



**Bracknell Police Area (TVP)  
and  
Bracknell Forest Council  
Unauthorised Encampment Protocol**

**2012**

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# Contents

1. Background .....	3
2. Gypsy and Traveller policy .....	3
2. Agencies Involved .....	3
3. Definition of Unauthorised Encampments .....	5
4. Aims of the Protocol.....	5
5. Legality .....	5
6. Principles and Procedure.....	6
7. Eviction Procedure.....	8
8. Monitoring the Joint Standard Operating Procedure .....	8

**Appendix 1:** Police Powers under section 61

**Appendix 2:** Joint Council and Police Code of Conduct for Travellers on Unauthorised Encampments within the Bracknell Police Area

**Appendix 3:** Bracknell Forest Council – Criteria for eviction

## **1. BACKGROUND**

- 1.1 Berkshire has experienced a considerable number of unauthorised encampments on public and private land by Gypsies and Travellers in recent years. Trespass is a civil breach with powers of eviction available to land owners, local authorities and the Police. Central government guidance emphasises that “a nomadic lifestyle is legitimate”, however the Association of Chief Police Officers (ACPO) and Central Government guidance both urge authorities to act positively where levels of behaviour are unacceptable or anti-social. Central government emphasises that the lead role in making decisions should normally lie with the local authority.
- 1.2 This document provides guidance on dealing with Gypsy and Traveller unauthorised encampments within the Bracknell Police Area. This document will be used by Thames Valley Police (TVP) and Bracknell Forest Council (BFC), to provide a coordinated response to unauthorised encampments on publicly owned and private land.
- 1.3 Other agencies from time to time will also be involved; most notably the Berkshire East PCT, Berkshire Traveller Education Service and local parish or town councils.

## **2. GYPSY AND TRAVELLER POLICY**

- 2.1 Gypsies and Irish Travellers are ethnic minorities whose rights are protected by the Race Relations Act, the Race Relations (Amendment) Act and the Human Rights Act and the Equalities Act 2010. Local authorities and the Police are required to give proper consideration to race and equality implications in their policies and actions.
- 2.2 This Standard Operating Procedure (SOP) must be read in conjunction with the current Police and BFC procedures on traveller management and managing unauthorised encampments. These procedures deal with equalities issues and provide a strategic approach to Gypsy and Traveller issues. BFC will seek to co-ordinate Council effort and the delivery of services to the gypsy and traveller community.

## **3. AGENCIES INVOLVED**

### **3.1 Bracknell Forest Council**

BFC will take the lead role in managing unauthorised encampments. On land it owns or in which it has a management interest the Council has powers under the Criminal Justice and Public Order Act 1994 (CJPO Act) and also powers under Common Law and Civil Procedure rules.

For BFC responsibility for the Traveller Liaison (TL) function in relation to unauthorised encampments is within Regulatory Services located within the Environment, Culture and Communities Directorate. Where an encampment is upon public land the designated Regulatory Services Officer (TLO) will take the lead in gathering required welfare needs data before a decision is taken upon enforcement action.

The Berkshire Traveller Education Service (BTES) has a legal duty to improve Gypsy and Traveller attainment by encouraging school attendance. The BTES will be informed by the TLO of the location and if there appears to be any children of school age within the encampment.

### 3.2 **Police**

The Bracknell Police Area (TVP) will work closely with BFC and landowners in dealing with unauthorised encampments. Jointly, with the BFC, they will enter into dialogue with Gypsies and Travellers to achieve, wherever possible, a negotiated solution. However, they also possess powers under the CJPO Act to deal with unauthorised encampments swiftly under defined circumstances. These are described further in section 6.

Where BFC or private landowners are taking the lead on eviction proceedings then the Police have a role in ensuring the safety of those involved as well as the settled and Traveller community.

### 3.3 **Parish and Town Councils**

Parish and town councils are crucial in building community cohesion within their localities. They have a significant role to play where unauthorised encampments are upon their land.

In addition to this, they also have a duty to represent and act upon the concerns of all communities within their areas. The local town / parish Council will be notified of any unauthorised encampments in their area by the TLO.

