Durham County Council Gypsy, Roma and Travellers

Unauthorised Encampment Procedure

Definitions

Unauthorised Encampment

Trespassing by Gypsies and Travellers on land which they do not own (e.g. Local Authority Land, or private land, (including Town and Parish Council Land).

Unauthorised Development

Development of a site on land owned by Gypsies and Travellers, but for which they do not have planning permission.

Traveller

This is a generic term that we have used to cover those people who live a nomadic way of life. It includes those recognised as groups with defined ethnic status’ under the Race Relations (Amendment) Act 2000, Romany Gypsies and Irish Travellers, as well as those who could come within the definition of a racial group such as Scottish and Welsh Gypsies; and Occupational Travellers including; Show People; Circus Travellers; New Travellers and Bargees.

Legislation

The legal background, including the Equality Act 2010 and the Human Rights Act, (1998) provides Local Authorities with a framework within which their actions and decisions should be made.

What Durham County Council will do

When an Unauthorised Encampment occurs on Local Authority land, Durham County Council’s Neighbourhood Protection Service will assume lead responsibility for managing the encampment. An initial visit to the encampment will take place within 24 hours of it being notified to the Council.

At the first visit, either the Gypsy, Roma, Traveller Service (GRTS) or Neighbourhood Wardens will visit to make initial contact with those encamped. They will note details of all Trailers (Caravans), and vehicles on the area, and will log an exact location. Following this, the Gypsy, Roma, Traveller Service
(GRTS) will make a follow-up visit to those encamped, to try to establish the proposed length of stay and initiate the welfare assessment. The welfare assessment will establish if there are any identified welfare needs, (see below) and will enable discussion about any support requirements, e.g. referral to other services, toilet facilities, refuse collection and provision of water, (where feasible) required. Those encamped will be provided with a copy of the DCC ‘Code of Conduct – Guidelines for Gypsies, Roma and Travellers’, (Appendix A). The Code of Conduct will be discussed with those encamped.

On areas that are considered suitable, the presumption will be that the encampment will be accepted for a period, as negotiated with those camping. On areas that are unsuitable, a Temporary Stop Over Area (TSOA) may be offered, if one is available. Any agreed length of stay on any area, will be dependent on campers following the Code of Conduct. There may be occasions where a length of stay is agreed, where there are no welfare needs identified. An example of this might be Gypsies and Travellers requesting a length of stay on a TSOA in County Durham for cultural or family reasons. Following the first visit by the GRTS a decision will be made by the GRT Supervisor as to whether it is appropriate to instigate an Encampment Review Group Meeting (ERG), see page 4.

Following the first visit by the GRTS Key partners/agencies will be contacted as required, i.e. GRT/LACES, (DCC GRT Education), DISC, and where necessary the Police. The relevant Elected Member(s) will also be contacted with details of the encampment, the likely action to be taken and the expected length of stay.

The encampment will then continue to be visited on a regular basis by the GRTS who will liaise with those encamped. The frequency of visits will be determined by the GRT Supervisor and to review and monitor the encampment and, if required, any welfare needs.

Exceptions

There will be exceptions to the presumption that encampments will generally be accepted, and they are as follows:

- A Site of Special Scientific Interest where an encampment endangers a sensitive environment or wildlife
- School car park or playing fields
- An urban park
- Car parks, including supermarket or leisure facility car parks
- An Industrial Estate
- Recreation ground and public playing fields
- A site where pollution from vehicles or dumping could damage ground water or watercourses
- A derelict area with toxic waste or other serious ground pollution
- A village green or other open area within a residential area
• The verge of a busy road where fast traffic is a danger to campers’ children

The above list is only a guide and there may be other situations and locations when it would not be considered appropriate to allow an encampment. However, in such circumstances a full explanation as to why such a decision has been made will be given to the campers before any alternative action is taken.

Conduct

Those residing on the encampment will be expected to abide by the following requirements:

• Do make sure the area is clean and tidy
• Do consider your neighbours, local businesses and residents
• Don’t engage in any anti-social behaviour
• Keep all animals under control
• Park vehicles safely
• Do not block public highways or rights of way
• Use the bin bags provided
• Keep groups small – generally, no more than 6 Trailers

Further details of expected conduct are contained in ‘Code of Conduct – Guidelines for Gypsies, Roma and Travellers’, (Appendix A)

Local Communities

It is acknowledged that Unauthorised Encampments can cause concern to those living nearby. Durham County Council through the Gypsy, Roma, Traveller Service will also liaise with the local ‘settled’ communities, by keeping their representatives (Elected Members/Councillors) informed of our actions, making ourselves available to discuss the concerns of people living close-by, and issuing information to the media as and when necessary.

The Legislation

Local Authority Enforcement Powers:

A landowner, (including a Local Authority), can obtain a possession order through the Civil Courts requiring the removal of trespassers from property, including land. Under the Civil Procedures Rules Part 55 the claim must be issued in the County Court in whose jurisdiction the property or land is situated. Exceptionally the claim may be issued in the High Court if there is substantial risk of public disturbance or of serious harm to persons or property, which properly require immediate determination.

The Criminal Justice and Public Order Act 1994 (CJPOA) gives Local Authorities in England and Wales powers to make directions to leave land being used by itinerant groups, (s77). It is an offence to fail to comply with such a direction. If the direction to leave is not complied with, the Local Authority can apply to a
Magistrates’ Court for an order requiring the removal of vehicles and any occupants from the land, (s78). It is a defence for the accused to show that failure to leave or to remove the vehicle or other property as soon as practicable, or re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency.

