

EFFECTIVELY MANAGING **UNAUTHORISED ENCAMPMENTS.**

Protocol Guidance notes for members

change in CJPO Act 1994 legislation amended under the PCSC Act 2022

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Unauthorised Trespassers

The majority of Unauthorised encampments across the Country can in the main be attributed to two recognised ethnic minority groups of people, Romany Gypsy and Irish Traveller.

There are also occasions where New Traveller, European Travellers and Gypsies Scottish Travellers and Welsh Gypsies pass through the County.

Every encampment is different in its make up and as with any community will have a variety of characteristics, values and traits. They will have different reasons for their desire to spend time in the County and varied timescales for their temporary stay as part of their chosen nomadic lifestyle.

These encampments raise many concerns with landowners and the settled Community. Some of these concerns are unfounded and may be based on ignorance and prejudice, however there still remain a significant number of encampments that cause high levels of ASB that disproportionately disrupts the community. One common factor that is shared by them all is that they want somewhere to stay.

(Until such a time that adequate site provisions are in place for Gypsy and Traveller communities there will continue to be problematic, Controversial, expensive instances of unauthorised encampments).

UE STATISTICS

Local Authority Area	2017	2018	2019	2020	2021	2022	2023
Stratford District	21	16	17	13	10	11	6
Warwick District	57	39	44	10	11	9	10
Nuneaton and Bedworth	25	33	24	12	6	7	14
Rugby Borough	36	44	35	13	10	8	22
North Warwickshire	3	7	4	7	11	9	5
Total	142	139	124	56	48	44	57
WCC land/ highway encampments	47	38	40	18	5	8	6
Caravans	1233	1389	1017	360	376	385	389

UNAUTHORISED TRESPASSERS

Unauthorised encampments in Warwickshire are managed in line with the Warwickshire Countywide protocol signed up to by five district and borough Councils along with the County Council and the Fire service.

The response to unauthorised encampments requires a local multi agency response, led by local Authorities and supported by the Police.

The Police, Crime, Sentencing and Courts Act 2022 provides new additional Police Powers to support the Police in this management process. It also amends previous legislation under the CJPO Act 1994.

The decision to use the amended and new Police Powers is at the discretion of the Police in line with Government and NPCC guidance.

The use of Police powers is **NOT** an automatic default. Consideration should first be given to the suitability of other methods available to the landowner.

The Police and local Authority partners must consider each case individually take into account their obligations under Equalities, Human rights legislation and their public sector equality duty.

The agreed response should be proportionate and justified at all times.

THE WARWICKSHIRE PROCESS

- ❑ Partnership working in line with the Warwickshire Countywide Protocol and Warwickshire Police policy.
In accordance with NPCC advice and Statutory home office guidance from the secretary of state.
- ❑ The local Authority should be the lead agency in the initial stages of assessing the welfare of trespassers.
- ❑ Police unit will attend a report of Unauthorised trespass and a Police Incident will be created.
- ❑ In most but not all cases the local SNT will attend at the earliest opportunity to gather information to compile a detailed initial assessment document where applicable.
- ❑ Early engagement will take place as soon as practicable but ideally within 24 hrs, between the landowner, one of the identified local Authority representatives and the Police.
- ❑ local GRT liaison Officer should become involved to support and advise where required.
- ❑ A joint decision should be reached between the local authority, landowner and the Police regarding the most appropriate course of action based on the impact on the land and the wider community.
- ❑ Should the land owner wish to recover the land they or a representative agent or the Police where Sec 60C is considered on their behalf need to request that the group trespassing vacate giving a reasonable time frame.
- ❑ The impact from the encampment will be continuously monitored and managed and where relevant Police powers will be considered to supersede court processes in place should this be proportionate and necessary.
- ❑ The Force GRT liaison Officer will oversee the management of all unauthorised encampments and offer tactical advice where necessary.

POLICE CONSIDERATIONS

- Where appropriate Police will visit newly established trespass incidents, Supervisory Officer advised and where possible the visit should be done together with the land owner, Local Authority or other relevant agencies.
- PCSOs should not be deployed in relation to confrontational situations.
- The neighbourhood Police team in most cases should complete an initial site assessment form and will maintain the Police links with the site and the community. Working with the local Authority representative is crucial to ensuring that any welfare and health issues are managed and signposted accordingly.
- Consider all available management options choosing the most appropriate, proportionate, justified and necessary course of action based on the needs of the community as a whole.
- Where a decision is to use Police powers, consideration needs to be given to resourcing and planning. In the unlikely event that arrests have to be made and vehicles seized, temporary storage of vehicles and effectively people's homes is likely to have an impact on logistics and cost.
- In Warwickshire at present the final decision to use Police powers relies on Supt Authority.

MULTI AGENCY RESPONSIBILITIES

- If Sec 60C is enforced there will be much to consider
- Who will be arrested? (Over 18)
- What vehicles will be seized and where will the vehicles be stored and who meets the cost?
- How do we deal with children who's parents are in custody?
(Police protection Children's Services)
- Where do we temporarily house families who's homes have been seized. (
Established links to LA's to ensure suitable accommodation is provided).

NEGOTIATED STOPPING

- Consider accommodating families in need.
- Be mindful of the increased pressures on the travelling community with the new trespass legislation.
- Identify land suitable for a short period of stay where appropriate.
- consider the suitability of families for a negotiated stop.
- Explore the benefits of improving community cohesion
- Could this assist in meeting the requirements under the Public Sector Equality duty.
- Be proactive in fulfilling duties under equalities.

THREE POLICE POWERS AVAILABLE.

