

UNAUTHORISED ENCAMPMENTS WITHIN WARWICKSHIRE

A joint policy between Warwickshire County Council, all District Councils and Warwickshire Police for dealing with unauthorised encampments within Warwickshire.

1 Introduction

1.1 This policy has been drawn up to take into account the guidance given in 'Managing Unauthorised Camping - A Good Practice Guide', produced by the DETR and the Home Office, and takes into account the Council's responsibilities under the Human Rights Act. It is intended to help facilitate a co-ordinated approach between the County Council, District Councils, Warwickshire Police, other public bodies and local landowners.

2 Purpose

2.1 This policy recognises that gypsies and travellers lead a nomadic lifestyle and that encampments will arrive in the district from time to time. The reason for this policy is to prevent crime and to protect the rights and freedoms of others (*Article 8 Human Rights Act 1998*).

2.2 If an encampment gives rise to public nuisance and/or disorder, there is a need to consider the use of statutory powers of eviction/prosecution to maintain public order, in accordance with Article 11(2) Human Rights Act 1998.

2.3 This policy also acknowledges that, in order not to breach Article 3 Human Rights Act 1998, any such powers should be used in a humane and compassionate fashion and not to evict needlessly.

3 Powers Available

3.1 The law provides for a range of possible responses to trespass. In simple cases, the landowner may apply for an order of re possession. In others the local authority can use its powers, but, where there are aggravating factors of crime and disorder, the police can exercise the powers given under Section 61. Each case must be treated on its merits with the safety of all concerned, including the travellers, and the potential for disorder or disruption as major guiding factors, not just the needs of the occupier of the land.

3.2 The powers available for dealing with an unauthorised encampment are as follows, and, dependent upon the circumstances, the most appropriate option should be used.

a) Civil Law Actions

Individual landowners may take legal action to obtain possession of their land.

b) Local Authority Powers

Section 77 to 79 of the Criminal Justice and Public Order Act 1994.
Order 24 (County Court Rules 1981).
Highways Act 1980 (sec 148)

c) Police Powers

Section 61 and 62 of the Criminal Justice and Public Order Act 1994.
Highways Act 1980

4 Procedures

4.1 Local Authority

- a. If appropriate, obtain details of the landowner getting consent to act or enter their land.
- b. Make the necessary welfare enquiries using the pro forma for collecting information on unauthorised encampments.
- c. Liase with the Police in regard to the eviction or what toleration period would be reasonable. This is a decision which will have to be made dependent upon the particular and unique circumstances around each encampment taking into account the points outlined in Appendix B. All reasons for decisions made must be documented. This should then be given in writing to the gypsies or travellers. It is essential that all documents served are read out to those present.
- d. Consider the provision of services in the interests of health and hygiene. This may include refuse collection, toilets and a water supply. The cost of any services provided should be met by the gypsies and travellers and paid for as or before they receive them.
- e. Arrange towing equipment and personnel if required, the costs of which to be borne by the landowner.

4.2 Warwickshire Police

General procedures:

- a. Attend during the service of summons and/or orders, if a breach of the peace is likely to occur.
- b. Attend at the site during eviction to ensure no breach of the peace occurs.
- c. Provide statements and attend court as necessary.

In the following situations, and where appropriate in consultation with local authorities, the Police may decide to use their powers under Section 61 of the Criminal Justice and Public Order Act 1994. All reasons for the decisions made must be documented.

- a. Where there is evidence of criminal activity, breaches of the peace or disorder, significant disruption to the life of the local community or to protect the rights and freedoms of members of the community. Also to protect the rights of people to peacefully enjoy their possessions in accordance with Article 1 of the First Protocol, Human Rights Act 1998.
- b. Where the encampment is on an unsuitable site such as playing fields, car parks, which deny amenities to local residents or which cause highway hazards.

Section 61 confers **a power not a duty**. The exercise of this power is an operational decision for the officer in charge of the incident, who should consider whether any decision is;

- Legally sustainable
- Reasonable and proportionate
- Necessary, and
- Accountable/Achievable

5 Toleration Period

Having regard to the information gathered whilst considering Appendices A, B & C, encampments will usually be given a **toleration period** during which they will be allowed to stay on the site. During this period, the following points should be noted:

- a. Encampments should be kept under review to determine whether the toleration criteria are still being met. Visits by the local authority should be regular, but not at a frequency or time to suggest harassment. Similarly, complaints should be kept under review.
- b. The gypsies or travellers should be given a copy of the guidelines and advised that deteriorating conditions or a breach of the guidelines will lead to a decision to start eviction proceedings.

