



**Devon & Cornwall Police**  
Building safer communities together

<b>Force Policy &amp; Procedure</b>	<b>Unauthorised Encampments</b>
<b>Reference Number</b>	<b>D286</b>
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<b>Policy Ownership</b>	<b>LPP Department</b>
<b>Portfolio Holder</b>	<b>Assistant Chief Constable (LPP)</b>
<b>Links or overlaps with other policies:</b>	<b>D285 – Hate Crime Policy D51 – Grading and Deployment Policy D32 – Records Management Policy</b>

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**1.0 Policy Statement [FOIA Open]**

- 1.1 To provide a structured consistent response to unauthorised encampments throughout the Force area ensuring decisions are lawful balanced, appropriate and capable of withstanding scrutiny and challenge.
- 1.2 To promote good race relations by providing a proportionate and effective response to unauthorised encampments.
- 1.3 To provide an appropriate policing service and reassurance to those involved in or effected by unauthorised encampments.
- 1.4 To work with partners to minimise the impact of unauthorised encampments on all communities.
- 1.5 In the application of this policy staff are reminded of the need to comply with the standards and principles of the [Code of Ethics for policing](#).

## 2.0 Introduction [FOIA Open]

- 2.1 The policy provides a clear statement of the role of the Force in relation to unlawful encampments, which are a civil matter, but may result in crime and disorder issues requiring police action. Application of the policy may result in adverse public perception, due to a widely held misconception of the police role in such encampments.
- 2.2 Trespass onto land is a matter of civil law jurisdiction. Redress is available to landowners through civil court proceedings. The Criminal Justice and Public Order Act 1994 gives police power to evict trespassers in certain circumstances ([Appendix A](#)). **Use of this power is discretionary and not a duty to act. Devon and Cornwall Police will only use these powers where the levels of disruption, anti-social behaviour or crime associated with the encampment make it proportionate to do so.**
- 2.3 Consideration has been given to the ACPO guidance on unauthorised encampments in producing this policy. The Devon and Cornwall Police supports the [National Guidance](#) which **must** be considered in the interpretation of this policy.

## 3.0 Procedures / Principles / Ethos of Policy [FOIA Open]

- 3.1 There is no requirement for units to be dispatched to a report of an unauthorised encampment unless there is an allegation of crime or disorder in which case attendance will be assessed in accordance with the Force Grading and Deployment policy ([D51](#)).
- 3.2 Where an unauthorised encampment is established the Neighbourhood team **will** visit the location in the normal course of their duties to identify themselves to all communities as a point of contact, to provide reassurance, identify any issues associated with the encampment and whether community tensions exist. This contact **will** be maintained at appropriate intervals throughout the period of the encampment.
- 3.3 In dealing with a crime or incident associated with an unauthorised encampment Officers must consider whether it meets the definition of a hate crime or incident and if so comply with the Force Hate Crime Policy [D285](#).
- 3.4 Where landowners and other agencies are or have been prevented, by any means, from carrying out their lawful or statutory requirements in relation to the encampment then on request police will attend to facilitate the lawful exercise of these activities. Wherever practical officers attending will be those identified at 3.2.
- 3.5 **As soon as it becomes apparent that consideration will be given to the use of police powers or a request is made by the landowner for such powers to be used a record will be commenced of all police action in relation to the encampment. This record should be recorded on the "Checklist and record**

of action taken by officers attending alleged trespass on land” [Form 324](#)  
This form will be retained and details of the officer completing recorded on STORM. A copy of the form must be forwarded to the Diverse Communities Team, Local Policing and Partnerships Department, Police Headquarters, in order to inform any subsequent challenge and to support continuous learning. Retention should comply with Force policy [D32](#).

- 3.6 **The law requires the senior officer attending the incident to make any decision on whether or not to evict. Authorisation to evict MUST come from an officer of the rank of Inspector or above.** Any decision should be subject to periodic review to take account of changing circumstances.
- 3.7 Where there is evidence that an individual or individuals have committed criminal offences this should be dealt with through normal investigation and the criminal justice system. **The use of S.61 powers to evict MUST only be considered when there are ongoing issues of disruption, crime and disorder or anti-social behaviour.** It should be noted that a S.61 notice cannot be issued by the police until the period of time upon which the landowner has given the trespassers has passed (R (on application of Fuller and others) v Chief Constable of Dorset Police 2001).
- 3.8 **In making a decision on the proportionality of using S.61 powers to evict it should be remembered that they can be applied to an individual or individuals in the group and do not have to be applied to all those present.**
- 3.9 **Prior to any forced eviction under S.61 powers, all relevant stakeholders should be consulted. This will include the local diversity officer and agencies that may be required to provide immediate services as a result of the eviction.** It may also include others such as Elected Members, community representatives, neighbouring authorities or police forces. A record will be kept of all such consultation. It is of central importance that, prior to the service of a S.61 notice, the police ensure that the health/welfare checks are completed on those persons occupying the land, and those checks are satisfactory. Where an encampment is on local authority land, the local authority will be responsible for undertaking the checks. Where an encampment is on private land, police will conduct the checks.
- 3.10 Any planned eviction should be subject of an operational order to include risk assessments. Consideration should also be given to welfare of children and animals, facilities to remove vehicles, storage of property, custody provision and evidence gathering.
- 3.11 The landowner or their representative should be present at any eviction to clarify any ambiguities such as boundaries and to take responsibility for the site and its security once the eviction is concluded.
- 3.12 Where the levels of crime and disorder have been sufficient to warrant the use of police powers intelligence will be submitted on Force systems and PNC. **Where the use of police powers is not warranted intelligence will only be submitted in response to specific links to crime or anti-social behaviour.**

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- 3.13 Each area should nominate an unauthorised encampment liaison officer to provide a consistent point of contact for other agencies and stakeholders, usually this will be the DCT officer.
- 3.14 Each area should work with partners to establish a liaison group to agree a strategy for the management of unauthorised encampments. This strategy should be subject of consultation with all interested and effected groups.
- 3.15 The strategy should include:
- Information exchange protocols
  - Responsibilities of authorities and agencies, including time scales.
  - Information to be provided to travellers and the settled community and the method by which that information will be provided.
  - Provision of approved sites.

