

Protocol for Managing Unauthorised Encampments

Commented [GJH1]: This is a new document and has been completely rewritten in conjunction with the Police and the Traveller Liaison Service at NCC. Previously 44 pages, cumbersome, too technical and did not reflect current Police stance and processes



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Commented [GJH2]: Previous contents 12 sections and 7 appendices - now abridged and succinct

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1: Introduction

Overview – why a Protocol?

1. The Government recommends the use of protocols between local authorities, the police and other relevant agencies as being highly effective in establishing how unauthorised encampments will be dealt with, to make sure that all parties are clear about their responsibilities and how they work together.
2. This protocol has been prepared to ensure that:
 - Everyone - landowners, those seeking to reside on land and the settled community - understands their roles and responsibilities;
 - The rights of everyone are considered fairly, consistently, and proportionately;
 - There are clear timeframes within which statutory agencies will act;
 - There are clear criteria by which an encampment may be tolerated or evicted.

The guiding principles of this protocol

3. The guiding principles of this protocol are:
 - Equal consideration to be given to the rights of travelling, temporary and settled communities;
 - Balanced consideration to be given to each encampment on its own merits;
 - Toleration where possible, robustness where necessary;
 - Proportionality of all actions
4. The owner of the land on which the unauthorised encampment is located is responsible for deciding whether the encampment should be tolerated or evicted, in accordance with their legal rights and responsibilities. This may include taking into account any recommendations of a case conference.

Definition of an Unauthorised Encampment

5. An unauthorised encampment is where any person camps (in vans, trailers, tents, or any other moveable accommodation) on land that they do not own, and where they do not have permission to reside.
6. Gypsies, Roma, and Travellers are the main group residing on temporary unauthorised encampments, in most cases, due to their nomadic lifestyle. Though, there has been an increase in non-Travellers trespassing to reside.

Definition of an Unauthorised Development

7. An unauthorised development is where the person owns the land that they reside on but does not have planning permission for the developments they have undertaken or started to undertake. An unauthorised encampment is not necessarily unauthorised development.

Commented [GJH3]: Background of GRT removed
Local statistics removed
Ref to GRT Liaison Group Removed
Why a protocol rewritten

Commented [GJH4]: New

Commented [GJH5R4]: Duties of Partners Removed

Commented [GJH6R4]: Police Section removed and added later

Commented [GJH7]: Health Service, Childrens Services, Race Equality Council, Environment Agency, Fire Service, Broads Authority, sections removed

Commented [GJH8]: No change to definition

Legislation that underpins the protocol

8. Statutory agencies have legal responsibilities to ensure the welfare of those residing in unauthorised encampments, and a range of powers to take enforcement action, where this is appropriate.
9. These legal duties and powers are set out in the following Government guidance: 'Managing Unauthorised Camping – A Good Practice Guide 2004 and the supplement to this guide; the 'Guide to effective use of enforcement powers. Part 1: Unauthorised encampments 2006' and 'Dealing with illegal and unauthorised encampments, summary of available powers' 2015, published by the Department for Levelling Up, Housing & Communities.

Commented [GJH9]: HRA section removed, and Powers for removal removed as too technical and not required.

This protocol primarily addresses unauthorised encampments by Gypsies, Roma, and Travellers, although the principles may apply to other types of encampments.

Local authorities adopting this protocol may have separate policies or procedures to deal with these other types of encampments and adoption of this protocol does not prevent authorities from applying these separate policies or procedures.

2: Roles and responsibilities

Commented [GJH10]: Rewritten Section - Police and NGRTLS agreed wording

Commented [GJH11]: Fly tipping section removed

Residents of the settled community

1. Most new unauthorised encampments are brought to the attention of the police or local authority by calls from the public. The authorities rely on this information, without which they would often be unaware of encampments.
2. When notifying relevant authorities of an encampment, only the facts should be reported. Because an encampment is new, it does not always follow that it is unlawful. What is most important to the authorities is the type of encampment, number of vehicles and people in attendance, the date of arrival and the ownership of the land (if known).