### 3.4 **East Berkshire PCT**

All people have the right to access health services. This of course includes Gypsies and Travellers. Commonly travellers may not be accessing health services such as vaccination and immunisation, screening, chronic disease treatment and health promotion and preventative health initiatives. East Berkshire PCT representatives will work with the respective TLO to identify the health needs of Gypsies and Travellers. It may be appropriate to direct travellers with health needs to primary health care establishments.

The relevant health visitor for the area may attend any encampment at the request of the relevant TLO to address any health needs.

It is recognised that this organisation will be changing within a short period of time and contact will be made with its successor when known.

### 3.5 **Main Contacts**

<b>Organisation</b>	<b>Contact Name and Number</b>
East Berks PCT	01753 860441
BFC	Licensing Duty Officer Tel: 01344 352000 Office hours only
Thames Valley Police (TVP)	101

## 4. **DEFINITION OF UNAUTHORISED ENCAMPMENTS**

An unauthorised encampment is where any person camps (in vans, trailers or any other moveable accommodation) on land that they do not own, and where they do not have permission to reside.

## 5. AIMS OF THE PROTOCOL

To address the need for an effective, multi-agency partnership approach to the management of unauthorised encampments, whilst ensuring that the rights of Gypsies and Travellers and the settled community are balanced.

To clarify and agree working arrangements in Bracknell Forest between BFC, TVP and East Berkshire PCT (or successor) with regards to unauthorised encampments and in doing so provide a coordinated set of policies, guidelines and procedures that clarify accountability and are transparent to the local community, including parish councils, local businesses and the media.

## 6. LEGALITY

It is essential that all partnership activity in relation to unauthorised Gypsy and Travellers encampments is legal, proportionate, impartial and professional. In all cases, the exercise of any powers specified in this guidance, or any action taken by the partnership in consequence of it, must be:

- provided for in law
- lawfully enforced
- proportionate in the circumstances
- the least intrusive practical option.

## 7. PRINCIPLES AND PROCEDURE

### 7.1 Overview

7.1.1 Local Authorities and the Police have access to different powers when dealing with unauthorised encampments. At all times however, both parties and the other agencies involved will work together to ensure that the encampment is dealt with in a coordinated and appropriate manner.

The following provides a detailed explanation of the procedures which each partner will normally seek to follow, however for ease a flowchart explanation is included at Figure 1.

In all cases BFC will take the lead on managing unauthorised encampments so as to ensure its impact is minimised pending the outcome of any enforcement action. BFC has powers under **Sections 77-79** of the Criminal Justice and Public Order Act (CJPOA) 1994 and also rights under the Common Law and Civil Procedure Rules.

7.1.2 The Police have access to powers under **Section 61** of the Criminal Justice and Public Order Act 1994 (CJPO Act) and where applied can lead to eviction in a much shorter timescale than under Sections 77-79. At the outset the main task of visiting police officers is to establish whether Section 61 can legally be applied to any unauthorised encampment.

7.1.3 The Police procedure under Section 61 of the CJPO Act is attached at Appendix 1.

7.1.4 Often the expectation of the local community and land owners is that the Police will perform the eviction using Section 61 powers. The mere presence of an encampment without any aggravating factors should not normally create an expectation that Police will use these eviction powers. In all cases relevant human rights processes must be applied in all decisions made.

7.1.5 One or more of the following must be in place before the Police will exercise their powers under Section 61:

- Damage has been caused to land or property, or
- Threats, abusive, words or behaviour have been directed at the landowner, their agent or family, or
- There are six or more vehicles (vehicles includes motor vehicles and caravans - ACPO Guidance October 2008) on the land at the time the senior officer attends to serve the notice, and
- There are one or more aggravating factors (see **Appendix 1**)

If Section 61 cannot be used, or is inappropriate to use, then BFC will consider the options available to them to secure the vacation of the land along with the best way to manage use of the land to minimise the impact of the encampment on the environment and surrounding community.

## 7.2 **Public versus Private Land**

7.2.1 There is a common assumption that the unitary authority and the Police will intervene and evict Gypsies or Travellers from private land. This is not usually the case.

