



Thames Valley Police and Local Authority

Joint Protocol for dealing with

Unauthorised Encampments

This document has been labelled OFFICIAL, which means:

- All information needs to be protected according to its sensitivity, but equally it can be shared where this is appropriate and helps deliver a policing and/or safeguarding purpose.
- Everyone is personally responsible for ensuring that information entrusted to them is handled appropriately and should use judgement and common sense to protect it accordingly.

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Aim

To ensure that there is an agreed framework and joint approach to dealing with unauthorised encampments, across the 18 Local Authority areas that make up Thames Valley Police. This will ensure that any use of available powers is consistent, proportionate, non-discriminatory and compliant with the Human Rights Act 1998 and the Data Protection Act 1998.

In addition, to ensure that Local Authorities and Thames Valley Police work together to effectively manage unauthorised encampments and minimise their impact. It is recognised that living a nomadic lifestyle is lawful and that some people may do so for cultural reasons. This protocol aims to take a balanced and proportionate approach to dealing with unauthorised encampments which is based on the objective assessment of the impact of the encampment in question. This will include close liaison and effective communication with landowners, settled communities and those encamped, in order to explain where action is taken/not taken and the reasons for this.

Excluded Content

This protocol does not deal with situations where individuals purchase land and occupy it without planning permission. This is categorised as an unauthorised development and the relevant Local Authority are the responsible agency who can use powers for such incidents usually through their Planning Department.

Similarly this protocol does not deal with fly tipping or large scale organised unlawful waste disposal. Large scale unlawful dumping of waste usually falls under the remit of the Environment Agency (see Appendix E). General waste left by those who have been resident on an unauthorised encampment is a matter for the landowner. Landowners can take civil action against those responsible for leaving waste, although it is recognised that this can be a difficult process.

The Local Authority is the prosecuting authority for fly tipping. However, it is recognised that there can be considerable costs involved for landowners and Local Authorities in clearing up sites that have been used by unauthorised encampments. Illegally depositing waste on land is an offence under the Environmental Protection Act 1990. When dealing with unauthorised encampments Police Officers should be aware of the need to record evidence of such behaviour. Information that would enable landowners and Local Authorities to take action against those responsible should be supplied, when it is in compliance with Data Protection legislation.

1. General Principles

- 1.1 An unauthorised encampment is where persons are camped on land that they do not own and where they do not have permission to reside. This can be in vans, trailers, tents or other temporary structures.
- 1.2 Responsibility for dealing with an unauthorised encampment initially rests with the landowner. However, where there are aggravating factors then there may be a need for Local Authorities and Police to consider taking action.
- 1.3 There are a range of powers available to landowners, Local Authorities and Police for dealing with unauthorised encampments (see Appendix A).
- 1.4 When responding to any unauthorised encampment it is the impact of the encampment that should be considered when deciding what action needs to be taken.
- 1.5 In accordance with Department of Communities and Local Government (DCLG) guidance, the Local Authority as lead agency for unauthorised encampments should take an active role in engaging with site residents and in particular will take the lead on sites established on their land that do not require immediate Police action.
- 1.6 It is for Local Authorities to decide how they apply the powers available to them. In two tier authorities such as Oxfordshire and Buckinghamshire, it is suggested that there is memorandum of understanding between District and County Councils to ensure that there is clear understanding of the role and responsibilities that each authority has.
- 1.7 The Police may be requested by a landowner to use their powers under the Criminal Justice and Public Order Act 1994. Criteria for use of Police powers are listed in appendix A.
- 1.8 In determining whether to use Police powers, a balance must be maintained between the rights of landowners, the settled community and those within the encampment. Police decision makers need to ensure any action is lawful, proportionate, necessary and the least intrusive option.
- 1.9 It should be borne in mind that trespass alone is not a criminal offence but a civil one. Police powers will only be used when the particular encampment is having a significant impact such as depriving a community of local amenities, a significant impact on the local economy/environment or where there is significant anti-social/criminal behaviour that requires immediate action to address (See Appendix B).
- 1.10 It will be for Police decision makers to determine what constitutes a significant impact when considering their use of Police powers. This will use a common sense approach taking into account the views of the landowner, Local Authority and evidence of any issues raised. Welfare considerations and the impact on normal policing activity, should resources need to be mobilised to enforce an eviction will need to be considered. Any Police response needs to be proportionate.
- 1.11 Police powers do not require a court process. Therefore officers must ensure that they act in a fair, objective and transparent way ensuring each encampment is considered on an individual basis. Any action must comply with Human Rights Act 1998, the Equality Act 2010, the Public Sector Equality Duty and the Police Code of Ethics.

