

## Unauthorised Encampments

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## Policy Statement

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### Summary

West Yorkshire Police complies with Authorised Professional Practice (APP), which contains information to assist policing, and has established a local policy procedure on unauthorised encampments to provide clear standards and guidelines.

The Force has a duty to cover **all** types of unauthorised encampments on both private and local authority land. This policy is particularly intended to help improve the trust and confidence of Gypsies and Travellers within the county as well as communities which are impacted by the presence of an encampment. It includes the responsibilities of members of the Force and the legislation they must comply with when making decisions regarding unauthorised encampments.

This policy reflects the unique lifestyle of Romany Gypsies and Irish Travellers as distinct and recognised ethnic groups in England and Wales and takes into account their traditional transient lifestyle. It also promotes positive relations under the general duties of the Force within the Equality Act 2010, as well as containing details of good practice for ensuring the human rights of all parties are taken into consideration. Equality Champions at Districts, Local Authorities and the Force Independent Advisory Group (IAG) have consulted upon this policy.

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### Scope

This policy procedure applies to all police officers and police staff.

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## Principles

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### General

- The overall stance of the Force is that in considering any unauthorised encampment a balance must be maintained between the rights of those encamped and the rights of the landowners and neighbouring members of the settled community.
- **The Local Authority has primacy for action relating to unauthorised encampments on any council land, including land classed as 'primary land'.**
- The Force will provide support to enable a peaceful outcome, managing any expectations and concerns the public may have, reducing the fear of crime and improving confidence and satisfaction in the processes WYP use to resolve unauthorised encampments.
- Officers must act in a neutral, objective and open way, considering every encampment on an individual basis, as police action must demonstrate impartiality and proportionality.

**Force undertaking**

Like settled communities, those on encampments are entitled to a life free from fear of crime, harassment and intimidation and therefore:

- Districts must work with Local Authorities to agree Joint Agency Protocols for the management of trespassing without consent;
- WYP will work with partners to provide an appropriate response towards those on encampments, landowners/agents and other members of the settled community;
- WYP will consult both the occupants of encampments and the settled community when making decisions that impact on their lives;
- WYP will proactively investigate allegations of crime, harassment and anti-social behaviour;
- WYP will be fair, open and transparent with all parties concerned;
- WYP will reassure the settled community;
- WYP will, where civil action is being taken involving bailiffs, ensure that the police remain impartial and no Breach of the Peace takes place;
- WYP will invoke police powers proportionately and explain and record our rationale using the NDM and threat / harm and risk; and
- WYP will follow the NPCC Operational Advice.

## Initial Action

**Principles**

- Officers must be mindful that an unauthorised encampment is initially a civil matter.
- A full welfare needs assessment must be undertaken by the local authority and they must have requested the occupants to leave the encampment prior to a request for a Section 61 notice being considered by the police.
- In instances where the encampment is on private land, there is no requirement for the landowner to conduct a needs assessment.
- Further information regarding the welfare needs assessment can be found in the supporting information.

**Procedure**

- When a report is received concerning an unauthorised encampment, a Storm incident log must be created, including as much detail as possible, checking the previous calls tab to check if there is any existing log open relating to the location in question.
- The duty supervisor, sergeant or inspector must be notified at the earliest convenience.
- The Storm Log must be sent to the relevant Area Control Room (ACR), where they must check also if there is a Log in existence:
  - *If a current Log exists:* The additional information collected must be passed to the District unauthorised encampment and Gypsy Traveller Single Point of Contact (SPOC), and the log cross-referenced and closed;

- *If this is a new incident:* The duty inspector must be informed, and a resource dispatched to assess the scene and obtain sufficient evidence, to determine if any future action would be required. This information must be recorded on the Storm log. Further details regarding the assessment of the scene can be found in the supporting information.
  - A Niche Unauthorised Encampment Occurrence must be created and record all relevant information, intelligence, BWV footage and details of partnership working/intervention. The Niche Occurrence must be endorsed on the Storm Log.
  - If there is no appropriate alternative site within the local authority area, this must be recorded on the Storm log.
  - Any policy decisions made, and any further visits to the site and relevant updates, must be recorded on the Storm log.
  - The officer assessing the scene must report the details to their district Operations/Neighbourhood Chief Inspector or unauthorised encampment/Gypsy and Traveller SPOC to enable them to liaise with their counterpart within the local authority at the earliest opportunity, enabling the authority to arrange for the necessary action to be taken in respect of any re-possession and provide welfare arrangements for the families involved.
  - The duty supervisor will monitor and assess the information, and will ensure the NPT Inspector is aware.
  - An assessment regarding whether any unauthorised encampment is a critical incident must be made.
  - A joint decision must, ideally, be reached between the Local Authority, landowner and the police regarding the most appropriate course of action taking into account the impact on the landowner and wider community.
  - If the encampment is deemed to be on primary land or there are aggravating factors and those on unauthorised encampments are refusing to leave, the district officer or PACE cover must be notified immediately to allow for the risk assessments to be carried out and operational decisions around the use of Section 61 to be made with partners.
  - Consideration must be given to all legislation available, whichever is the most appropriate to manage the circumstances. Ultimately, the final decision on using Section 60C(1) CJPOA power rests with the police, but the use of police powers **must not be** the default position.
  - A new Storm log must be created for the eviction operation, with the original log being referenced, if it is decided that the police are to be involved in an eviction from the encampment.
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## Criminal Justice and Public Order (CJPO) Act 1994