## **4.0 Audit/ Assessment Compliance [FOIA Open]**

- 4.1 This policy has been drafted and audited to comply with the principles of the Human Rights Act. Equality and diversity issues have also been considered to ensure compliance with Equality legislation and policies. In addition Data Protection, Freedom of Information, Management of Police Information and Health and Safety issues have been considered. Adherence to this policy will therefore ensure compliance with all relevant legislation and internal policies.

## **5.0 Review and Ownership [FOIA Open]**

- 5.1 The review of the contents of this policy is the responsibility of the Head of Local Policing and Partnerships Department. Review of the policy will be undertaken annually.

## Appendix A (Law) [FOIA Open]

The general equality duty set out in the Equality Act 2010 states that in the exercise of our duty we must have due regard to:

- Eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not; and
- Foster good relations between people who share a protected characteristic and those who do not.

Currently, Romany Gypsies and Irish Travellers are recognised in law as racial groups within England and Wales. However, as case law develops, it is possible all Gypsy and Travellers will satisfy the relevant conditions and be classed as an ethnic minority community.

Article 8 of the Human Rights Act 1998 states. Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Section 61 of the Criminal Justice and Public Order Act 1994 allows the Senior Police Officer attending an alleged incident of trespass and nuisance on land to order trespassers and their vehicles to leave as soon as reasonably practicable, provided certain criteria are met.

The criteria to be met for Section 61 are:

- i) two or more persons are trespassing with the common purpose of residing there for any period,
- ii) reasonable steps have been taken by or on behalf of the occupier to ask them to leave, and,
- iii) 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,
- iv) those persons have between them six or more vehicles on the land.

If these criteria are met, the senior police officer present 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. Home Office Circular [45/1994](#) states "The decision whether or not to issue a direction to leave is an operational one for the police alone to take in the light of all the circumstances of the particular case".

Once a direction has been issued, there is no **requirement** to give the trespassers a time limit within which they must comply (see 3.4.5 below). Once given the instruction to leave, the trespassers have an obligation to depart as soon as is reasonably practicable

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(R – v – Chief Constable of Dorset Police 2001). The test of a reasonable time to leave the land is an objective test, (Kampa – v – DPP Times 31.12.88).

Although the direction has to be made by the senior Police Officer present, any constable may communicate the direction to the trespassers.

Section 61(4) states:- if a person, knowing that a direction under subsection 61(1) has been given which applies to him or her fails to leave the land as soon as reasonably practicable, or, having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given, he or she commits an offence.

Under Section 62 of the Criminal Justice and Public Order Act 1994, a constable has the power to seize and remove a vehicle, which has not been removed from the land following a lawful direction.

Note; Section 61 of the Criminal Justice and Public Order Act 1994 confers a '**Power on The Police, Not A Duty to Act**'. It is a matter of discretion for the police whether to exercise the power or not. Each case must be judged on its own merits, however, the safety of the resident community and the potential for disorder or disruption are major factors in reaching a decision to use to the powers.

Section 62(A) of the Criminal Justice and Public Order Act 1994 was inserted by Section 60 of the Anti-Social Behaviour Act 2003. It creates a new power for a senior Police Officer to direct a person to leave land and remove any vehicle or other property with him on that land.

Certain conditions must be met before any directions can be given, namely:-

- (i) at least two persons must be trespassing on the land,
- (ii) they must have between them at least one vehicle,
- (iii) they must be present on the land with the intent of residing there, and,
- (iv) the occupier of the land has asked the Police to remove them.

In addition, the officer must consult every Local Authority within whose area the land is situated as to whether there is a suitable pitch for the caravan or each of the caravans on a relevant site, which is situated in the local authority's area.

Use of powers under Section 62(A) is also discretionary and not a duty to act. Availability and proximity of suitable pitches identified through the required consultation above will be considered in considering the proportionality of directing persons to leave the land.

It is strongly recommended that any Police Officer considering enforcing Section 62 or 62(A) of the Criminal Justice and Public Order Act 1994 makes reference to the National Police Legal Database prior to taking any action under these sections.

## **Appendix B (Documentation) [FOIA Open]**

### **Written Notice to Leave Land**

Criminal Justice and Public Order Act 1994

In accordance with Section 61 of the Criminal Justice and Public Order Act 1994, I direct all those on the land shown within the area outlined on the map below.

To leave this land for the following reasons:

I believe that two or more of you are trespassing on the land and are present with the common purpose of residing on the land for any period and that reasonable steps have been taken by, or on behalf of, the occupier of the land to ask you to leave.

I further believe that:

- (a) You have caused damage to the land or to property on the land\*, or
- (b) You have used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his\*, or,
- (c) You have between you six or more vehicles on the land\*.

(\*delete as appropriate)

If you fail to leave the land as soon as reasonably practicable, or re-enter the land as a trespasser within three months of this direction, you commit an offence and render yourself liable to arrest without warrant and to prosecution. The maximum penalty on conviction is three months imprisonment or a fine, or both.

On leaving the land, you are required to remove any vehicles or other property you have with you on the land.

You are to leave the land by ..... Hours this day (date):.....

Signed:                      Name:

Rank:                        Date: