

## **GUIDE FOR DISTRICT COUNCILLORS AND PARISH & TOWN COUNCILS**

### **Responding to unauthorised travellers encampments**

Unauthorised encampments can occur on highway land, industrial areas, waste land, car parks, parks and recreation areas. Some sites affected are more obtrusive and less acceptable than others and more likely to cause public complaint.

The basic conflict underlying the problem of unauthorised camping is between Gypsy/Travellers who want to stay in an area for a period of time (for work, education or other welfare needs) but have nowhere legally to camp, and the settled community or businesses who generally do not want to have Gypsies/Travellers camped in their midst.

The local authority is stuck between the parties trying to balance the conflicting needs of each group and as a result generally satisfying no-one.

### **Managing Unauthorised Camping in Essex**

To aid local authorities in dealing with the above issues, a policy for managing unauthorised camping throughout the whole of Essex has been adopted by Essex Councils - 'The Code for Travellers in Essex'. As the Code applies to the whole of Essex it gives a consistent approach to the management of unauthorised camping on local authority owned land.

### **The Code for Travellers in Essex**

The basic message of the Code is that if Travellers stay in small groups and comply with the criteria of the Code then they may be allowed to stay on local authority owned land for up to 28 days. Their stay on land is dependant on:

- Keeping groups small the maximum number normally acceptable will be 3 caravans in any one group, although slightly larger groups may be permissible in locations remote from residential or commercial properties.
- Looking after the land. Not dumping rubbish or any stockpiling of materials.
- No fires other than for the purpose of cooking or washing.
- Acceptable behaviour towards neighbours
- Vehicles parked safely and animals kept under control
- Not encamped on operational land (e.g. school playing field)
- The minimum acceptable distance between separate groups of Gypsy/Travellers shall normally be half a mile.
- They must move at least two miles from the site and the site can not be re-occupied within three months.

## **Needs Assessment**

The Council must comply with the relevant legislation at all times. All children living in a caravan are classed as children in need (Children's Act 1989). Other legislation such as the Housing Act and the Human Rights Act must also be taken in to consideration prior to a group being moved on and a full assessment of the group relating to health, social care and educational needs must be carried out.

Consideration will then be given to these assessments and the Human Rights of all parties involved, both Travellers and the settled community.

As a local authority we have to work within the constraints of legislation available to us and in times when homelessness and Human Rights issues are constantly being challenged in the courts, we have to make sure we 'get it right' for the benefit of all parties concerned.

## **Public Authority Role**

Numerous public authorities become involved with unauthorised encampments and have a part to play in the management process.

## **The Role of Essex County Council**

Once an unauthorised encampment is reported on County Council or Braintree District Council land, an Officer from Gypsy Services Section of Essex County Council will, wherever possible, visit within 24 hours. The circumstances of the Gypsy/Travellers and encampment shall be assessed to establish compliance or otherwise with The Code of Practice. The Gypsy Services Manager will request a full assessment of the group. This will relate to health, social care, educational needs and consideration will be given to the human rights of all parties involved.

Subject to the outcome of the above and if necessary in conjunction with the Council and Essex Police, a decision on what action to be taken will be made.

In circumstances where Gypsy/Travellers are camped on private land, although officers from Gypsy Services will be happy to advise, the onus is on the landowner to manage their own land.

## **Role of District Council**

The local authorities have the following duties:

- The management of unauthorised encampments on land for which the Council is responsible.
- The management of the impact of the encampment on the local environment and the settled community.
- The local authority will follow the Government's 'Good Practice Guide' in respect of the criteria for toleration and the Essex Code of Practice.

The District Council will not normally intervene when encampment is not on land owned by the Council. However, the Council may assist the private land owner to take action if:

- The site is of such a sensitive nature that it is in the public interest to secure a rapid eviction

or

- The behaviour of the encampment is such as to cause substantive problems to the settled community

or

- if the change of use of the land to a Gypsy/Traveller site has persisted for more than 28 days and planning permission has not been sought or obtained.

## **The Role of Essex Police**

Normally trespass will be a civil matter between the trespassers and the landowner. The role of Essex Police in these circumstances is to maintain law and order and to maintain the peace.

In dealing with unauthorised encampments, Essex Police will recognise the rights of the community including the occupiers of the land.

The police action will comply with the law, taking into account the European Convention of Human Rights.

Essex Police will enforce the law wherever necessary to fulfil the role outlined above and use statutory powers where appropriate.

## **LEGISLATION**

All landowners have legitimate powers available to take action to remove people, their dwellings, vehicles and possessions from their land. Evictions are taken by landowners obtaining a Possession Order from the County Court.

The Police have a power under Section 61 Criminal Justice & Public Order Act 1994, which allows the Senior Police Officer attending the scene of an illegal encampment to order the trespassers and their vehicles to leave the site as soon as reasonably practicable.

This power can only be used where the Senior Police Officer reasonably believes:

- that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and
- damage has been caused to the land or to property or threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent has taken place or
- there are six or more vehicles on the land,

It is worth remembering that this is a discretionary power and does not impose a duty but appropriate triggers may include; criminal activity, serious breaches of the peace, or disorder, or significant disruption to the life of the local community.

## **Encampments on local authority owned land**

An encampment on Council land will be reviewed in accordance with The Code for Travellers in Essex as to whether the toleration criterion is being met. Complaints will be monitored and reviewed as necessary.

Where the encampment is in breach of The Code (including staying in excess of 28 days) action will be taken to repossess the land either using the civil or criminal law.

Encampments will not be tolerated on local authority land where crime or disorder issues are raised or the encampment causes:

- a clear highway hazard
- or is located on high profile sites
- or the unauthorised encampment is causing policing problems.

For dealing with any encampments on local authority owned land, the officer contacts are:-

Colin Batchelor – 01376 551414 or [colin.batchelor@braintree.gov.uk](mailto:colin.batchelor@braintree.gov.uk)

Danny Mellini – 01376 551414 or [danny.mellini@braintree.gov.uk](mailto:danny.mellini@braintree.gov.uk)

### **Note**

It is unlawful for a public authority to act in a way which is incompatible with the European Convention of Human Rights. The decision making must be structured so it reflects:

- The legality of the decision
- Its necessity
- Proportionality
- That it is non-discriminatory.

### **Encampments on Non Authority Land**

The landowner has responsibility for the removal of Gypsy/Traveller groups from their land. Braintree Council will offer advice and guidance when asked but will not normally intervene unless the site is of such a sensitive nature that it is in the public interest to secure a rapid eviction. Or the behaviour of the encampment is such as to cause substantive problems to the settled community. Or if the encampment has persisted for more than 28 days and planning permission has not been sought or obtained

Essex County Council will provide advice to any land owner who has an incursion of an unauthorised encampment on their land.

Contact Steve Andrews, Gypsy Liaison Manager, Essex County Council – Tel:01245 457757

[Stephen.andrews@essex.gov.uk](mailto:Stephen.andrews@essex.gov.uk)

Where criminal or public offences are being committed the Police can investigate these matters.

Essex Police is not responsible for the enforcement of any possession of land order. They will attend if deemed necessary to ensure there is no breach of the peace.