NEW

Residing on land without consent in or with a vehicle. Sec 60C
CJPO Act 1994

AMENDED

Sec 61 CJPO Act 1994

UNCHANGED

Sec 62A CJPO Act 1994.

RESIDING ON LAND WITHOUT CONSENT. IN OR WITH A VEHICLE

SEC 60C TO 60ECJPO ACT 1994

- The primary conditions of this new criminal offence are contained in section 60C(1) CJPO Act 1994 as amended by the PCSC Act 2022.
 - a. a person is aged 18 or over.
 - b. A person is residing, or intending to reside, on land without the consent of the occupier of the land.
 - c. A person has or intends to have at least one vehicle with them on the land.
 - d. One or more conditions in subsection 60C(4) of CJPO Act are met.
 - e. the person is requested to leave and/or remove their property by the landowner, a representative of the landowner or the police.

Sec 60C(2) Further conditions

States a criminal offence is committed when all the points in Sec 60C(1) are met and one of the following.

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

SPECIFIC CONDITIONS RELATING TO HARM SEC 60C(4)

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

POSSIBLE CONSEQUENCES

- If arrested and found guilty of an offence under Sec 60C CJPO Act 1994
- Any person aged 18yrs or over
- Could face a fine up to £2500
- Be imprisoned for up to three months
- Could face one or both of the above

POLICE POWERS

Sec 61 Criminal Justice and Public Order Act 1994

Amended June 2022

In order for the Police to consider using these powers, the following condition must have been met:-

- ☐ Two or more people are trespassing on land with the purpose of residing there.
- ☐ The occupier has taken reasonable steps to ask them to leave the land.

Any of the following has occurred

- ☐ The trespassers have between them six or more vehicles on the land.
Now Including the highway
- ☐ Any of the trespassers has caused Damage, Disruption or distress

Note

A decision to use Sec 61 will also be based on various factors:-

- ☐ Other alternative methods have been considered
- ☐ The impact of the encampment on the environment and the local settled community. Is it reasonable and proportionate to use Police Powers?
- ☐ Is action by the Police legally sustainable?
- ☐ Are sufficient resources available?
- ☐ **Sanction for no return within 12 months.**

POLICE POWERS

- **Sec 62(A) Criminal Justice and Public Order Act 1994**

Where there are site provisions available within the same local Authority area as the unauthorised encampment and Police powers are deemed proportionate.

Sec 62 gives Police the power to direct trespassers to a suitable pitch within the local Authority area.

Failure from doing so will result in them being directed out of the County with a condition not to return within a three month period.

Where the following conditions apply:-

- At least two persons are trespassing
- Trespassers have between them at least one vehicle on the land
- Their common purpose is to reside there for a period of time.
- There is suitable alternative accommodation available for the caravans.
- The occupier of the land or person acting on the occupier's behalf has asked the Police to remove the trespassers.

EXAMPLES OF THRESHOLD FOR THE CONSIDERATION OF USING POWERS UNDER SEC 60C CJPO ACT 1994. FOR DISCUSSION.

- 10 caravans set up camp on large council car park, they park at the far end of the car park. There are a couple of complaints from the local community about litter and the council believe they are defecating in the bushes.
- Threshold not met. Sec 77-78 the most proportionate response.
- 20 caravans drive through insecure gate onto football pitch they are not obstructing the pitch but there is a football match scheduled for the following day. The private football club has asked them to leave they have refused.
- Threshold met for Sec 60C and Sec 61.
- 6 vehicles camp on the grass verge part of the highway on their way to a horse fair. The highways dept have asked the Police to move them as they are concerned for the safety of other road users.
- Threshold not met for Sec 60C may consider Sec 61 re road users safety.
- 12 caravans are about to drive onto a private business premises car park. The owner has asked the police for help as they have heard that this group have caused significant damage at the location they have just left. This can be corroborated.
- Threshold met

OTHER LEGAL OPTIONS

**Alternative methods
available to local
Authorities and
private land owners.**

COMMON LAW POWERS

- Used by private landowners to regain possession of land.
- Does not require the involvement of court and private bailiffs used where necessary to enforce eviction.
- This process can be completed in 24 hrs
- Gives no protection against trespassers returning to the land.

Note

Where a landowner is considering the use of Common law rights the Police should be notified so where necessary they can be present to prevent a breach of the peace.

If the Police advise that in particular circumstances it is inappropriate to attempt an eviction, action should be delayed until such a time as the Police believe that it is safe to continue.

PART 55 CIVIL PROCEDURES RULES

This allows any landowner to regain possession of their land through the County Court.

- The first step is to ask the trespassers to leave.
- Refusal will warrant an application to the County Court.
- Notice of the Court hearing is then served on the trespassers.
- The case is set before a Judge.
- Warrant issued for a relevant time period before vacation.
- Notice Served by Bailiffs giving at least 24hrs to leave.

SEC 77-78 CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

Can only be used by a local authority and provides the power to direct individuals to remove their vehicles and belongings and to leave highway land, or any land occupied without the consent of the landowner. It covers land owned by local authority.

- Prior to any action welfare assessments must be carried out.
- Trespassers are directed to leave in writing giving a specific Time and Date greater than within 24 hours)
- By failing to vacate they commit an offence and can be arrested, in practice it is more effective for local authorities to pursue a contravention of direction through the Magistrates Court under Sec 78 CJPO Act.
- Local Authority officer attends Court hearing in application for a Court Summons.
- Summons is served on the trespasser to attend Magistrates Court at the appointed time and date.
- Once granted the order to leave should be served on the trespassers as soon as practicable giving them at least 24 hours to vacate the land.
- **Sanction for no return within 3 Months.**

Thankyou for your time