

# **PROCEDURE FOR DEALING WITH UNAUTHORISED**

## **ENCAMPMENTS ON COUNTY COUNCIL LAND**

### **Introduction**

This guide has been compiled to ensure that all officers dealing with unauthorised encampments on County Council land are aware of the steps that they and other parts of the County Council should take in dealing with matters. There is also consideration of those matters relevant to any decision on seeking the removal of travellers and how this should best be achieved. The procedures detailed in this guide should be followed unless there are exceptional circumstances justifying deviation from it and the need for deviation has been discussed with the Legal Services Division.

A **Joint Policy Towards Travellers in Worcestershire (see Appendix “A”)** has been agreed by Worcestershire County Council, all other Local Authorities within the County and the Police. The purpose of the Joint Policy is to ensure a common approach to travellers within the County, having regard to relevant Government guidance and statutes such as the Human Rights Act 1998.

All sections should be aware of the contents of the Joint Policy Towards Travellers in Worcestershire. It will be noted from the Joint Policy that there is a policy of toleration for up to 21 days unless in the opinion of the responsible Authority a level of nuisance is occurring which cannot be effectively controlled or there is an urgent requirement of land for operational uses. If there is for example, nuisance, which cannot be effectively controlled, then informal methods of persuading travellers to vacate the land should initially be attempted. Only if such steps are ineffective should consideration be given to

instructing the Legal Services Division to obtain a Court Order requiring the removal of travellers.

## **Informal Methods of Securing the Removal of Unauthorised *Encampments***

The decision as to whether to seek the removal of unauthorised travellers from land using informal methods will rest with the section responsible for the land (e.g. the relevant Highways Team, the Countryside Service, Corporate Services, etc.) (Hereafter termed the “Responsible Section”) following discussions with the Gypsy Service and the Legal Services Division. The primary responsibility for initiating informal procedures to remove unauthorised travellers lies with the Gypsy Service

Informal methods will involve persuading travellers to voluntarily vacate the land.

The Gypsy Service will often become involved in liaising with travellers following notification of their presence by the Countryside Service, relevant Highways Team, local residents, the Police or indeed by the travellers themselves. On receipt of notification, the Gypsy Service will:-

- If the notifying person is complaining about the travellers’ presence, take full written details of any complaint and reassure them that matters will be investigated;
- Try to establish the numbers of caravans involved, the nature of the encampment, the location of the encampment (e.g. on a verge or a lay-by) and the date of arrival. If the Police have notified the Gypsy Service of the

encampment, the Police should be asked whether they have had any contact with the travellers and if so, the nature of that contact and any other information about the group involved (e.g. whether they are local to the area)

On receipt of notification, the Gypsy Service should liaise with the Responsible Section concerning the encampment. The Responsible Section might already be aware of the encampment and all information should be shared. Both representatives from the Gypsy Service and the Responsible Section (where relevant) should arrange to visit the site in order to gather information relevant to the functions of their section. It should be noted that when visiting the site, nothing should be said to the travellers that could be regarded as giving them consent to occupy the land. Information that the Responsible Section (where relevant) should obtain at the site includes:-

- The location of the travellers' encampment - including details of road numbers;
- Details of the encampment- numbers of caravans, tents, vehicles;
- Details of when the travellers arrived,
- Details of any damage caused – e.g. litter, fires
- Details of any complaints received
- Details of why possession may be necessary and how urgent the matter is

Information that the Gypsy Service should obtain in order to gain a picture of the travellers' background and of their intentions includes:-

- Who the travellers are
- Where the travellers are from
- Where the travellers are going
- Why they have chosen their present location

- Whether the travellers are local or related to local travellers
- Why they are there

If the travellers express an intention to move, the Gypsy Service will try to assist them by:-

- putting them in touch with relevant officers in the county to which they intend to move;
- Advising them of any findings (for example with regard to any road hazard that they are causing);
- Informing them that they have a set period of time to move on. The Responsible Section following discussions with the Gypsy Service and the Legal Services Division will determine this period.

If travellers express an intention to remain or it is believed they will do so, the Gypsy Service should make further enquiries about the travellers' welfare and complete an **“Unauthorised Encampment Visit Record”** (see Appendix **“B”**). This will include the carrying out of a welfare check in respect of all traveller families to ensure that there can be proper consideration by the Gypsy Service, the Responsible Section and the Legal Services Division of whether an encampment should be tolerated or an application for immediate possession is more appropriate.