- 1.12 Police powers under S61 CJPOA do not require a formal welfare assessment to be made prior to their use. However, officers should still consider if there are any welfare concerns relating to occupants of an unauthorised encampment when determining whether to utilise their powers. This should be balanced against the impact of the encampment on both the landowner and wider community.
- 1.13 Police decision makers when deciding whether immediate Police action is required should consider the range of powers available to landowners and Local Authorities and not how they are applied by a particular authority.

2. Police Action

- 2.1 On receipt of a report of an unauthorised encampment a Niche occurrence will be created. This is an incident report on the crime recording system.
- 2.2 A Police resource will be despatched to assess the site and determine, if possible, who owns the land and whether there is/is likely to be a significant impact on the landowner/local community. This information will be relayed to the duty supervisor for that area who will review the information. Where possible this visit should be conducted with a representative of the Local Authority. This may not be possible if it is outside of normal office hours.
- 2.3 If damage has been caused to gain entry to land this will be recorded as a crime and a proportionate investigation conducted (e.g. padlock broken or removed).
- 2.4 The jointly agreed Thames Valley Code of Conduct will be served on those present and details of any vehicles/persons recorded in Niche, where justification for doing so exists (See Appendix C for Code of Conduct). Details should only be recorded when there is a legitimate purpose such as where investigating offences, recording welfare concerns or recording details of visits and individuals spoken to for a specific purpose.
- 2.5 An officer of at least the rank of Inspector will review information and determine if the use of Police powers are justified following initial attendance. The rationale for the decision to not use or use the powers will be recorded in the Niche report.
- 2.6 The relevant Local Authority contact will be informed of the encampment as soon as practicable and current decision in relation to Police powers.
- 2.7 The landowner, if identified, will also be informed of the powers available to them. The current assessment in relation to justification for use or not of Police powers will be communicated to them by the Police.
- 2.8 Where a suitable alternative site exists to direct persons to, then the presumption should be that Police will look to use their powers under Section 62A of the Criminal Justice and Public Order Act 1994. However, it is recognised that there is a shortage of such sites and that use of this power is therefore likely to be limited.
- 2.9 Each Local Police Area (LPA) will review Niche occurrences for unauthorised encampments at the Daily Management Meeting to ensure oversight and a consistent approach to use of Police powers.

- 2.10 Each LPA will ensure that there is regular communication with the landowner and Local Authority to ensure that it is clear where current responsibility for any action lies and decisions can be reviewed if information changes.
- 2.11 Local Neighbourhood officers may also need to communicate with the local community and those on an unauthorised encampment for the duration of an encampment to manage any tensions that may arise and monitor any local impact.
- 2.12 Local Neighbourhood teams will monitor unauthorised encampments for any developments on the site with regard to welfare and concerns of the settled or encamped communities and update the Local Authority accordingly.
- 2.13 Where justification exists, TVP Officers who visit any encampment should gather evidence of any offences that the landowner, Local Authority or Environment Agency may wish to seek to prosecute such as fly tipping, by recording evidence on body worn video or making a written record.
- 2.14 Any hate crimes/incidents relating to individuals linked to an encampment will be recorded as per National Crime Recording Standards.
- 2.15 Any media releases will be jointly agreed between Thames Valley Police Press Office and the Local Authority single point of contact (SPOC).