Use of either of these powers requires a Local Authority to carry out a number of checks relating to the welfare of those Gypsy, Roma and Travellers illegally encamped. These checks take into account considerations of common humanity, and local authorities must honour the other statutory duties they may have towards the campers. Gypsies, Roma and Travellers can be represented at the court hearing. Decisions can be similarly challenged by means of judicial review on the grounds that they have been reached improperly.

This procedure, if done properly, can take some time, (as much as two weeks), if there is a large encampment. A Local Authority cannot circumvent these requirements, nor should they be seeking to do so. More importantly, the Government believes that Local Authorities should always follow a route that requires a court order. Local Authorities and other public bodies cannot escape considerations of common humanity or other statutory duties, and must ensure that the human rights of campers are safeguarded.

Police Enforcement Powers:

Under s61 of the CJPOA, the Police have discretionary powers to direct trespassers to leave land. The senior Police Officer present can direct trespassers to leave if reasonable steps have been taken by or on behalf of the occupier to ask them to leave and there are two or more people intending to reside on the land. Any one of three further conditions must also be met:

1. If any of those persons has caused damage to the land or to property on the land; or

2. Used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or

3. Those persons have between them six or more vehicles on the land. Section 61 cannot be used on land on the highway. S 62A - E (inserted by the Antisocial Behaviour Act 2003) gives the Police powers to direct trespassers to leave land and remove vehicles, to a suitable pitch on a relevant caravan site in the same Local Authority area.

* This latter power cannot be applied within County Durham at the present time, due to a lack of a suitable pitch on a relevant caravan site in the same Local Authority, as 4 of the 6 sites are closed for refurbishment and the remaining sites have waiting lists.

Other legislation that may be used by the Police or Local Authorities includes the following, (if somewhat limited in terms of appropriateness and usefulness) provisions:
- Section 34 Road Traffic Act, 1988
- Section 2 & 3 Road Traffic Act, 1988
- Section 12 Inclosure Act, 1857
- Section 29 Commons Act, 1876
- Section 59 Police Reform Act, 2002
- Public Nuisance – Common Law

**Encampment Review Group**

The ERG Meeting is a non-standing body to enable a multi-agency approach to decision-making to advise and decide on the course of action to be taken where any Unauthorised Encampment is a cause for concern. The decision to hold an ERG will be based on specific criteria being met. Using a criteria-based approach ensures that the decision to hold an ERG Meeting is objective, evidence based, transparent and follows a clear decision-making process.

These include:

- Two confirmed breaches of the DCC GRTS ‘Code of Conduct – Guidelines for Gypsies, Roma and Travellers’
- Confirmed reports received from Police of ASB or criminal activity
- Environmental Impact, e.g. fly-tipping
- Proximity to Businesses
- Proximity to Residents
- Proximity to the Highway
- Refusal of those encamped to engage with DCC officers
- Long-term Unauthorised Encampments, (over 28 days)
- Large encampments, (10+ Caravans)
- TSOA available, but refused without good reason
- History of any of the above when previously encamped in County Durham.

In addition, the use of criteria also allows a timely response in deciding whether or not to hold an ERG, or virtual ERG where there is a likelihood to move directly to enforcement, (when specific criteria have been met, e.g. an area previously identified as unsuitable.)

The ERG will invite representatives from the following key partners:

- Elected Members
- Gypsy, Roma, Traveller Service
- Neighbourhood Wardens
- GRT/LACES, (DCC GRT Education)
- The Police

Other relevant parties may be co-opted onto the ERG, it would be expected that those attending the ERG had an understanding of Gypsy, Roma and Traveller issues. If a decision is taken to apply enforcement action this decision must be made with the approval of the ERG. Any decision to take enforcement action will
take into account the availability of suitable alternative areas - Temporary Stop Over Area, (TSOAs),

**Unauthorised Encampments on Private Land**

When an Unauthorised Encampment is on private land, (that which does not belong to DCC), it is presumed that it is the responsibility of the land owner to decide how they want to manage the encampment. DCC would only intervene in exceptional circumstances which are determined by the Head of Service, (e.g where an encampment was highly problematic and a landowner could not be traced).

If Durham County Council receives a report of an Unauthorised Encampment on private land, the Gypsy, Roma, Traveller Service will follow the steps as detailed below:

- Attempt to establish who the private land owner is
- Advise the landowner there is a UE on their land, (the date of arrival and the number of Trailers)
- Advise the private land owner of the Local Authority’s position in relation to encampments on private land
- Advise the private land owner what their responsibilities are and what powers they have, (should they want to use enforcement or issue Directions to Leave)
- The ‘Code of Conduct – Guidelines for Gypsies, Roma and Travellers’, leaflet, is provided to those encamped where a visit is made by DCC, (Appendix A)

**Long-term Unauthorised Encampments**

Where there is an encampment of ten or more Caravans, or where there is a stated intention to establish a long-term encampment the Local Authority will act as detailed below:

- An urgent Encampment Review Group (ERG) Meeting will be convened within three working days
- Although negotiation and dialogue will be the preferred method used to ‘manage’ the encampment, the ERG will consider either the use of a Temporary Stop Over Area place or enforcement action as a first response if considered appropriate
- If a Temporary Stop Over Area has been identified and those encamped to relocate there, then the conduct of those using the area will be monitored by the Gypsy, Roma, Traveller Service (GRTS), GRTS will make regular visits and if there is a deterioration in the conduct of those encamped an ERG will be convened within three working days.
- If there is no Temporary Stop Over Area, and the location is not suitable then enforcement action will be taken.
In such circumstances, if the Council does take enforcement action and there is the need for repeated Directions to Leave being issued and upheld by the Courts, then the Council will seek an injunction against those encamped, to ensure that they are prevented from remaining within the area. The terms of the injunction sought will be for the ERG to decide.