The information for the welfare check is included on the Unauthorised Encampment Visit Record. The importance of the welfare check is stressed in “Managing Unauthorised Camping - A Good Practice Guide” issued by the Home Office and DETR. The welfare check should cover the following:-

- (a) Medical / Health Matters

Enquiries should be made as to whether there are any pregnant women in the group or whether post-natal care is required. If so, the Gypsy Service can assist in arranging appointments at maternity hospitals. If travellers identify any other health requirements, the Gypsy Service should enquire as to the details of any forthcoming appointments and offer assistance with contact details for local GP, Health visitor or other health agency in the area. If there are any children within the group with medical needs this should be treated as urgent and efforts made to contact a Health Visitor if the family are unable to do so themselves and with the consent of the traveller families. If there are elderly or infirm people within the group (e.g. persons with heart conditions or other long standing medical problems), the Gypsy Service should advise the families of contact details for local GP, Age Concern or other relevant agency.

(b) Education

The Education Service for Travelling Children works with Education Welfare Officers in Worcestershire and also with Support Teachers to help provide educational services for traveller children. The Gypsy Service should make enquires as to the ages of any children within the traveller group and pass this information on to the Education Service for Travelling Children.

(c) Adult and Community Services (Social Services)

The Gypsy Service should give consideration as to whether there are any concerns relating to the travellers that would justify the involvement of the Adult and Community Services Department (for example child protection concerns). If so, the Gypsy Service should contact the Duty Office of the local Adult and Community Services Department to discuss concerns and, if appropriate, the Department will visit the travellers.

(d) Housing

The Gypsy Service should discuss with travellers their housing needs. Enquiries should be made as to whether the travellers have submitted applications for housing to the District Council or a local Housing Association. The Service should also contact both the District Council and Housing Association to:-

- Confirm/check whether the travellers have submitted an application for housing; and/or
- Advise the District Council/Housing Association that the travellers have indicated they will apply to the relevant body for housing.

If travellers apply to the Gypsy Service for plots on travellers sites within the County, the Gypsy Unit should take necessary steps to investigate:-

- Whether travellers are eligible for a plot on a site; and
- Whether there are any vacant plots on County Council sites.

The welfare check, together with the any other relevant information will be used by the Responsible Section in association with the Gypsy Service and Legal Services Division to weigh up whether the encampment should be tolerated.

Consideration must be given to the following reasons for taking immediate proceedings for the removal of the encampment;

- (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 relevant Highways Team and/or the Police. e.g. Highway land with obstructed visibility for road users or danger to those exiting and accessing the land.

c. Statutory Nuisance or circumstances prejudicial to public health.

d. Obstruction of access to land either owned by the County, District Council or private individual or company.

(2). Demonstrable requirement of land for operational uses e.g. picnic areas, car parks, chipping stores or use by schools.

(3) A negative impact upon Ecological or biodiversity issues

The Gypsy Service should advise the Travellers of the outcome of such a discussion and attempt to persuade the travellers to vacate the site. If persuasion is not successful then legal proceedings will be commenced.

### **Formal Methods of Securing the Removal of Unauthorised Encampments**

The Responsible Section will need to provide the Legal Services Division with the following information in writing:-

- The location of the travellers' encampment - including details of road numbers;
- Details of the encampment- numbers of caravans, tents, vehicles;
- The time, day and date by which travellers should vacate the land.

- Details of any complaints received about the travellers

On receipt of the above information, the Legal Services Division will prepare a Notice of Direction to Leave Land. Once prepared, an authorised person should sign the Notice of Direction and the Gypsy Service and or the Responsible Section should serve the Direction on the travellers.

Steps should be taken by the Gypsy Service to monitor whether the travellers have vacated the land as directed. If not, it will be necessary to commence formal legal proceedings requiring the travellers' removal.

The County Council will issue proceedings under Part 55 of the Civil Procedure Rules 1998 or under the Criminal Justice and Public Order Act 1994. From experience, Worcestershire County Council has preferred to use Part 55 proceedings in the County Court. Part 55 proceedings have the advantage that any Order made by the Court can be enforced against all travellers on the land, and not merely those present when application was made for the Order. This does mean that if further travellers arrive after commencement of proceedings, a Court Order is effective against all unauthorised travellers in occupation of the land and the Court Bailiff is entitled to remove all travellers from the land. This is not the case with proceedings under the Criminal Justice and Public Order Act 1994 as any "Direction to Leave the Land" must be served on all vehicles in respect of which an Order is sought.

