

JOINT POLICY TOWARDS UNAUTHORISED ENCAMPMENTS OF GYPSIES AND TRAVELLERS IN WORCESTERSHIRE

The purpose of this Policy, as agreed by all 7 Local Authorities within Worcestershire and West Mercia Police Authority, is to ensure that the aforesaid partners act in a predetermined, co-ordinated and consistent way.

1. GENERAL STATEMENT

1.1 There is a need for a single agreed policy towards Gypsies and other Travellers in the County and there is a responsibility on all 7 Local Authorities and the Police to collaborate in devising one.

1.2 Integral parts of such a Policy are:

- a consistent, positive and informed approach to enforcement having due regard to relevant Legislation such as the Human Rights Act 1998, the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005 and relevant regulations and guidance
- “regard to guidance contained in Government Circulars.
- proper management of the Local Authorities’ Gypsy sites in a manner consistent with the overall Policy
- partnership support for improvements to any County Council Gypsy site provision programme and any Community Development partnership working where appropriate
- clarity of purpose and intent

1.3 Throughout this Policy document, the term “Gypsy” and “Traveller” means those Gypsies and Travellers who come within the definition of “Gypsy” in Section 24 of the Caravan Sites and Control of Development Act 1960 (as amended and as clarified by the Courts).

1.4 This policy document has been revised to ensure compliance with the provisions of the Human Rights Act 1998

1.5 This policy document has been revised to ensure compliance with the provisions of the Race Relations (Amendment) Act 2000.

2. POLICIES TOWARDS GYPSIES AND TRAVELLERS WHO ARE ENCAMPED WITHOUT AUTHORISATION ON LOCAL AUTHORITY LAND IN WORCESTERSHIRE

2.1 **General**

2.1.1 Once it becomes known that a person has encamped, an officer or agent of the Local Authority responsible for taking action (as identified in paragraph 3.2 below) will normally visit the person within two working days and, once satisfied s/he is a Gypsy or Traveller, advise, if appropriate, of any vacancies on alternative authorised sites. A Welfare Check will be carried out where possible, and if appropriate the Gypsies/Travellers will be offered contact details of other relevant agencies such as Education, Health or Housing. Where consultation between Authorities is necessary, there shall be close co-operation in order to ensure that information is made available promptly so as not to unnecessarily delay a decision on enforcement action. The Authorities mutually undertake to normally respond to such requests within 3 working days.

2.2 **Toleration policy**

2.2.1 It will serve no useful purpose to seek to evict Gypsies or Travellers immediately and there will be a period of toleration for **up to 21 days** unless, in the opinion of the responsible Authority, circumstances such as those listed below apply:-

- (1). A level of nuisance is occurring which cannot be effectively controlled including:
 - a. Unreasonable effect on neighbouring property or nuisance to the local community
 - b. Road safety hazards usually determined by the Highways Partnership Unit and the Police.
 - c. Statutory Nuisance or circumstances prejudicial to public health.
 - d. Obstruction of access to land either owned by the County or District Council or private individual or company.
- (2). Demonstrable requirement of land for operational uses.
- (3) Ecological or biodiversity issues
- (4) Criminality demonstrably linked to the encampment.

2.2.2 Where circumstances such as those listed above apply, or if a Gypsy or Traveller without good reason, taking into account guidance on toleration rejects an offer of

accommodation, he/she will be informed that they must vacate the land within a short period.

2.2.3 If the land is not vacated within the specified period, the responsible Authority may then commence legal proceedings.

2.2.4 If none of the grounds as set out in paragraph 2.2.1 apply the unauthorised encampment will be tolerated **for up** to 21 days. If after the period of toleration the travellers/gypsies have still not vacated the site there will be a further review of the situation. Unless there has been an exceptional change of circumstances since the initial decision to tolerate was made the responsible Authority may then commence legal proceedings.

2.2.5 In certain circumstances, responsibilities may arise under Government Circulars with regard to the involvement of other agencies.

3. RESPONSIBILITY FOR TAKING ACTION

3.1 Role of the Police

3.1.1 Other than in the case of highway land, the local police commander (normally the Duty Inspector) may be approached at an early stage where legislation permits action to be taken to ascertain whether he/she would be prepared to exercise powers under Section 61/62A-E of the Criminal Justice and Public Order Act 1994.

3.1.2 The local police commander will assess the situation and give an initial decision within two days.

3.1.3 If the commander confirms that s/he may take action, the responsible local authority will hold back from any action for a short period in order to avoid possible confusion regarding deadlines etc.

3.1.4 Even if s/he decides not to take action under Section 61/62A-E, the local police commander may wish to reconsider if circumstances change. In this eventuality, s/he will immediately inform a nominated officer from the local Authority by telephone or fax.

3.1.5 In cases where the police are not themselves taking enforcement action, they will provide support to the other Authorities if the circumstances require such support; ie a breach of the peace is expected. This level of support will be mutually agreed between the Local Authorities (and any contractors or other agents acting on the Authorities' behalf) on a case by case basis.

3.2 Division of Responsibility between County Council and District Councils

3.2.1 On County Council land; including land forming part of the highway for which the County Council are the Highway Authority, the County Council will be the responsible Authority.

3.2.2 On District Council land the District Council will be the responsible Authority.

3.2.3 On Government-owned land the District Council will be the responsible Authority except in the case of highways for which the Highways Agency acting for The Department of Communities and Local Government.

3.2.4 If it is decided that an encampment is not to be tolerated, it will be a matter for the officer of the authority responsible for the land to determine by what means action will be taken. Once it has been decided that action is necessary, this should be implemented without undue delay.

3.2.5 In all cases, there will be close co-operation between the County Council, District Councils and the Police. The County Council will inform the relevant District Council when it is taking formal action against Gypsies within their area or when exercising toleration and vice-versa. Similarly, both the Police and the County and District Councils will inform one another of such matters.

3.3 Action on Private Land

3.3.1 With respect to private land, it is expected that the landowner will take the necessary civil action to obtain possession of the land and take all reasonable measures to minimize nuisance and disturbance.

4. DISPUTES MECHANISM

4.1 In the event of a dispute between two or more Authorities arising as to whether it is appropriate to tolerate a particular encampment or if a particular course of action is warranted, the following steps will be taken:

(a) a nominated officer representative from each Authority involved, supported by appropriate advisers and, if appropriate, a Police representative, will together discuss the position in an attempt to reach an agreed solution

(b) ultimately, in the case of a failure to agree, each Authority reserves the right to act as it sees fit. Each Authority will first inform the other Authority (or Authorities) of its proposed action.

5. PRESERVATION OF OTHER POWERS

5.1 For the avoidance of doubt, none of the provisions of this Policy shall be construed as restricting in any way an individual Authority's ability to exercise any legal powers that may be available to it and in the case of land other than highway the responsibility of the local authority or West Mercia Police Authority, the provisions of the Policy will only apply when the Authority as landowner has decided it wishes to remove Gypsies or Travellers from it's land.

6. DURATION

6.1 Once a year, or more frequently where circumstances demand, officers of the County Council, District Councils and West Mercia Police Authority will meet to assess action taken under this Policy and to review the Policy as necessary.

HEAD OF LEGAL AND DEMOCRATIC SERVICES

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