



Unauthorised Encampments Policy



Unauthorised encampment policy

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Section 1 – Policy Intentions

The Policy of Gloucestershire Constabulary is to set out the action to be taken when dealing with unauthorised encampments. The policy has been devised to demonstrate a clear and transparent procedure for dealing with unauthorised encampments and the procedures that apply.

The aim of this policy is to help Police Officers respond to unauthorised encampments in a consistent way, balancing the human rights of Gypsies and Travellers, with those of landowners and the wider public. 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. This document provides guidance covering the options to be considered in dealing with any people who trespass on land owned by another with an intention to reside. This policy does not cover raves, which is dealt with separately.

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 remain encampments that cause high levels of anti-social behaviour and disproportionate disruption to the community into which they move.

This document explains the framework within which our staff should act, recognising the requirement to balance the needs of a range of interested parties.

Policy should enable consistent and effective decision making. Where operational or managerial circumstances require any decision making that would adversely affect adherence to the policy or procedure, in line with the 'Statement of Intent' of the constabulary and the police service 'Code of Ethics', if an officer/ police staff member believes that they need to make a decision that steps outside of policy and procedure they should do so, provided that:

- the officer/ police staff member raises the matter at the earliest opportunity (and ideally before any such decision is made) with their line manager declaring their intended (or actual) course of action if notification is made after the decision is taken,
- produces, in a timely manner, a signed and dated written explanation of why it is/ was deemed necessary to step outside of policy and procedure, and
- maintain an adequate record of this written rationale for audit purposes appropriate to the circumstances/ contravention



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Section 1 – Policy wording

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.

Initial contact should be made with the people on the site, and an assessment made of the impact of its location and the behaviour displayed by the occupants. The occupants should be spoken to; 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.

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.

A separate STORM incident 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.

Supervisors should ensure that there is a clear audit trail of decision making which sets out the rationale for all decisions made. Where separate STORM 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.

Section 2 – Procedural guides

The lead authority will normally be as follows:-

- ◆ The County Council will act as lead authority in respect of unauthorised camping on the highway or County Council owned land.
- ◆ The District Council will lead in respect of unauthorised camping on District Council owned land and privately owned land or common land where there is no identified owner.
- ◆ The Police will initiate action when the decision has been taken to use powers under Section 61, but the County or the District will remain the Lead Authority.

In some cases the lead authority will not be easily identified, for example because an encampment may be on both public and private land. In such cases the decision as to who will be lead authority will need to be made and based on the extent to which encroachment is on the highway or private land - if the majority of the land occupied is highway it will be the County Council; if the majority of the land is private or common land with no identified owner, it will normally be for the District Council to take the lead.

Unauthorised encampments should initially be dealt with via engagement and negotiation with the occupiers of the land and landowner as most occupants will usually reside for a few days before moving on. If agreement cannot be reached between parties the responsibility to remove the occupants will usually fall to the landowner through applications for an eviction notice through civil legislative processes.



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Considerations to 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 would be when negotiation and civil remedies have either been deemed unsuitable or have been attempted unsuccessfully. Situations where civil remedies may be inappropriate and more positive police action is required may include 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.

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. [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.

[Section 62 - Criminal Justice & Public Order Act 1994](#) refers to powers to remove persons and vehicles from land if trespassing **when an alternative relevant site is available**. The benefit of this section is that fewer conditions are required to be satisfied.

Police Powers should not be invoked without consultation with senior management (C/I or above) due to the resource and cost implications of such action.

Section 3 - Relevant Legislation: (*Human rights/diversity/Health & Safety/any other specifics*)

Section 1 – Police Eviction powers – Section 61 Criminal Justice & Public Order Act 1994



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FLOW CHART AND GUIDANCE NOTES

If:-

I believe that two or more of you have entered the land as trespassers, that you have a common purpose of residing on the land

- Who is the landowner?
- Are there 2 or more people?
- Have they entered the land as trespassers?
- Are caravans or other 'living' vehicles present?

and that reasonable steps have been taken by or on behalf of the person entitled to possession of the land to ask you to leave

What reasonable steps has the landowner taken to ask the trespassers to leave? e.g.

- Verbal request: (supported by written statement)
- Are there witnesses to the request?
- Have notices been served requesting them to leave - who served them, and how. Were they displayed prominently?
- Do the Police have a copy of any notice served?

I FURTHER BELIEVE THAT:

One or more of you has caused damage to the land or property on the land

Damage can be ANY damage e.g.

- Padlock to gate
- Digging away earth mounding (cost money to have put in place or to repair)
- Could be litter in worst cases or engine oil contamination etc

Or

One or more of you has used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his.

- Equivalent to Section 5 Public Order Act
- Only applies to landowner or agent – NOT all members of public
- Will the victim provide a written statement?

Or

You have between you six or more vehicles (including caravans) on the land

- Vehicles includes motor vehicles and caravans
- Where S61 applies, consider this Guidance.

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



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Section 4 - Related References: Criminal Justice & Public Order Act 1994

A copy of the notice that must be served on each individual and placed on each vehicle present is shown below:

[Criminal Justice & Public Order Act 1994.docx](#)

Section 5 - Identification, Monitoring and Review

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LOW/MEDIUM/HIGH K:\Waterwells\Equality Impact Assessment\Unauthorised Encampments EIA May 2017.doc				
SIA		SIA Sign Off		SIA Review
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