

Unauthorised Traveller Encampments

This document applies to groups of people of whatever origin trespassing on land to reside there for any period. There should be no assumption that such travellers are by definition offenders in some way. Police must act based on evidence and intelligence, not prejudice.

When acting in response to such incidents police officers actions must be legal, relevant, proportionate, and non-discriminatory. All people have the basic rights and freedoms as established within Human Rights legislation and in particular the right of liberty and security, the right to respect for private and family life, freedom of thought, conscience and religion, freedom of expression, and freedom of assembly and association.

A guide for landowners, residents and travellers

Introduction

Every year the Police receive a large number of calls from members of the public to the effect that travellers are moving into a locality and are unlawfully occupying land.

Such incidents inevitably raise concerns within local communities and very often tension will exist between residents and travellers. The arrival of travellers to an area tends to raise fears in landowners and residents of increased levels of crime or violence. These fears are often unfounded.

We live in a democratic society and it must be remembered that the travelling communities have as much right to live their chosen lifestyle as those who choose to live in settled communities.

Conflict between landowners and travellers often arises over the 'right or wrong' of occupying someone else's land. It is how these issues are dealt with that is important.

This is not a comprehensive explanation of the law but a simply guide designed to raise the awareness of the public.

Prevention

The majority of travellers tend to move during Spring, Summer and early Autumn. Anyone owning property or land has a responsibility to take all reasonable steps to prevent any unlawful occupation.

Protecting large areas of land can prove difficult but there are a number of fairly simple, inexpensive measures that should be considered. These are preventative measures to be carried out before any person trespasses on the land. It is far better, and ultimately cheaper, to deter a person from entering

land rather than having to subsequently evict them and restore the site.

A thorough check should be made of any land or property owned. These checks should focus on the security of the land and its accessibility to unauthorised persons and vehicles.

Below are listed some of the security measures you might feel it is appropriate to consider:

- Installing low height metal barriers and firmly fixing them into concrete bases.
- Installing strong metal gates with toughened steel padlocks and anti lift hinges.
- Placing tree trunks or very large logs across the entrance (s)
- Placing earth mounds across entrance(s)
- Building ditches or trenches across entrance(s)
- Placing a vehicle (s) across the entrance(s).
- Frequently check the sites

Initial Action

When travellers are suspected of unlawfully settling on any land, contact should be made to the police by phoning **101** or **0845 045 45 45**. It may well be that the travellers have done nothing illegal but the sooner the police are made aware of the situation, the sooner they are able to assess and monitor the situation and prevent unnecessary conflict or confrontation. If you are a landowner or representative whose land has been unlawfully entered and you are not willing to allow the trespassers to remain, you should: Explain who you are and politely ask them to leave immediately (if possible in the presence of a witness);

Do:

- make a note of any damage you believe has been caused by the trespasser(s); together with details of any independent witnesses
- seek independent legal advice regarding the eviction of the trespassers
- report to the police immediately any suspicious, criminal or antisocial behaviour by those trespassing. The police will remain impartial and expect the same standards of behaviour from both the trespassers and those from the settled community

Do Not:

- make threats against the people trespassing
- engage in any activity that is likely to cause confrontation with the trespassers such as blocking their access/exit routes from the land
- extend an invitation for the trespassers to stay by allowing them to

remain until a certain date or time. If you do consent to persons residing on your land, you should contact your local authority for advice on local planning or environmental issues

- accept unsolicited offers of buildings, gardening, tarmac or other works from anyone 'cold canvassing' for work at your property.

Human Rights

The European Court of Human Rights (ECHR) recognises the rights of all citizens, both of settled and travelling communities. **Article 8** (Respect for a private and family life) accepts that a home set up without lawful authority could still be a 'home' for the purposes of Article 8. When a public authority, (e.g.. police or local authority) considers interfering with a persons right to a private and family life, they must be content that there is a pressing social need to do so and that it is proportionate to do so. The issue of proportionality would include the welfare and educational needs of those trespassing, the nature of the land on which they were trespassing, the provision and availability of other alternative temporary transit sites within the local authority area.