### **Part 55 Court Proceedings**

#### **Procedure prior to Court Hearing**

In order to commence proceedings for possession under Part 55, the appropriate officer of the Responsible Section should request the Legal Services Division to commence legal proceedings. The Gypsy Service are not responsible for making the decision to issue

proceedings, this must rest clearly with the Responsible Section. These instructions should be in writing and include the following information: -

- The location of the travellers' encampment - including details of road numbers
- Details of the encampment- numbers of caravans, tents, vehicles
- The names of any travellers that are known
- Details of when the travellers arrived
- Details of when the site was visited by the Responsible Section and details of which officer visited
- details of any road hazard / access blocked / damage caused / unreasonable behaviour / restriction in the use of land / complaints

It will be necessary for the Responsible Section to provide two sets of maps of the location. The first map should be a general location map, identifying the area affected in relation to the wider location of the site. The second map should be a specific location map identifying in more detail the road, lay-by, etc. and the location of the travellers. The map should also indicate areas in the immediate vicinity of the occupied land to which it is believed there is a risk that travellers may move.

It is necessary for an officer from the Responsible Section to sign a Statement in support of the Claim for Possession. The person signing the Statement should preferably have first hand knowledge of the information contained in the Statement. To this end, a site visit is advisable, as it is then possible to use stronger and more direct wording in the Statement.

On receipt of the request to issue proceedings, the Legal Services Division should liaise with the Gypsy Service concerning the possession proceedings. It may be that the Gypsy Service will be aware of certain welfare matters and Human Rights Act

considerations (e.g. a traveller is about to give birth to a child) that may preclude the issue of possession proceedings immediately. The Unauthorised Encampment Visit Record, together with details of complaints received by the Responsible Section and the Gypsy Service should be provided to the Legal Services Division if this has not already been done.

Following receipt of information from both the Responsible Section and the Gypsy Service, consideration will be given by the Legal Services Division to instituting possession proceedings. Provided there is no reason to prevent the issue of such proceedings (e.g. welfare / Human Rights Act considerations), the Legal Services Division will prepare a draft Statement which will be faxed / emailed to the Responsible Section for approval. The Responsible Section should then contact the Legal Services Division to confirm the contents of the Statement are correct and make arrangements to sign the Statement.

The Legal Services Division should confirm with the appropriate County Court that the occupied land falls within their jurisdiction. For example, the area of Bricklehampton falls within the jurisdiction of Evesham County Court. Proceedings must therefore be issued in the Evesham County Court.

The Legal Services Division will prepare the **Statement (see Appendix "D")** for signing. Plans showing the travellers location will be exhibited to the Statement. The officer from the Responsible Section will then collect the Statement and sign it. Following signing, the Statement should be returned to the Legal Services Division.

The Legal Services Division will prepare a **“Claim Form for Possession of Property”** (see Appendix “E”) and **“Particulars of Claim for Possession (trespassers)”** (see Appendix “F”). Sufficient copies of these documents and the Statement will then be prepared. A cheque for the issue fee will be requested (the Responsible Section being charged internally for this issue fee) and this and all documents will be forwarded to the relevant County Court. When sending the documents, the Legal Services Division will request the County Court to return the copy documents for service by the Council.

On receipt of the relevant papers, the County Court will issue proceedings, sealing the documents, giving them a case number and listing them for hearing on a particular day. The Court will endorse the hearing date on the Claim Form for Possession of Property. The Court will then return the documents to the Council for service.

On receipt of documents from Court, the Legal Services Division will pass them to the Responsible Section / Gypsy Service for service (the Responsible Section / Gypsy Service having previously agreed between themselves who will serve the documents, a process server may as required also be used for this purpose). A minimum of two clear working days is required to be given to travellers advising them of the hearing to enable them to instruct solicitors if they wish. Service of the documents should be effected by handing copies of documents to any named party or attaching copies to the caravan, bus, etc that is being occupied by the named party. As it is unlikely that the Council will know the names of all those in occupation of the land, service on unnamed persons should be effected by placing copies of all the documents in transparent envelopes addressed to “the Occupiers” and affixing the envelopes to stakes which have been placed in the ground at conspicuous parts of the occupied land.