7.2.2 Where the encampment is on privately owned land, the land owner should contact the Council TLO and the Police. Thereafter the TLO and the Police Officer responsible for the encampment at that point will liaise with the landowner and provide advice regarding their powers.

7.2.3 Landowners have rights under the Common Law and Civil Procedure Rules. Part 55 of Civil Procedure Rules allows any landowner to regain possession of his/ her land.

7.2.4 Unless there are compelling reasons as listed above for utilising Police powers under Section 61 Police action will be aimed at support, intelligence gathering and reacting positively to all reported criminal activity.

The TLO may provide advice at the request of the landowner. This can include site visits, discussions with Gypsy and Traveller families and liaison with the Police.

7.2.5 There should not be an expectation that BFC will become involved in the legal eviction of Gypsies or Travellers from private land. Under certain circumstances, for example where there is an unacceptable impact on the local surrounding community, a decision on supportive legal action will be taken by the Chief Officer: Environment and Public Protection.

7.2.6 Thames Valley Police will not assist in any eviction by private companies or individuals, but may attend an encampment site to deal with health, welfare and educational requests, or to prevent a breach of the peace.

## 7.3 **Eviction**

7.3.1 On the first working day following the report of an unauthorised encampment (the report may be via the Police or the general public), BFC's TLO will implement the authority's local communication procedure.

- 7.3.2 The TLO will make contact with the local Police. The Police control room will dispatch a local response unit to attend the location within 12 hours where possible and will attempt to attend with the TLO from BFC. It is anticipated that the grading will be either 'urgent' or 'by arrangement' depending on the circumstances. In most cases the grading will be urgent if there is a crime in progress, such as criminal damage to gain entry to land, or confrontation, abusive behaviour or threats of violence to the lawful occupiers of the land. In this case a response unit will be expected to attend within 4 hours dependant upon other operational needs.
- 7.3.3 The attending police officer will update the Unique Reference Number (URN) with the precise location of the Gypsies or Travellers; details of vehicles, persons present and land owner / agent details, including contact details. The attending police officer will deal positively with any criminal offences apparent during their initial assessment (i.e. obstruction of the highway / uninsured vehicles). Details of vehicles and persons present will be passed to the Area Intelligence Team. The LPA will be consulted to ascertain whether offences have been committed by vehicles or persons at the location.
- 7.3.4 A Code of Conduct will be given and explained to persons present and is attached at **Appendix 2**. Intimidation from and towards the encampment will not be tolerated.
- 7.3.5 The Police and TLO will complete an encampment pack in as much detail as possible on persons and vehicles on site, including photographic evidence of vehicle positioning, condition of the site and surrounding area. This will form the basis of an ongoing log of events, which may be required for legal purposes.
- 7.3.6 The Neighbourhood Inspector will ensure that Public reassurance is provided throughout the encampment e.g. patrols by the local neighbourhood team. The Police and TLO will ensure that any calls from concerned members of the local community, including business community are dealt with promptly.
- 7.3.7 The Police will make a decision in consultation with the TLO with regard to the use of Section 61 powers. If Section 61 is used the Travellers will be removed with reasonable notice, this may be on the day of arrival or within 24 hours as stated within the Section 61 Direction.
- 7.3.8 If a decision is made that Section 61 power is not appropriate, the local police inspector will make contact with the TLO or private landowner and offer advice and support as appropriate. The Police role will then be to focus on intelligence gathering and dealing positively with any reported criminal activity. Should conditions at the site change the Police may review their earlier decision on the appropriateness of use of Section 61 powers.
- 7.3.9 If the unauthorised encampment is on private land the landowner will be supported to take action under Part 55 of the Civil Procedures Rules or through Common Law provisions. This allows any landowner to regain possession of their land through the County Court. If the land is leased, the terms of the lease will determine who has the power to take this action.
- 7.3.10 The TLO will carry out the required health and welfare checks in order to meet legal requirements and gather evidence should legal action be required. Early contact will be made with the Berkshire East Primary Care Trust (PCT) so that they are aware of the possible request for their advice on any health concerns, or needs which may become apparent at the encampment. In this case and if required, the TLO will make a joint visit with a health representative. A 'Welfare Contact' card will be left with the encampment giving contact details for the local NHS health providers, and the details of the local authority housing team.

