

## **Managing Unauthorised Encampments in The Royal Borough of Windsor and Maidenhead**

**Report to:** Crime and Disorder Forum  
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### **Background**

Gypsies and Travellers are a part of British life, and have been so for many centuries. They make up a very small minority within the wider population. Some Gypsies and Travellers live in caravans or other vehicles and follow a lifestyle, which is nomadic or semi-nomadic, in that it involves travel during at least part of the year. At present there are more Gypsy/Traveller caravans in circulation than there are 'authorised' legal places for them to stop. It is estimated there are approximately 150 000 Gypsy /Travellers in Britain and around 3,500 Gypsy/Traveller caravans on unauthorised sites.

The arrival of Gypsies / Travellers in an area invariably provokes strong reactions, and can result in tensions between the Gypsies, Travellers and the settled community. Responsibility for managing unauthorised encampments lies with the Local Authority and the Police. The Royal Borough Of Windsor and Maidenhead approved a policy for Managing Unauthorised Encampments on 21<sup>st</sup> June 2001, which was based on Government Guidance at the time.

Unauthorised camping is a matter of trespass, which is, a civil offence with powers of eviction available to landowners, the Local Authority and the Police. Some encampments are associated with criminal and anti social behaviour, which is the responsibility of the Police and other enforcement agencies, including the local authority.

This report outlines the powers and consideration relating to managing unauthorised camping, in order to provide background information to inform discussions at the Crime and Disorder Forum on 21<sup>st</sup> October 2008.

### **Making Decisions on Unauthorised Encampments**

There are some locations where camping will not be acceptable, each site has to be considered on its merits against criteria such as health and safety considerations for the campers, traffic hazards, public health risks, serious environmental damage, genuine nuisance to neighbours and proximity to other sensitive land uses. If unauthorised campers refuse to move from an unacceptable location eviction will be commenced. Eviction processes are governed by legislation and guidance, which require that welfare enquiries are the first step in any eviction action commenced by the local authority.

## **Welfare Enquiries**

Local authorities may have obligations towards unauthorised campers under legislation regarding children, homelessness and education. Some form of effective welfare enquiry is necessary to identify whether needs exist which might trigger these duties or necessitate the involvement of other sectors, including the voluntary sector, to help resolve issues.

The Human Rights Act applies to all public authorities including local authorities, police, public bodies and the courts. With regard to eviction, the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The human rights of members of the settled community are also material if an authority fails to act to curb nuisance from an encampment.

## **Powers Available to Local Authorities**

Any landowner including a local authority can obtain a possession order in the civil courts requiring the removal of trespassers from property, including land. Local Authorities can also use section 77 of The Criminal Justice and Public Order Act 1994 which gives local authorities in England and Wales powers to make directions to leave land being used by itinerant groups. It is an offence to fail to comply with such a direction. In proceedings for an offence under this section, it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable, or his re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency.

If the direction to leave is not complied with, the local authority can apply to magistrates' court for an order requiring the removal of vehicles and any occupants from the land. Local Authorities must ensure that all policies and procedures relating to common humanity and statutory duties are adhered to, to reduce the scope for challenges through the courts.

## **Powers Available to the Police**

Under section 61 of the Criminal Justice and Public Order Act 1994 the police have discretionary powers to direct trespassers to leave land if reasonable steps have been taken by or on behalf of the landowner/occupier to ask them to leave and there are two or more people intending to reside on the land. Any one of a three further conditions must be met:

- if 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
- those persons have between them six or more vehicles on the land.

Guidance states that there can be no blanket policies for use of section 61, each situation must be judged individually but it can be considered where there is evidence:

- o of unacceptable behaviour by unauthorised campers at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction;
- o significant disruption to the life of the surrounding community;
- o serious breaches of the peace or disorder caused by the encampment.

Case law has established that, while police officers do not have to undertake welfare enquiries as such, they must be aware of humanitarian considerations in reaching their decisions and must ensure that all decisions are proportionate.

### **Code of Conduct**

Whilst on a site unauthorised campers are expected to comply with the same standards as the settled community, codes of conduct are discussed with all occupiers covering:

- o damage to land,
- o driving vehicles on land or footpaths,
- o causing an obstruction,
- o dumping or tipping domestic or trade waste
- o harassment of any person lawfully using the land,
- o excessive noise or other forms of anti social behaviour,
- o keeping animals under control,
- o arrangements for fresh and foul water.

Where unauthorised campers have occupied a local authority site steps will be taken to clear the site of any refuse as soon as practicable after it has been vacated.

### **Welfare and Education**

Occupiers of local authority land are provided with information on local health facilities and the Thames Valley Consortium Traveller Education Service are advised.

### **Facts and Figures in RBWM**

The table below outlines the number of unauthorised encampments in the borough since 2000 and the activities undertaken.

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
No of encampments	16	27	21	6	7	3	5	3	3
Section 77 action	4	10	3	0	1	0	0		1
Section 61 action	7	6	7	3	3	0	4	1	0
Private landowner action*	5	7	10	3	2	2	1	2	2
Left by agreement	0	4	1	0	1	1	0	0	0

\* Only includes those reported to RBWM

**Site Provision**

Under the Caravan Sites Act 1968 all Local Authorities were required to provide Gypsy caravan sites. There are two sites in the Borough at Waltham St Lawrence and Datchet, these are permanent residential sites and together accommodate 25 families. There are no short stay sites in the borough to which unauthorised campers can be directed.

**Background Papers**

RBWM & Thames Valley Police Joint Policy on Managing Unauthorised Encampments – June 2001  
Guidance on Managing Unauthorised Camping – Department for Communities and Local Government - February 2004

Department for Communities and Local Government - website [www.communities.gov.uk](http://www.communities.gov.uk)