### Section 60C to 60E

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**Legal  
Information**

- Sections 60C to 60E of the CJPO Act set out the criminal offence relating to residing on land without consent, in or with a vehicle, and associated seizure and forfeiture powers.
- **There is a new offence relating to residing on land without consent in or with a vehicle, as introduced by the Police, Crime, Sentencing and Courts (PCSC) Act 2022.**
- The primary conditions of this criminal offence are contained in Section 60C(1) of the CJPO Act as amended by the PCSC Act 2022. The offence applies where:
  - A person is aged 18 or over;
  - A person is residing, or intending to reside, on land without the consent of the occupier of the land;
  - A person has or intends to have at least one vehicle with them on the land;
  - One or more conditions in subsection 60C(4) of the CJPOA are met (see below);
  - The person is requested to leave and/or remove their property by the occupier, a representative of the occupier or police.
- Section 60C(2) goes on to say that a criminal offence is committed when a person meets all the conditions in Section 60C(1) as above and also meets one of the following:
  - A person fails to comply with the request to leave as soon as reasonably practicable; or
  - A person re-enters or enters the land with an intention of residing there without consent and has, or intends to have a vehicle with them, within 12 months of the request being made.

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## Section 60C(4) – Specific Conditions Related to Harm

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**Legal  
Information**

- The conditions are:
  - In a case where a person is residing on the land, significant damage or significant disruption has been caused or is likely to be caused as a result of their residence;
  - In a case where a person is not yet residing on the land, it is likely that significant damage or significant disruption would be caused as a result of their residence if they were to reside on the land;
  - That significant damage or significant disruption has been caused or is likely to be caused as a result of conduct carried on, or likely to be carried on, by that person whilst on the land;
  - That significant distress has been caused or is likely to be caused as a result of offensive conduct carried on, or likely to be carried on, by that person whilst on the land.
- Thus people **aged 18 or over** would commit the proposed offence if they:
  - Reside or intend to reside on land without consent and;
  - They have or intend to have at least one vehicle with them;

- They cause or are likely to cause **significant damage, disruption or distress** as a result of either residing/intending to reside on the land or their conduct/potential conduct whilst on the land;
- They fail as soon as reasonably practicable to leave when directed to by the owner, someone representing them or the police, or return within the prohibited period of 12 months.

### **Key Points and Considerations**

- The word **significant** will be crucial in establishing if any criminal offence has been committed under this new legislation.
- Possible definitions for “significant” damage, disruption or distress are outlined in the statutory guidance which states that the police will be the party who determines if any “significant” damage, disruption or distress has been caused.
- The statutory guidance states: **“If the police deem the harms to not be significant, then the offence under Section 60C would not apply.”**
- Where no significant harms have been committed, police may decide to take other enforcement action using existing powers under Section 61 of the CJPO Act, depending upon the circumstances of each case and providing relevant conditions are met.

## **Section 61**

### **Legal Information**

- Section 61 of the CJPO Act provides the police with the powers to direct trespassers on land, who have a common purpose of residing there for any period, to leave and remove vehicles and/or other property.
- The legislation states that if the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and:
  - a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or
  - b) that those persons have between them six or more vehicles on the land.
- With the authority of an officer who is at least the rank of inspector, individuals may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.
- Failure to comply with the direction, by failing to leave the land as soon as reasonably practicable, without reasonable excuse, is an offence.
- It is an offence for a trespasser who has left the land in compliance with a direction to re-enter it as a trespasser within 12 months of the direction being given.

- See full details regarding use of Section 61.

#### Risk assessment

- Before any police operation to remove people from an unauthorised encampment, under Section 61 a risk assessment must be conducted and recorded on the relevant forms.
- A Community Impact Assessment (Form 7) **must** be undertaken in respect of any planned eviction under any power.
- It is likely that the eviction of large scale encampments will need to be declared a critical incident.

#### Use of Section 61, Direction to Leave

- The use of Section 61 police powers will be decided by the District Commander (or SLT PACE cover) after a review of the full facts, taking into account local policies and protocols.
- The rationale for issuing a Section 61 notice must be recorded on the Storm log.
- The simple fact that certain individuals within an unauthorised encampment are acting in a criminal or anti-social manner does not necessarily make it appropriate to evict everyone on that particular site.
- The 'direction to leave' must be authorised by an officer of at least the rank of inspector.
- The senior officer present referred to as providing the 'direction to leave' may give a verbal or a written notice.
- Written notices however must be hand delivered, attached to each caravan and where possible verbally explained.
- Written notices are not specifically required, however service of such notice should negate any complaint an individual may have regarding the consequences of their failure to leave the land.
- Section 61 is an emergency power, however when giving notice to leave the time allowance must be reasonable. The time allowance of 24 hours is normally sufficient.
- Reasonableness is important if challenged later. Considerations around what is reasonable must include the following:
  - Does the encampment have any community ties to the area and does the local authority have any obligation to provide accommodation to the individuals concerned;
  - Do any of the occupants have legitimate work;
  - Are there any children attending local schools; and
  - Are there any critical welfare needs.
- If the unauthorised campers fail to leave by the date and time specified by the senior officer providing the direction to leave, or return to that location within three months of the direction, they commit an offence and WYP do have the power to seize and remove the vehicles under Section 62 of CJPO Act.

- The use of Section 62 police powers must be authorised by the district officer (or SLT PACE SPOC) after the same due considerations as the original Section 61 request.
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## Section 62 A-E

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### Principles

- These sections allow WYP to move unauthorised encampments, where the local authority provides official sites that have vacant pitches.
  - Currently, there are official sites offered by Leeds, Bradford and Wakefield Local Authorities within the West Yorkshire county, however pitches are very limited therefore these powers **must be carefully considered**.
  - The use of Section 62 powers may be considered where officers must take into account suitability, safety and impact on the local community.
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## Private Land

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### Principles

- Common law recognises landowners' rights to evict trespassers.
  - Trespassers asked, but refusing to leave, may be evicted using reasonable force by the landowner (or agent authorised to act on their behalf).
  - Landowners must be aware that using excessive force may commit an offence.
  - The Force will have no role to play within these circumstances, other than carrying out an initial assessment of the circumstances and preventing any breach of the peace from taking place, e.g. attending where evictions are taking place.
  - If it is deemed there is a breach of the peace, officers will consider the likely impact of any proposed action and provide advice accordingly, and will be referred to the police and local authority unauthorised encampment/Gypsy and Traveller SPOC.
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## Responsibilities

### District Unauthorised Encampment and Gypsy Traveller SPOC

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#### Responsibilities

The district SPOC is responsible for:

- Ensuring that all details of unauthorised encampments within their District are distributed to the appropriate individuals or departments;
- Allowing for the information to be communicated to all staff, to show transparency and to encourage a corporate approach to dealing with unauthorised encampments; and



- Liaising with the District SPOC/CI NPT where appropriate.
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## Force SPOC and District CI NPT

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- Responsibilities** The Force SPOC and District CI NPT is responsible for:
- Maintaining an overview of unauthorised encampments in their area;
  - Developing and maintaining partnership links in respect of gypsy and traveller issues;
  - Working with local authority partners, ensuring that all partners are aware that they are responsible for dealing with incidents effectively and to know that use of police powers are as a last resort and in accordance with this policy;
  - Developing and maintaining relations with gypsies and travellers;
  - Working to improve the relationships between individuals on unauthorised encampments and the settled community, encouraging communications between both parties;
  - Communicating and disseminating police policy in respect of those on unauthorised encampments to ensure clear expectations; and
  - Being involved in engagement opportunities with the local safer neighbourhood team and gypsy and traveller Force SPOC where there are dedicated gypsy and traveller sites.
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## Duty Inspector/Supervisor

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- Responsibilities** The duty inspector/supervisor is responsible for:
- Reviewing any new incidents and or evidence relating to existing encampments, ensuring all relevant information is gathered and assessed.
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## District Commander

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- Responsibilities** The District Commander will have the final decision regarding using Section 61 powers to remove an unauthorised encampment, and therefore is responsible for:
- Reviewing all the partnership evidence;
  - Ensuring that the response is proportionate and necessary;
  - Confirming that the case fits the criteria; and
  - Ensuring that a full risk assessment has been carried out.

(For out of hours/weekends these responsibilities are passed onto SLT PACE.)

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## Additional Information

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**Compliance**

This policy complies with the following legislation and guidance:

- APP Engagement and Communications
  - Equality Act 2010
  - Human Rights Act 1998
  - Criminal Justice and Public Order Act 1994, Section 61 & 62, A to E
  - Police, Crime, Sentencing and Courts Act 2022 (PCSC Act) – section 60C
  - Data Protection Act 2018
  - NPCC Operational Advice – Trespassing on Land Without Consent/  
Unauthorised Encampments – PCSC Act 2022: Changes to Legislation
  - Home Office Statutory Guidance for Police on Unauthorised  
Encampments – A Summary of Available Powers
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