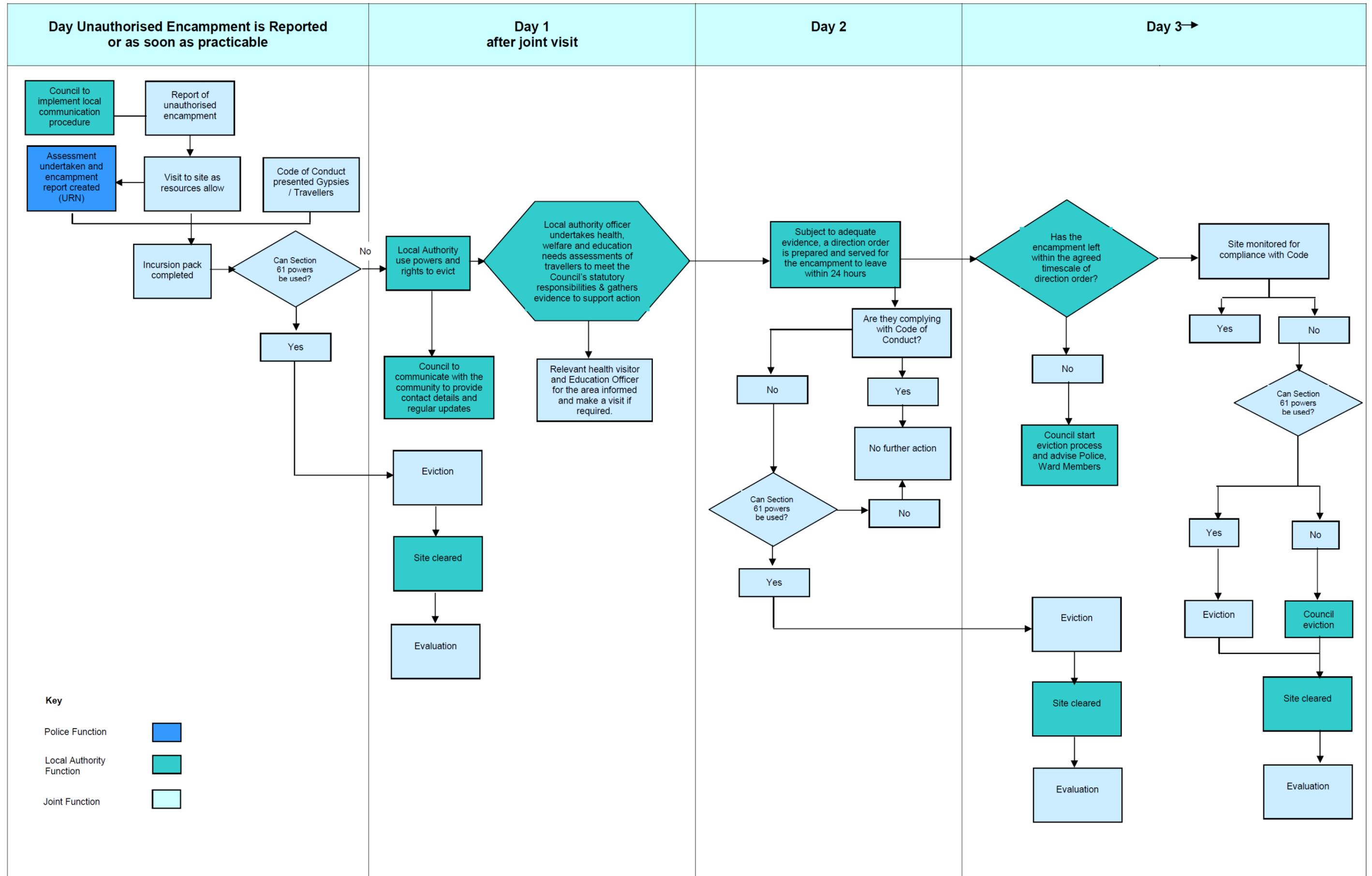
- 7.3.11 The Berkshire Traveller Education Service (BTES) aims to improve Gypsy and Traveller attainment by encouraging school attendance. This service will be informed by the TLO of the location of the encampment and they will make an initial visit to carry out an assessment of educational needs. Thereafter provision will be made for traveller children to attend school.
- 7.3.12 The Police URN will remain open and the duty Inspector and TLO will ensure regular site visits are made and that all public enquiries related to the encampment are dealt with promptly. This is to provide reassurance to the local community. The TLO will be the main point of contact for the Police. The Customer Service Centre of Bracknell Forest Council will be the main point of contact for the general public. The Police URN will be used at all times to report incidents relating to the encampment.
- 7.4 The TLO will give consideration to a joint agency meeting to discuss the encampment and proposals for eviction. This may also include a representative of the Parish Council and/or community representative.
- 7.4.1 The TLO will discuss with the persons on site their intentions on how long they intend to stay and whether further people are expected to join the encampment. Once all the relevant health, welfare and housing checks have been made and any concerns or requests referred to the relevant agencies the TLO will in conjunction with a representative of the Council landowner discuss options for tolerance and eviction. Where appropriate the TLO will serve a Direction on persons and property at the encampment. This direction will require the persons at the encampment to leave the land within 24 hours.
- 7.4.2 If the land is not vacated by the specified date BFC will consider the factors within **Appendix 3** and where appropriate start the process to evict from the land.
- 7.4.3 Once the encampment upon Council land has ceased due to a voluntary departure or eviction the Council will immediately take steps to clear the site of rubbish and consider appropriate measures to secure the land against further encampments. Where identifying Information is found amongst refuse it may be recorded and may be used in a future prosecution.

