

## **PROTOCOL FOR UNAUTHORISED ENCAMPMENTS (CARAVANS & VEHICLES)**

### **LAND OWNED OR CONTROLLED BY THE COUNCIL**

#### **1.0 INTRODUCTION**

- 1.1 This Protocol is intended for use where an unauthorised encampment is reported on the Council's land. It has regard to the requirements of the Office of the Deputy Prime Minister's document "Guide to effective use of enforcement powers - Part 1: Unauthorised encampments" February 2006, one aim of which is to help strike a balance between the needs and legitimate expectations of members of the settled community, local businesses and other landowners, and Gypsies and Travellers.
- 1.2 By way of definition, the term "*unauthorised encampment*" shall be the same as that stated in the ODPM's guidance. ***Unauthorised encampment – trespassing by Gypsies and Travellers on land which they do not own (e.g. playing fields, farmers' fields or other private land).***
- 1.3 When an unauthorised encampment on the Council's land is brought to the attention of the Council it should be reported to Corporate Property who will inform the officers mentioned in 3.1. Corporate Property will inform the Chief Executive and Deputy Chief Executive. A decision will be required whether to evict or authorise for a fixed period. Other interested departments and third parties must be notified as necessary.
- 1.4 This Protocol has been subject to an Equality Impact Assessment.

#### **2.0 INITIAL CONTACT**

- 2.1 Normally two officers from Corporate Property (the Visiting Officers) (or other Section or other Agency if appropriate) will make contact, ideally within 24 hours, note the number of vehicles and caravans and advise the trespassers that they are camped on land, which is not a campsite. Enquiries must be made and recorded as to any welfare, health or educational needs.
- 2.2 In circumstances where an encampment involves only tents or rough sleepers it is not necessary for Corporate Property to be involved. The Department responsible for the affected land should make their own arrangements for dealing with such encampments.
- 2.3 The Visiting Officers will arrange for Civil Enforcement Officers to accompany them. If not available, the Visiting Officers must decide whether to proceed or delay. (See Section 7)
- 2.4 The initial visit is an opportunity for giving information to unauthorised campers about;
  - the standard of behaviour expected,
  - what is going to happen next, what procedures the authority are likely to follow and what this means for the unauthorised campers
  - names and addresses of local services and sources of advice likely to be useful to the unauthorised campers. (See para 8 below for full contact details of useful contacts.)

#### **3.0 MAKING DECISIONS**

- 3.0 On return to the Civic Centre the visiting officer should:
  - Make appropriate welfare enquiries
  - Notify G&T Traveller Liaison Service and EMTAS (see para.8).

- If there are safeguarding concerns these will be discussed with safeguarding lead or designated professional, if appropriate a safeguarding referral will be made.
- Consult, subject to individual officers being available, the following:-
  - (1) The most senior officer responsible for the land or a representative
  - (2) The City Surveyor or a representative
  - (3) The City Solicitor or a representative

Those consulted should decide on how to manage the unauthorised encampment. The Chief Executive and Deputy Chief Executive are to be kept informed, plus other relevant officers.

- 3.1 Decisions must be: based on information gathered; lawful; reasonable; balanced and proportionate; based on Government guidance; and fully recorded and documented.
- 3.2 Any welfare needs of unauthorised campers are a material consideration for local authorities when deciding whether to start eviction proceedings or whether to allow the encampment to remain longer. Welfare needs do not give an open ended right to stay. Some examples, (given in the guidance), of welfare needs to be considered in eviction decisions include advanced pregnancy, ill health, and educational needs. In some circumstances it may be appropriate to exclude a single person or family from eviction action.
- 3.3 The Human Rights Act 1998 should be considered. With regard to eviction, the issue that must be determined is whether the interference with the unauthorised camper's family life and home is justified and proportionate. The human rights of members of the settled community are also material if an authority fails to curb nuisance from an encampment.
- 3.4 Also to be considered is the Equality Act 2010 under which it is necessary to eliminate, as far as reasonably possible, discrimination, harassment intimidation etc and to foster good relations between the travelling and settled community.
- 3.6 **Unacceptable Encampment Locations.** There are locations where encampment will not be acceptable under any circumstances. If the unauthorised campers refuse to move from an unacceptable location, eviction processes should be commenced. Only if extreme welfare issues exist would a decision other than eviction be considered.

Examples of unacceptable locations given in the guidance include: Town & Village Greens, school car parks or playing fields, an urban park, car parks, industrial estate, a site where pollution could damage groundwater, a derelict area with toxic waste or other serious ground pollution, the verge of a busy road where fast traffic is a danger. This list is not exhaustive and would also include for instance the Council's Operational Property.

Unauthorised Encampments have been experienced at the following Unacceptable Encampment Locations:

Riverside Valley Park  
 Matford Park & Ride  
 Haven Banks Car Park  
 Ludwell Valley Park Playing Fields  
 Eastern Fields  
 Betty's Mead Playing Fields  
 Station Road (Pinhoe) Playing Fields  
 As part of Exhibition Fields is a Village Green, a notice is to be erected at the same time as Court papers advising the action the Council is taking.