Once the documents have been served by the Responsible Section / Gypsy Service, the Legal Services Division should be advised of this and informed of the full name of the person serving the documents as well as the date and time on which the documents were served. This will enable the Legal Services Division to prepare a **Certificate of Service (see Appendix "G")**, the formal proof required by the Court that service has been effected. It will be necessary for this document to be taken to Court for the hearing.

The Legal Services Division will ensure that both the Responsible Section and the Gypsy Service are aware of the date of the hearing.

A representative from the Legal Services Division will attend the hearing on the relevant date to obtain the necessary Possession Order. It is not generally necessary for a member of the Responsible Section / Gypsy Service to attend Court although appropriate officers from both sections must ensure that they are available at short notice should their attendance become necessary.

#### Procedure After a Possession Order Has Been Obtained

The Legal Services Division will advise both the Responsible Section and the Gypsy Service once a Possession Order has been obtained. Copies of the Possession Order will be handed to the Gypsy Service (if it is agreed it is the Gypsy Service and not the Responsible Section) who will visit the site and inform travellers that they are required to vacate the land. Travellers should be advised that if they fail to vacate the land, steps will be taken to evict them. Copies of the Possession Order should be handed to the travellers and a copy posted on a stake on the land.

If the travellers do not leave the land despite the Court having granted a Possession Order, it will be necessary to take steps to evict them. In order to effect the eviction, it is necessary to instruct the County Court Bailiff to oversee the eviction. Applying for a “Warrant of Possession of Land” does this. The Responsible Section, the Gypsy Service and the Legal Services Division will together discuss when it is appropriate to issue a Warrant of Possession.

Once a decision has been made to issue a Warrant of Possession, a **“Request for Warrant of Possession of Land” form (see Appendix “H”)** is completed by the Legal Services Division and sent to the appropriate County Court together with a cheque for the issue fee made payable to HMPG (payment of such being with the Responsible Section). Once a Warrant of Possession of Land has been issued, the Legal Services Division will contact the appropriate Bailiff in order to make arrangements for the eviction. A date for the eviction will be agreed with the Bailiff. The Bailiff will then visit the site to advise the travellers of the intended date of eviction. In cases of urgency, it may be possible for a relatively short period in which the eviction is to proceed to be agreed with the bailiff.

The Legal Services Division will advise the Responsible Section and the Gypsy Service of the date of the eviction. The Responsible Section and the Gypsy Service should liaise concerning the eviction to establish the likelihood of requiring an independent security firm to assist in removing vehicles/caravans. This will be required, for instance, where the travellers have indicated that they will not move voluntarily. It is the responsibility of the Responsible Section to engage any security firm to assist with the eviction and to make any necessary arrangements with regard to the storage of vehicles/caravans. The Legal Services Division should supply the Responsible Section with the name and

telephone number of the Bailiff who will carry out the eviction. This will enable the Responsible Section and the security firm to liaise directly with the Bailiff

The Responsible Section should visit the site two days before the eviction date in order to establish whether the travellers are still present. If still present, then eviction procedures must be confirmed with the security firm and the Responsible Section should, if necessary, organise a Police presence if it appears that a breach of the peace may occur.

If at any time prior to the eviction it is discovered that the travellers have vacated the land then all parties, including the Legal Services Division, should be advised of this immediately in order to save further time and expense.

At all evictions, whether or not a private security firm has been engaged, it is necessary for an officer of the County Council to be present (who would normally be the relevant officer from the Responsible Section). The Gypsy Service and the Responsible Section must liaise to ensure that the County Council is represented and both sections are aware of who is to attend. In some cases a representative of the Legal Services may be required to attend, particularly if it is known the travellers have legal representatives who are actively concerned with the eviction and be present or press other officers for comments by phone (consideration where necessary should also be given by the Responsible Section in close liaison with the Gypsy Service with regard to contacting the County Council Media team). Generally an officer of the Responsible Section should be present in order to assess the need for deterrent works, etc. to prevent re-occupation of the site. During the eviction, the officer of the County Council and any private security firm must act only under the direction of the Court Bailiff.

## **Conclusion**

It is important that the procedures set out in this guide are followed unless there are exceptional reasons for it and the need for deviation has been discussed with the Legal Services Division. Using the guide will enable the Council to take into account relevant matters at appropriate times (e.g. Human Rights Act considerations) and will help the Council to successfully resist any challenges to actions that are taken.

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February 2002

Updated by M.P. Weale December 2005

Agreed with Legal Services July 2006