## 7.5 **Communicating with the Community**

The TLO will make contact with the local community in line with its internally agreed communication plan and provide basic information on the encampment and the process being followed. The Customer Service Centre team will also be briefed so that a basic update can be given to those that contact the Council.

## 8. **MONITORING THE JOINT STANDARD OPERATING PROCEDURE**

- 8.1 This Protocol has been produced and will be monitored by the officers within BFC and Bracknell Forest Local Police Area. The Protocol has been drawn up taking account of the guidance given in *'Managing Unauthorised Camping – A Good Practice Guide'*. Compliance with the Protocol is the joint responsibility of the Head of Regulatory Services and the local police area commander. Its effectiveness will be reviewed on a regular basis.
- 8.2 The Protocol is available through the Council website. Alternatively you can contact the Customer Service Centre on 01344 352000.



## POLICE POWERS UNDER SECTION 61

Section 61 is not a mandatory power however the Police may use it where;

Two or more people have entered land (land does not include highways) as trespassers with the common purpose to reside on the land. If this is the case one of the following has to occur before the Police can consider action using this power:

- Damage has been caused to land or property; **or**
- Threats, abusive, words or behaviour have been directed at the landowner, their agent or family; **or**
- Six or more vehicles are on the land at the time the senior officer attends to serve the notice; **and**
- One or more of the following aggravating factors apply:

### 1. Local amenities are deprived to communities.

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.

### 2. There is local disruption to the economy.

Local disruption to the economy could include forming an encampment on a shopping centre car park, or in an industrial estate, if it disrupts workers or customers, or on agricultural land, if this results in the loss of use of the land for its normal purpose.

### 3. There is other significant disruption to the local community.

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.

### 4. 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.

**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. In these cases, where a group may be compliant with the code of conduct, then simple trespass powers are more appropriate to be used by the landowner or Section 77 powers by the unitary authority.

NB: Section 61 CJPO Act relies upon reasonable steps being taken, by or on behalf of the land owner, to ask trespassers to leave in every case before police powers can be used. Thames Valley Police WILL NOT act as landowner's agents to request trespassers to leave land.

*Section 61 is not available for encampments on the Highway, in these circumstances offences of obstruction should be considered.*

## JOINT COUNCIL AND POLICE CODE OF CONDUCT FOR TRAVELLERS ON UNAUTHORISED ENCAMPMENTS WITHIN THE THAMES VALLEY POLICE AREA

To ensure that members of both the Settled and Travelling Communities can live together in a peaceful and unprejudiced way we expect you to comply with this code of practice and to inform us of any breaches that result from individuals who are not from your group or site. We expect you to treat the land you have occupied with respect, and to respect the rights of other people who also wish to use the area.