See: www.yourrights.org.uk/your-rights/chapters/rights-of-gypsies-and-travellers/

Police Powers

The police have only restricted powers to deal with people who breach civil law by trespassing. At all times the police **must** act within the framework of the law.

There is no power in law to evict trespassers from private land solely on the basis that they have committed a civil trespass. In certain circumstances, a direction to leave may be made and in the event of non-compliance arrests may follow. However, the powers to remove trespassers are discretionary and will not be used by the police unless considered absolutely necessary. Trespass that does not threaten public order is a civil matter and the onus is on the occupier or landowner to take initial action to remove the trespassers. The power may not necessarily apply to all the trespassers present, only those identifiable as responsible for criminal acts.

Summary of the Law

The law relating to trespass in its application to travellers is complex and far too detailed to be fully reproduced here. Only some of the key areas have been identified and summarised. This should not be considered to be a definitive legal guide and before any person takes legal action in relation to a civil trespass, they are advised to seek the advice of a solicitor.

Section 61 - Criminal justice and Public Order Act 1994 allows police to order trespassers to leave land as soon as is reasonable, taking their vehicles and other property, in the following circumstances:

- 1 Trespassers appear to be intending to reside there for a period; and
- 2 They have been reasonably asked to leave by the occupier; and
- 3 They have caused damage to the land/property on the land; or
- 4 Used threatening or abusive or insulting words/behaviour towards occupier or occupiers family/agent/employee; or
- 5 They have six or more vehicles with them on the land.

Section 62A - Criminal justice and Public Order Act 1994 provides a very similar power to the police as Section 61, above, but can only be used where there is an alternative site available for the trespassers, within that Local Authority area.

The circumstances when the police may direct that trespassers to leave the land as soon as is practicable, taking their vehicles and other property with them, are as follows:

- 1 Trespassers appear to be intending to reside there for a period; and
- 2 They have been reasonably asked to leave by the occupier; and
- 3 There are two or more trespassers; and
- 4 They have between them at least one or more caravans and that a suitable pitch on a relevant caravan site **is available**.

Section 6 - Criminal Law Act 1977

This creates the criminal offence of using or threatening to use violence to secure entry to premises occupied by another. This offence may be committed by the legitimate owner of premises towards a person (s) who is trespassing. An owner's liability would increase if more force than is necessary is used to remove the occupiers. 'Premises' includes a site comprising of buildings together with land.

Note: If trespassers do not leave when requested to do so then landowners should go through the normal channels of civil recovery (through the courts) and should not be tempted to take direct action themselves thereby making themselves liable for a criminal offence.

Section 3 - Criminal Law Act 1967

This allows a person to use as much force as is reasonable in the circumstances to prevent a person committing a crime. The key points here are firstly, that the person must be trying to commit a criminal offence and secondly, the degree of force used in preventing them must be reasonable.

Environmental Responsibilities Regarding Disposal Of Rubbish & Waste Materials

Any person responsible for the unlawful disposal of any rubbish, trade or building waste or other hazardous material may be subject to prosecution under Environmental legislation by the relevant authority.

Possible Court Action

If the incursion is on private land, the landowners may, by application to the civil courts, seek an order evicting the trespasser(s). If such an order is issued by a court, the landowner should serve a copy on the Trespasser(s) as soon as practicable and where possible, ensure they conform by leaving the site. If it is anticipated that a breach of the peace might take place, the police may attend. The landowner should obtain advice from a solicitor prior to making application for a court order; in attempting service of an order on trespasser(s); and before taking further action in the event of the trespasser(s) remaining on land defiance of such an order from the court. Action may be taken through the criminal courts if offences, such as theft or criminal damage, have been committed-provided that the offenders are identified and there is sufficient evidence to prove the allegation. Persons who engage in unlawful acts such as threats or intimidation against travellers will be liable to arrest and prosecution.