- 3.7 **Other Locations.** Generally, tolerance will be shown where groups are small, look after the land they are parking on, don't dump or burn rubbish, park vehicles safely, keep animals

under control and only park on land not needed for another purpose, or where there are genuine welfare grounds.

3.8 Consideration will be given as to whether there is another council owned parcel of land which is not currently operational and where lawfully, and notwithstanding the lack of planning consent the travellers could be temporarily sited. If there is such a site it should be included in the consultation under clause 3.1.

#### **4.0 DECISION TAKEN TO TOLERATE**

4.1 The unauthorised campers should be informed of: the decision, the period over which their presence will be tolerated, their responsibilities, and the factors that might trigger the eviction process. Encampments should be kept under review.

4.2 Changed and deteriorating circumstances and levels of anti-social behaviour could lead to the start of eviction proceedings, for example; increased levels of nuisance or environmental damage. This could also occur if other unauthorised campers join the original encampment and increase its size to unacceptable levels or initiate anti-social or criminal activities. It should be made clear to unauthorised campers that such changes could precipitate eviction, if they occur.

4.3 Depending on the facts of the case, the effects of unauthorised use for short periods might not be unacceptable in planning terms. In this context, the Council may wish to bear in mind the length of time specified in part 5 of schedule 2 to the 1995 General Permitted Development Order, for which caravans may stay on land without requiring specific planning permission, which is 28 days total in any year.

#### **5.0 DECISION TAKEN TO EVICT**

5.1 Once a decision to evict an unauthorised encampment has been properly taken, the aims should be:

- To act quickly and efficiently
- To use powers most appropriate to the circumstances
- To reduce scope for challenge through the courts by ensuring that policies and procedures are properly followed so as to reduce cost and delay.

5.2 On land **owned** by the Council a claim for possession should be brought using Civil Powers in the County Court, see section 6 below.

5.3 On land **not owned** by the Council, the Council may use powers under the Criminal Justice & Public Order Act (CJPOA) 1994 ss77 & 78, through the Magistrates Court. In general, if a request to evict unauthorised campers is received, such owners will be advised that this is their own responsibility. If there is some over-riding reason for the Council to become involved in such action and it has the authority the owners should be advised that the same criteria would be used in decision making as that outlined above.

5.4 It should be noted that on land where there are two or more persons trespassing AND those persons cause damage or engage in anti-social behaviour OR those persons have 6 or more vehicles on the land the Police do have special powers under s61 of the CJPOA.

#### **6.0 PROCEDURE FOR EVICTION AND CORRECT SERVICE OF NOTICES**

6.1 It is **vital** that notices are served correctly. To be served correctly a notice must, as a minimum, be placed in a clear plastic envelope fixed on a stake driven into the land so that it is clearly visible. In addition, wherever practical notices should be placed on or with each caravan. (Where possible a photographic record should be made of the notice fixed to the stake). When encampments are large or where trespassers become aggressive it may not be possible to serve a notice on each caravan. Private Bailiffs may be engaged to serve

notices. Any Officer or Bailiff who serves a Court Notice must complete a Certificate of Service form N125, available from Legal Services.

6.2 **Step 1** – A Direction to Leave Land requiring the travellers to vacate the premises by a stated date and time may be served, the minimum reasonable notice period being 24 hours unless there are very extreme circumstances. This direction is not essential under the County Court Procedures but is considered a sensible step to take and the direction can be served at the same time as the County Court papers.

A Template can be found on S/Property/Estates/Travellers.

6.3 **Step 2**- An application to the County Court via Legal Services should be initiated and Legal Services will prepare the Claim (*Form N5 – Claim Form for Possession of Property, N121-Particulars of Claim, a Draft Order for Possession and visiting officer's statement*) with assistance from the visiting officer. Proof of title to the land must be established and details included in the visiting officers statement. The Court will provide a hearing date, which will be inserted along with the Court Seal on the claim papers. The sealed court papers must be copied and served.

6.4 **Step 3** – Court Hearing – One of the visiting officers should attend with a member of Legal Services. Where a Possession Order is granted, the Order should be served immediately on the trespassers and where required a warrant of execution should be filed at the Court Office instructing Court Bailiffs to proceed with eviction.

6.5.1 Notify other interested departments and third parties that an encampment is likely to be on the move. When vacant, secure and initiate clean up. Review Security Measures.

## 7.0 **GENERAL**

7.1 Health and Safety issues can arise for Council staff working on site. Such staff must work in accordance with the Safe Working Practice on Site Visits Protocol and the Step Away Policy. Assistance from Civil Enforcement Officers can be requested. The Police have stated that they are not prepared to make joint visits unless there is a pre-existing situation of criminality. If an incident develops on site the Visiting Officers should step away and consider calling the Police on 999.