Pending any action to evict the following behaviour is not acceptable :

1. Forcing entry to land, by causing damage to any fixtures, fittings or landscaping (including planted areas). This includes digging away of earthwork defences, which have been placed at a landowner's expense to prevent trespass.
2. Causing any other damage to the land itself, or property on it. Particular care should be taken not to cause damage to those features provided as a public amenity.
3. Driving vehicles along any footpath or other right of way not specifically designed for road vehicles. This practice is not only illegal but is also highly dangerous.
4. Parking vehicles or caravans on any road or footpath that causes an obstruction to other people wanting to pass by. This includes parking immediately next to footpaths.
5. Dumping or tipping rubbish, waste materials or trade waste such as tree cuttings, rubble, etc. You will be provided with plastic refuse bags that will be collected during or after your stay at the site. It is your responsibility to keep the site clean and tidy. Traveller Liaison Officers can direct you to Civic Amenity Sites (Council tips) where you will be able to pay to dispose of trade waste.
6. Use of the area as a toilet. You must not deposit or leave human waste openly in public areas.
7. Abuse, intimidation or harassment of any person who is lawfully using the area.
8. Excessive noise or other forms of anti-social behaviour.
9. Animals that are not kept under control or that attack persons lawfully on the land, or nearby.
10. Interference with electrical, water or gas supplies. Any person(s) found abstracting electricity, or wasting quantities of water may be the subject of criminal proceedings.

These codes are the same standards of behaviour that are expected of the settled community. The Police and BFC are committed to ensuring that the rights and expectations of all parties that effect your stay are balanced and attended to in the most appropriate manner, however behaviour that is deemed unacceptable will not be tolerated.

### Important contacts:

Bracknell Forest Council	01344 352000
Berkshire East PCT	01753 860441
Hospital: Wexham Park Hospital, Slough	01753 633000
Local Authority Children Social Care	01344 352020
Household Waste and Recycling Centre, Longshot Lane	01344 352000
Magistrates' Court	01189 801800
CAB for Travellers	0844 4771141
Gypsy Council, Romford, Essex	01708 868986

## **Bracknell Forest Council – Criteria for eviction**

The Government guidance states that:

“in the absence of specific welfare needs, Authorities should consider the following when seeking to balance the needs of gypsies/travellers and the settled communities:

- The nature, suitability or obtrusiveness of the encampment.
- The size of the group, their behaviour and the level of nuisance.
- The number, validity and seriousness of complaints.”

### **Nature, suitability or obtrusiveness**

In line with the Statement of Policy, and subject to consideration of the welfare needs of the individuals, eviction will normally be sought where the land forms or is part of:

- school grounds, or interferes with the proper functioning of the school
- a public car park
- a highway
- a business/retail park/market
- a recreational site such as a public park, wildlife site or sports area
- an area unreasonably close to existing housing
- a site designated as requiring special protection due to wildlife, landscape or archaeological considerations or is a site of special scientific interest.

### **Size, behaviour and level of nuisance**

The size and behaviour of the group will make eviction necessary if:

- The number of vehicles exceeds six (as defined in Criminal Justice and Public Order Act 1994)
- There is evidence of damage to the property, land or environment.
- There has been fouling or dumping on the land.
- Animals belonging to the trespassers have not been kept under control.
- There has been intimidating behaviour by one or more of the trespassers.
- The same land has been occupied by others within the preceding three months.
- Where, taking into account the sensitivity of all parties, the number, validity and seriousness of complaints against the encampment demonstrates there is good reason for complaint.

### **Breaking of agreements or failure to negotiate agreements**

In considering whether to tolerate the encampment, the authority will take into account the willingness or otherwise of the trespassers to negotiate acceptable periods of occupation and standards of behaviour. The unwillingness to negotiate and/or failure to abide by agreements for both time and standards of behaviour will normally result in immediate action for eviction.