Norfolk & Suffolk constabularies

3. The police are often the first agency to be notified of a new unauthorised encampment. The police have a duty to enforce the law including the Crime, Sentencing and Courts Act 2022 and will often take early action to assess the situation. Where there are reports of violence; threats or intimidation to landowners or occupants of an unauthorised encampment, or there is criminal or environmental damage caused, these will be taken as aggravating factors which the police will assess.
4. Before the police consider what action, they may wish to take, they will generally complete a risk assessment to determine whether a crime has been committed and what appropriate, proportionate response is required. This risk assessment will consider a range of factors and operational requirements.
5. The police will notify relevant local authorities of the presence of an unauthorised encampment, giving sufficient notification (where possible) for welfare enquiries and site assessments to be carried out. Police officers are not under any obligation to undertake welfare enquiries, although they must take into account humanitarian considerations when considering action to remove an encampment.
6. The police will also generally consult with the landowner, if known, in order to gather all the facts and may contact other third parties as and when required.

Private landowners

7. When an unauthorised encampment occurs on private land it is generally the responsibility of the landowner to decide how they want to respond and to take appropriate action.
8. If a local authority receives a report of an unauthorised encampment on private land, they will endeavour to establish who the private landowner is; give information to the landowner about the date of arrival of the encampment and advise the landowner of their responsibilities, the law and what powers are available.
9. If the landowner does not take action to recover the land, the local authority may have to consider whether planning or licensing offences are taking place.

County, city, district, borough councils

10. If an unauthorised encampment takes place on land owned by the county, city, district or borough council, the relevant local authorities should ensure that it is acted upon swiftly. They should nominate a named officer (or appoint an agent) who has the appropriate level of authority to make operational decisions on the ground, and cover arrangements should be put in place for those instances where this officer (or agent) is unavailable.
11. The local authority (or agent) is responsible for engaging with the encampment and conducting welfare enquiries and site assessments. It is the responsibility of the agency with the statutory duty to ensure they have discharged any statutory responsibilities towards the occupants under Children's Act, Care Act, Education Act, homelessness, or other legislation.
12. Where required, the local authority will support access to service providers with statutory duties (e.g., health, education, or social care). The local authority may take account of the views of other agencies and the settled community to decide whether the encampment should be tolerated or evicted and they should liaise with the police in order to establish whether a criminal offence has been committed under the Criminal Justice and Public Order Act 1994 (as amended).

Town and parish councils

13. When an unauthorised encampment occurs on land owned by a town or parish council, it is the responsibility of the town or parish council to decide how they want to respond and to take appropriate action if they wish to remove the encampment. If they are of the view that a criminal offence has been committed then they should contact the police so that they can assess the encampment and make such a determination.
14. It should be noted that where the police do not believe that a criminal offence has been committed or it is reasonable to undertake any other formal action to remove the encampment, the town and parish councils have the power to serve a direction to leave under common law or apply to the courts for a possession order to remove trespassers.

Elected members

15. Elected members have a duty to represent the interests of all residents including Gypsies, Roma, and Travellers as well as the settled community. Elected members- especially those members who represent the geographical area where the encampment is situated- can make representations at case conferences on behalf of the settled community or the occupants of unauthorised encampments.

The Norfolk & Suffolk Gypsy Roma and Traveller Liaison Service

16. The Government recognises that in some cases the presence of a neutral third party may be helpful. Enforcement action can be stressful, particularly for private landowners. The presence of a third party to negotiate a solution may help action to go more smoothly, minimising distress for those involved.
17. Norfolk and Suffolk County Councils operate a Gypsy, Roma, and Traveller Liaison Service (NSGRTS). The NSGRTS will be the lead authority for all encampments upon Norfolk County Council owned land including highways and can give advice to private landowners on what they need to do to manage or remove an encampment.

3: Local authority procedure for managing unauthorised encampments

1. Following a report of an unauthorised encampment, the police will take early action to assess the situation, liaising with relevant statutory agencies.
2. The district, city, or borough council within whose boundary the new unauthorised encampment is located is responsible for establishing who owns the land.
3. The lead responsibility for all further actions is then handed over to the landowner.
4. If the landowner is a local authority (they will be known as the 'Lead Authority'), the local authority or their agent will aim to visit the site within two working days of being first notified of the unauthorised encampment. The purpose of this visit is to conduct a site assessment and make welfare enquiries of the occupants. This includes:
 - Establishing numbers of vehicles or other structures on the encampment; hazards that may make residing on the encampment dangerous to the occupants or settled community; nuisance or inconvenience to nearby residences, businesses, or amenities; travelling patterns of the group concerned; the presence of domestic or trade waste, or other environmental concerns; if animals are present, and if they pose a threat to the safety of the settled community.
 - Ensuring the encampment has been provided a Code of Respect and any other relevant support and guidance.