3. Local Authority Actions

- 3.1 On receipt of a report of an unauthorised encampment the Local Authority will ensure a record is made (agreed joint form at Appendix D).
- 3.2 The Local Authority will take primacy for dealing with unauthorised encampments and assess what action they will take using the powers available, unless immediate action is required and the Police have assessed the situation and determined that S61 or S62A Criminal Justice and Public Order Act powers are to be used. Where the Local Authority determine that it is not appropriate to use their powers they will work with the Police and landowners in managing any community concerns and in ensuring that landowners understand the options available to them.
- 3.3 Where appropriate a Local Authority representative will visit the site and make an assessment, which will include a welfare assessment of those present and serve code of conduct. Where possible it is desirable that this representative attend with Police when they make their initial assessment.
- 3.4 The Local Authority will inform the Police of the unauthorised encampment and if known the identity of the landowner and those present at the site.
- 3.5 A decision will be made by the Local Authority about use of their available powers and this decision will be communicated to the landowner and Police. The rationale will be recorded in writing.
- 3.6 The Local Authority will inform Police if there is an alternative site that persons can be directed to under S62A of the Criminal Justice and Public Order Act 1994.
- 3.7 The Local Authority will maintain close liaison with the landowner, Police and persons present on the unauthorised encampment for the duration of its presence to ensure it is clear where responsibility for any action lies and any welfare concerns are identified.

- 3.8 If information changes the Local Authority will review its decision in relation to whether it is appropriate to consider use of its powers.
- 3.9 The Local Authority will also record any community concerns in writing and share this information with the Police and the landowner.
- 3.10 The Local Authority will make Police aware of any information suggesting a hate crime/incident has occurred relating to any individual linked to an encampment to allow for it to be recorded under the National Crime Recording Standards.
- 3.11 Where appropriate the Local Authority will set a communication plan to keep the settled community and those who are encamped informed and will consult with Thames Valley Police in relation to this.
- 3.12 Any media releases will be jointly agreed between Thames Valley Police Press Office and the Local Authority SPOC.

4. Escalation Process

On occasion there may be disagreement as to the action to be taken and which agency should be taking the lead role in relation to a particular unauthorised encampment. Where there is disagreement between the Local Authority and Thames Valley Police about the action to be taken, then the issues should be documented and escalated to senior management for further discussion and resolution. In Thames Valley Police this will be the LPA Commander/Deputy LPA Commander. For Local Authorities this will be the identified Director/Senior Manager.

5. Annual Review

To ensure a consistent approach to unauthorised encampments and the use of Police and Local Authority powers it is recommended that an annual review takes place. If unauthorised encampments are recorded on Niche then the Police should be able to accurately assess how many encampments have been reported on each Local Police Area. Similarly if Local Authorities record encampments that are reported to them in writing, then this should ensure that an accurate assessment can be made of the number of encampments that have occurred in each area. This will enable Thames Valley Police and Local Authorities to establish whether powers have been used proportionately and consistently. It will also establish whether there is a need to look at how powers are applied, or what provision is made for unauthorised encampments across the Thames Valley Area. Finally this review will be able to establish if there is a need to raise awareness of available powers and how they should be applied internally or externally.

This review should consider:

1. How many unauthorised encampments there have been in the previous 12 months?
Is this an increase on previous year?
2. Are there particular vulnerable locations which may need to consider target hardening?
3. Is there evidence of the same people being involved in different unauthorised encampments that have caused significant damage that need a longer term tactical plan/strategy to be considered?
4. Have Police/Local Authority powers been used in a consistent manner?
5. Has use of powers been lawful and proportionate?

6. Is there a need to look at increasing awareness for staff?
7. Is there a need to raise awareness of powers and responsibilities for local landowners through existing forums e.g. Parish Council meetings/rural groups?
8. Identify organisational learning for Local Authority or the Police and implement learning plan with agreed timescales.
9. Identify if there are regular welfare issues arising that need to be considered and steps taken to mitigate these.

This annual review will be organised by Thames Valley Police, Local Policing Department.

