and available?

DECISION MAKING GUIDANCE

- It is recommended that decisions to evict be made by an Officer not below the rank of Inspector.
- All decisions, whether to evict or not to evict, will be recorded, including with rationale.

Appendix E

POLICE EVICTION POWERS SECTION 62 CRIMINAL JUSTICE & PUBLIC ORDER ACT 1994 FLOW CHART AND GUIDANCE NOTES

Encampment Arrives

- Incident created
- Council contacted to arrange joint visit with Police
- Initial assessment (check list)
 - ✓ Welfare
 - ✓ Family names
 - ✓ Vehicles
- Group informed about available Transit Site and s62a-e

VACANT PITCHES

The group are asked to vacate and move to the transit site where they will sign up to a licence agreement and pay rent as well as being linked into appropriate services by the local authority, e.g. health and education

- Group refuse to go to the transit site
 - Police initiate s62a-e and 'direct' the group to a 'suitable' pitch
- OR**
- to leave the borough and not return for 3 months

This is a question of available police resources and there may be times when the encampment will remain until suitable resources are available.

NO VACANT PITCHES

The encampment will be dealt with as any other encampment