Commented [GJH12]: Preventing Further UE's section removed, out of date and case law changing constantly (injunctions etc)

5. If a case conference is planned (see Appendix 1), this site assessment will be sent to relevant statutory agencies who are due to attend so that they have all of the relevant facts.
6. In some cases, it may be appropriate for the police, in conjunction with the local authority, to seek to remove the encampment immediately however, if there is no immediate need then the case conference procedure may be used. A case conference should normally be convened by the lead authority within five working days of notification of the arrival of the encampment should it be thought necessary.¹
7. The lead authority will notify all parties involved in both parts of the case conference procedure of the decision as soon as possible and within five working days.

¹ Where considered necessary, relevant local agencies will participate in a short daily strategy discussion (e.g., via conference call), chaired by the lead authority, to allow for information and intelligence to be shared and for the risk assessment to be reviewed daily leading to joint decision-making. The police will also be asked to participate in this process.

4: Criteria for tolerating or evicting unauthorised encampments

Commented [GJH13]: New section rewritten, clearer to public that process transparent and proportionate - no significant change to previous principles

The decision to tolerate

1. Government guidance suggests that if the encampment residents are cooperative, only wish to stay for a short time and the encampment is not in a sensitive location, it may only be necessary to monitor the situation pending their departure. Where unauthorised campers have chosen an unobtrusive location in which to camp it may be preferable to agree a departure date with them.
2. Where it is not expedient to take enforcement action against unauthorised encampments, local authorities could consider providing basic facilities, such as skips and chemical toilets, for a reasonable fee payable by the residents on the site. The county/city/district/borough council may provide plastic bin bags for occupants of the unauthorised, encampment. The city/district/borough council may make arrangements to collect the waste in accordance with their own local policies.
3. Where the lead authority agrees to tolerate an encampment for a period of time, it will request members of the encampment to agree to a Code of Respect. Significant failure to observe the terms of such an agreement will result in the lead authority considering enforcement action.
4. The lead authority may agree a specific fixed period that an encampment can be tolerated for, or it may decide to tolerate the encampment on a 'rolling toleration' basis, which is until a suitable alternative location becomes available. In such a scenario, it would be expected that the encampment is visited at least weekly, and the situation reviewed with statutory agencies at least every 28 days.
5. Where an encampment is to be tolerated, an officer of the lead authority (or their agent) will visit the encampment at least once a week to ensure the Code of Respect is being followed. They will be the main point of contact for members of the public wishing to discuss the encampment.

The decision to enforce

6. There are locations where action to remove an encampment will be more likely, such as on the grounds of safety or because the presence of the encampment is seriously disrupting the ability of the settled community to make use of facilities or to conduct their business, for instance, if the encampment:
 - Is likely to cause significant damage, disruption, or distress;
 - Is close to a busy highway, potentially endangering the safety of the campers and others;
 - Is located on operational land (for example on parks, school ground during term time, sports fields, retail parks, car parks etc);

- Prevents the use of the land for its lawful intended purpose by its owners;
 - Interferes with the peaceful enjoyment of a neighbouring property or creates an impact upon the use or habitation of a neighbouring property;
 - Is located on contaminated land;
 - Causes harm to the local environment or amenities which includes fly tipping or lighting fires to burn waste materials;
 - Is located on an environmentally sensitive area such as a Site of Special Scientific Interest (SSSI);
 - Is harming good community relations;
 - Is not adhering to the code of respect;
 - Has exceed the length of time previously agreed by the lead authority.
7. If it is decided that an unauthorised encampment cannot be permitted to stay, but one or more of the occupants has a welfare need that requires urgent attention, the occupant/s should be given adequate time to address this with relevant care providers and an appropriate departure date agreed.
8. This means that removal of the encampment, or part of the encampment, could be delayed whilst this urgent welfare need is addressed.
9. It is important to note that if the site is particularly sensitive or hazardous to the wider public or members of the encampment themselves, it may be appropriate for the local authority or the police, to seek to remove the unauthorised encampment immediately.