6. Other Considerations

- 6.1 There are a number of innovative approaches to dealing with unauthorised encampments being adopted across England and Wales. Some Local Authorities are investing in transit sites to ensure that there are alternative sites to direct persons to. This enables the use of Police powers under S62 Criminal Justice and Public Order Act 1994. As there is an alternative site to direct persons to, there are likely to be fewer welfare or Human Rights considerations when deciding to make use of this power. See ODPM Guide to effective use of enforcement powers for further information.
- 6.2 Common law powers are used very effectively by some Local Authorities to deal with unauthorised encampments. This may be an option Local Authorities within the Thames Valley wish to explore further. In Sandwell Borough Council Area the District Council are using a private company of bailiffs to enforce any eviction and will put private landowners in touch with this firm if they wish to look at using common law powers to evict.
- 6.3 Some Local Authorities are also using contracts to agree the length of time that an unauthorised encampment may remain at a particular site e.g. negotiated stopping.
- 6.4 In some areas preventative injunctions have also been used to stop certain sites being used by those looking to set up unauthorised encampments. Again this may be worth exploring further to increase the range of options available.
- 6.5 The annual review can consider approaches from other parts of the country such as those listed above and share ideas between different authorities and Thames Valley Police. This will ensure future good practice and new ideas are considered by the group.

Appendix A: Available Powers

Landowner (This includes the Local Authority when it is their land)	Part 55 Civil Procedure Rules allow them to seek possession of their land through the Courts. • Can only be used by landowner • Used to regain possession of land • Require Civil Court procedure • Enforced by County Court bailiffs • No sanction if trespassers return Common Law Powers • Can only be used by landowner • Used to regain possession of land (tort of trespass) • Does not require involvement of the Courts • Enforced by landowner and/or private bailiffs • No sanction if trespassers return • Trespasser who entered land peaceably should be asked to leave and given opportunity to leave prior to force being used • May use no more force than is reasonable to evict • If considering use landowner should notify Police • Police may wish to be present to prevent a Breach of Peace • If Police believe it is inappropriate to attempt eviction in the circumstances action should be delayed until Police believe safe to continue
Local Authority	S77-78 Criminal Justice and Public Order Act 1994 • Can only be used by Local Authority • Can be used on any land irrespective of ownership • Used to remove identified individuals from land • Only require involvement of Courts when unauthorised campers do not leave when directed • Enforced by Local Authority Officers or private bailiffs employed by them • Return to location within three months carries criminal sanctions Injunctions • Can be used to protect vulnerable sites • Where intelligence suggests will be targeted • Believed disruption will be caused. • In defined area • Pre-emptive power Tent/caravan site licensing powers • These powers limit the use of land as caravan/camp sites. Byelaws • Pre-emptive power to prohibit encampments

	• Powers of seizure and retention of property can be applied, which could include tents and sleeping equipment. Obstruction Of Public Highway • Need to show there is an obstruction being caused • Can apply to court for a removal and disposal order Planning powers • There are a number of powers under the Town and Country Planning Act 1990 that can be considered depending on the circumstances Public Health Act 1939 S268 • Applies to tent, shed, van or other similar structure • Where in such a state that prejudicial to health of occupants • Due to absence of proper sanitary accommodation gives rise to nuisance or conditions prejudicial to health on the site or on other land
Police (Police powers are discretionary)	S61-62 Criminal Justice and Public Order Act 1994 • Can only be used by Police. (Discretionary Power) • Can be used on any land except the highway • Used to remove identified individuals from land • Criteria must be met e.g. 2 or more persons trespassing and either caused damage, been threatening to landowner or agent, have six or more vehicles with them. Landowner must have taken reasonable steps to require persons to leave • Does not require involvement of Courts • Enforced by Police • Return to location within three months carries criminal sanctions S62A-E Criminal Justice and Public Order Act 1994 • Can only be used where alternative site available • Can only be used by Police • Can be used on any land • Used to remove identified individuals from land • Does not require involvement of Courts • Enforced by Police • Return to Local Authority area within three months carries criminal sanctions

(This list is not exhaustive as there may be other powers available to deal with specific issues or problem behaviours associated with a particular unauthorised encampment).

