

JOINT PROTOCOL FOR THE MANAGEMENT OF UNAUTHORISED ENCAMPMENTS OF GYPSIES AND TRAVELLERS ON LOCAL AUTHORITY LAND IN WORCESTERSHIRE

The purpose of this protocol, as agreed by all 7 local authorities within Worcestershire and the West Mercia Police & Crime Commissioner, is to ensure that the aforesaid partners act in a predetermined, co-ordinated and consistent manner.

1. GENERAL INTENT

- 1.1 There is a need for a single agreed protocol for managing unauthorised encampments of 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 protocol are a consistent, positive and informed approach to enforcement having due regard to relevant legislation such as the Human Rights Act 1998, the Housing Act 2004, the Equality Act 2010 and relevant regulations and guidance.
- 1.3 Throughout this 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 Where no other specific policies, protocols or procedures apply, unauthorised encampments by persons who are not Gypsies or Travellers shall normally be managed in accordance with this protocol.
- 1.5 This protocol **does not** relate to unauthorised encampments on privately owned land or illegal developments which fall within the consideration of relevant planning policy and procedures

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

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 visit the encampment immediately if enforcement action might be undertaken straight away or otherwise within a maximum of two working days. Once satisfied that the trespasser is a Gypsy or Traveller and, having asked their intentions, the officer (or agent) will advise, if appropriate, that the trespassers contact the County Council who can advise of any vacancies on authorised sites and the process for applying to the waiting list if there are no vacancies. A welfare check and Equality Impact Assessment will be carried out, and, if appropriate, the Gypsies/Travellers will be offered contact details of other relevant agencies for issues such as health, housing or education. Where consultation between authorities is necessary, there shall be close co-operation and thorough communication in order to ensure that information is made available promptly so as not to unnecessarily delay a decision on enforcement action. The authorities will respond to such requests without delay and within a maximum of two working days.

2.2 Immediate Action

2.2.1 Enforcement action will be commenced immediately if, 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 highway or police officers.
 - c. Statutory nuisance or circumstances prejudicial to health or safety.
 - d. Obstruction of access to land either owned by the local authority or a private individual or company.
- (2) Demonstrable requirement of land for operational use.
- (3) Environmental damage.
- (4) Criminality demonstrably linked to the encampment, usually determined by the police.

2.2.2 Where circumstances such as those listed above apply, or if a Gypsy or Traveller without good reason, considering guidance on deferred enforcement, unreasonably rejects an offer of accommodation, he/she will be informed that they must vacate the land

2.3 Deferred Enforcement

It may not be necessary nor constructive to seek to evict Gypsies or Travellers immediately and consideration will be given to the potential deployment of a period of deferred enforcement of up to 21 days.

- 2.3.1 If the land is not vacated within the specified period, the responsible authority may then recover the land.
- 2.3.2 During a period of deferred enforcement the responsible authority may take appropriate steps in order to recover the land as soon as the 21 day deferred enforcement period has expired. That is, it is not necessary for the 21 days to expire before commencing legal or other proceedings. The status of the encampment shall be kept under review in the event that either the circumstances set out in 2.2.1 apply or significant welfare concerns have arisen.
- 2.3.3 In certain circumstances, other agencies may attend the encampment, usually with regard to health, housing, or educational issues.

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 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 email.
- 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 it ie. if 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 is acting for the Department of Communities and Local Government.
- 3.2.4 If it is decided that enforcement action is not to be deferred, 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 and thorough communication at all times 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 or Travellers within their area or when exercising deferred enforcement 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 minimise 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 defer enforcement on 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 discuss the position 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 protocol shall be construed as restricting in any way an individual authority's ability to exercise any legal powers that may be available to it to remove Gypsies or Travellers from its land.

6. REVIEW

6.1 The local authorities and police shall meet to review this protocol following significant changes in government policy or guidance or every three years whichever is the sooner.