Appendix 1

The Case Conference Procedure

Commented [GJH14]: Clearer explanation of case conference procedure and roles and responsibilities clearer

Introduction

1. The Government recommends that where possible, an interagency approach should be taken by statutory agencies when making decisions about how to deal with an unauthorised encampment on land owned by a local authority. Especially where the encampment is not in a critical location.
2. A case conference brings together relevant statutory agencies and stakeholders such as elected members and representatives from the settled and travelling communities, to ensure that the rights of all communities are heard and considered fairly, consistently, and proportionately.
3. Statutory agencies at the case conference listen to representations about the encampment and consider the findings of welfare enquiries and the site assessment before making a decision about whether the encampment should be tolerated or evicted. This may include stating a timescale for tolerating or removing the encampment and conditions.
4. The case conference provides a sound basis for enforcement action on land where toleration is not appropriate.

The case conference process

Part 1: stakeholders' meeting

5. The stakeholders' meeting is open to all parties who have a significant interest in the unauthorised encampment. Local authority officers, the police, elected members and occupants of the encampment (or their representatives) are invited as a matter of course, though numbers may be limited at the lead authority's discretion.
6. This part of the meeting is designed to ensure that the views of all parties are recorded and considered before a decision is made.
7. It is expected that the process will normally take no longer than one hour, at the end of which all parties apart from officers of statutory agencies will be asked to leave. Officers will remain to decide a course of action to recommend to the lead authority.

Part 2: officers' meeting

8. The officers' meeting is open to officers of statutory agencies involved in the encampment. The purpose of this part of the meeting is to arrive at a decision as to whether the encampment should be tolerated, or whether action should be taken to seek its removal. Personal or otherwise confidential information not suitable for the public domain will be considered during this part of the meeting, subject to data protection and information sharing protocols.

9. Consensus will be sought by the lead authority as to what action (if any) should be taken, which may require some level of compromise and/or agreeing of terms for the duration of the encampment. While the decision will ultimately rest with the lead authority, action by the police or application to the courts for possession of the land by the lead authority will normally be strengthened by consensus.
10. A recommendation is proposed and agreed as appropriate (local authority's may wish to refer recommendations to their legal teams to review before confirming a final decision).

Notification of decisions

11. All parties involved in both parts of the case conference will be notified of decisions made as soon as possible and within five working days. Parties may contact the lead authority if the need is more urgent.
12. Notification of decisions will normally be by email and will include case conference notes. Where parties do not have email access all reasonable efforts will be made by the lead authority to inform parties by other means.

Case conferences do not impact on a statutory agency's rights to take action on their own in accordance with their procedures and statutory responsibilities, neither do they provide an alternative to legal proceedings. Case conferences are used to find ways to respond to unauthorised encampments and protect the rights of all communities.

Chair of the case conference and members

13. Case conferences are chaired by the relevant lead authority (or their agent).
14. The range of agencies involved is dictated by the issues under discussion. The standing members may include:
 - A representative of the lead authority (chair);
 - The relevant nominated city, district or borough council officer;
 - Education or welfare officers;
 - The police designated officer;
 - A representative from the encampment;
 - Relevant elected members/s representing the views of the settled community, should the elected member/s wish to be involved
15. And where relevant:
 - Legal representatives from the lead authority;
 - Environmental services;
 - The relevant health authority;
 - Children and young people's services;
 - Adult and community services;
 - Any other party, as appropriate and agreed with the lead authority

Appendix 2

Commented [GJH15]: New section to provide clarity as to what is expected with regards a tolerated encampment

Code of Conduct for encampment occupants

1. Standards of behaviour on unauthorised encampments are the same as those expected of the wider community. The list below may be amended to reflect specific conditions for a particular encampment.
2. Intimidation from or towards encampments will not be tolerated.

Encampments are asked to:

- Please be considerate to other people and businesses near to the encampment;
- Please drive carefully in and around the encampment and do not drive on landscaped areas;
- Please space your caravans at least 6 metres apart and park away from other groups (this is to reduce fire risk);
- Please ensure that any children are adequately supervised at all times;
- Please do not play loud music or use loud equipment (i.e., generators);
- Please do not damage any land or property and please report any damage to your property to the police;
- Please do not have open fires in or around the encampment;
- Please dispose of all waste at official waste and recycling centres - use plastic bags for domestic rubbish and leave at agreed collection points if appropriate;
- Please keep animals under control at all times and clear up after them;
- Please do not block rights of way and do not prevent the local community using any adjacent facilities.
- Please keep the site and surrounding area clean and hygienic;

Note:

Compliance with the above does not constitute permission to remain on the land.