Appendix B: Use of Police Powers

As per National Police Chiefs Council (NPCC) and DCLG guidance, Local Authorities have a leadership role to play in the management of unauthorised encampments. NPCC recommend Police should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments where:

1. Local amenities are deprived to communities or there is significant impact on the environment

This could include a recreation ground, public park, school field, public car park. There must be evidence that other sections of the community are being deprived of the amenities before action is taken.

2. There is local disruption to the economy

This could include significant disruption to workers or customers using business premises or if an encampment is on agricultural land and it results in loss of use of the land for its normal purpose.

3. There is other disruption to the local community or environment

This would include ASB/criminal activity linked to those present at an encampment, which is so significant that prompt eviction by Police becomes necessary rather than by other means.

4. There is a danger to life

For instance where an unauthorised encampment is on the edge of a motorway and there is a danger of children or animals straying onto the carriageway.

5. There is a need to take preventative action

For instance where a known group of individuals have caused or persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at a newly established site.

In all the above cases police action will still need to be lawful proportionate and necessary and compliant with Human Rights and Equality legislation. The mere presence of an encampment without any aggravating factors should not normally create an expectation that police will use eviction powers. If Section 61 CJPOA 1994 powers are to be used it will also be necessary to show that the landowner has taken reasonable steps to ask trespassers to leave before police powers can be used.

Appendix C: Written Record**LOCAL AUTHORITY SITE ASSESMENT/RECORD FORM**

DATE and TIME of visit:		Date and TIME of form completion:
SITE LOCATION:		
POLICE URN:		
LANDOWNER:		
DAMAGE PRESENT:	(Was damage caused to gain entry or has damage been caused since arrival caused). Evidence: photographs, CCTV, Witnesses	
LITTER or WASTE PRESENT:	What, how much, where? Evidence: photographs, CCTV, Witnesses	
ANIMALS PRESENT:	(Numbers tied-up/untied. Have group been advised to tie up animals? What is the risk to the public?)	
WHAT IS THE IMPACT TO THE PUBLIC? LANDOWNER?	Significant/Minimal/No impact (Give reasons)	

Appendix D: Codes of Conduct

Document Disclosable under CPIA

Unauthorised Encampments Code of Conduct

To ensure members of the settled and travelling communities or others who may live a nomadic lifestyle can live together in a peaceful and unprejudiced way, we expect you to comply with this Code of Conduct.

We expect you to treat the land you have occupied with respect and that you respect the rights and freedoms of other people who also wish to use the area.

Behaviour that may result in your eviction from this site includes the following:

- **Camping upon any land designated as a public amenity**, such as parks, recreation areas, school fields and similar locations. (Note this is not an exhaustive list)
- **Interfering with the rights and freedoms of other members of the public, including interrupting the operation of legitimate businesses.**
- **Forcing entry to land**, by causing damage to any fixtures, fitting or landscaping, including planted areas. This includes digging away of earthwork defences, which have been placed at landowner's expense, to prevent trespass.
- **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 public amenities.
- **Driving vehicles along any footpath, or highway not specifically designed for road vehicles.** This practice is not only unlawful but is highly dangerous.
- **Parking vehicles or caravans on any road, footpath or other highway that causes an obstruction to other people wanting to pass by.** This includes parking immediately next to footpaths.
- **Dumping or tipping rubbish, waste materials or trade waste such as tree cuttings rubble, etc.** It is your responsibility to keep the site clean and tidy. Council Traveller Liaison Officers can direct you to Civic Amenity Sites (Council Tips) where you will be able to pay to dispose of trade waste.
- **Use of the area as a toilet.** You must not deposit or leave human waste openly in public areas.
- **Abuse, intimidation or harassment of any person who is lawfully using the area.** Excessive noise or other forms of anti-social behaviour.
- **Animals that are not kept under control or that attack persons lawfully on the land, or nearby.**
- **Interference with electrical, water or gas supplies.** Any person/s found abstracting electricity, or wasting quantities of water may be subject of criminal proceedings.

These codes are the same standards of behaviour that are expected of the settled community. Thames Valley Police are committed to ensuring that all policing issues that affect you, are balanced; however behaviour that is deemed unacceptable within society will not be tolerated.