6 Complaints

6.1 If a member of the public wishes to complain about any action taken by the Council, they should be informed to make their complaint in writing or personally to the appropriate District Council Offices.

6.2 If a member of the public wishes to complain about any action taken by a police officer, they should make their complaint personally at any police station or in writing to Warwickshire Police Headquarters, PO Box 4, Leek Wootton, Warwickshire, CV35 7QB

7. Appendices

Appendix A Unauthorised Encampment Toleration Guidelines

Appendix B Considerations for Eviction

Appendix C Pro forma for collecting information on unauthorised encampments

8 Compliance Statement

This document has been audited for compliance and compatibility with the Human Rights Act 1998 by the Warwickshire Police Human Rights audit process. Every effort has been made to ensure compliance and compatibility by applying the ACPO Human Rights audit toolkit. It has also been through a legal vetting process conducted by the Warwickshire County Council Legal Services Department.

9 Publication of Policy

There are no police tactics in this document that will prevent it from being published,

Appendix A

UNAUTHORISED ENCAMPMENT TOLERATION GUIDELINES

The stay on land depends upon you complying with the following toleration criteria:

- Hygiene - there must be no fouling on or in the vicinity of the site.
- Rubbish - no domestic or trade refuse to be dumped or burnt on or in the vicinity of the site.
- Behaviour - intimidatory or noisy behaviour, if substantiated will not be tolerated.
- Animals - dogs and horses must be kept under control and must not cause a nuisance or danger.
- Damage - no damage to property or environment will be tolerated.
- Highways/Footpaths - vehicles should be parked safely, any reported or suspected complaints will be passed to the appropriate authority.
- Criminal Activity - all allegations of crime will be reported to the Police who will advise about eviction.
- Land Use - Encampments will not be tolerated where land is designated for specific public use such as playing fields, car parks or other sensitive site.
- Re-circulation - Gypsies or travellers will not be allowed to move from site to site within the district.

If the above are adhered to, in most cases, Warwickshire authorities will allow a period of toleration which you will be advised of. Failure to adhere to these guidelines will result in consideration being given to eviction. Failure to leave on the date you are advised of, will result in an immediate order for eviction.

Appendix B

CONSIDERATIONS FOR EVICTION

In considering how to deal with an unauthorised encampment the appropriate authorities together with the Police will consider the evidence obtained from the pro forma together with the interest of the local community. The following points should be considered when making the decision:

- Is the land needed for use by the authority or the general public?
- Is the presence of trespassers detrimental to the use of adjoining land?
- Is the encampment creating a hazard to road safety?
- Are public services such as gas, electricity, water or telecommunications at risk of damage, interruption, loss or contamination?
- Is there a danger to public or personal safety or the environment?
- Is the land or any property at risk from damage as a result of the trespass?
- Is the encampment creating an intolerable impact on the employment, use or habitation of adjoining or nearby property?
- Is the encampment too large for its location?
- Has advice been received from the Police which suggests that alleged criminal activity is taking place?
- Has any false or misinformation been given by the gypsies or travellers?

If the answer is yes to any of these questions then the likelihood is that action will be taken to evict the gypsies or travellers.

- Continuous site occupation - no consecutive occupation of a site will be permitted.
- Has the group been in the district before, if so, when and what condition did they leave the site in?

If the gypsies or travellers are not adhering to the toleration guidelines, this will be considered a strong case for eviction proceedings.

Appendix C

Unauthorised Encampment Information Sheet

Location.....

Date of arrival.....

Number of
caravans.....

1. Are the travellers on Council Land?.....
If not, has the owner requested the Council to take action?.....
2. What is the occupation of the travellers?.....
Is this likely to give rise to a nuisance?.....
Is there a nuisance at present?.....
3. Are any of the travellers receiving medical treatment from a GP or Hospital?...
Name/address of GP/Consultant.....
Any other information.....
4. Are there any children receiving education locally?.....
Name/address of school.....
5. Are any travellers receiving support from Social Services for any reason?.....
Name/phone number of social worker.....
6. Are the travellers known to the Council?.....
Have they caused any nuisance/public health problems previously?.....
7. Are there any vehicles that cannot be moved?.....
What steps are being taken to resolve any problems?.....
8. Are there any special circumstances as to why they must remain?.....
9. Other material
information.....

DECISION

How long have the travellers been given to remain?.....

Officer(s) making decision.....

Date of notification to travellers.....

Any amended dates.....

Reason for amendment.....

Officer(s) making decision.....

Date eviction proceedings commenced.....

Officer(s)/reason for eviction.....