



Unauthorised Encampment Policy (Surrey and Sussex) (611/2022)

Abstract

This policy outlines the circumstances where the use of enforcement powers under Section 60C-E, 61, 62 and 62A-E Criminal Justice and Public Order Act 1994 may be used to manage Unauthorised Encampments and outlines the decision making process to be used in exercising these powers.

8

Policy

1. Introduction

1.1 This policy is required to detail how the police respond to reports of Unauthorised Encampments in Surrey and Sussex.

1.2 This policy complies with the European Convention on Human Rights and the [Equality Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk) when dealing with Unauthorised Encampments.

2. Scope

2.1 The purpose of this policy is to ensure that Surrey Police and Sussex Police (hereafter referred to as the Forces) work in partnership with the local authorities using the agreed protocols. The right of settled communities is balanced with a recognition of Romany Gypsies, Irish Travellers and other travelling communities' rights to live a nomadic life. These rights are fully accepted and this policy takes proper account of the European Convention on Human Rights as detailed within the [Human Rights Act 1998](https://legislation.gov.uk).

2.2 This policy deals with the application of [Section 61, 62 and 62A-E of the Criminal Justice and Public Order Act \(CJPO\) 1994](https://legislation.gov.uk).

2.3 This policy also deals with the application of Section 60C-E of the CJPO Act 1994 as amended [Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk).

3. Policy Statement

3.1 The Forces and local authorities will work to the agreed protocols when dealing with Unauthorised Encampments in Surrey and Sussex. The Forces will aim to ensure a lawful, balanced, proportionate and consistent approach, in accordance with the National Police Chief's Council (NPCC) National Guidance on the use of applicable legislation by the police. It is the responsibility of the local authority or landowner to take the lead on managing Unauthorised Encampments.

Procedure

1. Introduction

1.1 An Unauthorised Encampment is defined as a group of people with vehicles who are trespassing on land without the owner's consent with the intention of residing. This should be distinguished from an unauthorised development, where a group of people are developing land they themselves own without the necessary planning permission.

1.2 Where the term 'vehicles' is used in this procedure it has the same meaning as defined in [Section 61 of the CJPO Act 1994](#) which states: any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle and any load carried by, and anything attached to, such a vehicle.

1.3 Managing Unauthorised Encampments must involve a balance between rights of the landowner and/or the wider community; and the rights and welfare needs of those on the Unauthorised Encampment. It is important to remember that although sharing the same land there may be individuals with different needs within the wider group of people.

1.4 Local authorities have a statutory duty to ensure that both sides are fairly represented when it comes to Unauthorised Encampments on public land.

1.5 The Forces are seeking to work closely with local authorities, and support the approach of involving partnership discussion, and dialogue with any encampment, to achieve a negotiated solution, where possible. In making an assessment the police must take account of the issues of behaviour, whether criminal, anti-social or nuisance behaviour is displayed by, both, those encamping or the settled community as well as the impact on the landowner. The presence of an encampment alone, although unwanted with no aggravating factors will not trigger police action to remove the encampment.

2. Criminal Justice and Public Order Act 1994

2.1 [Section 60C](#) creates a new criminal offence of residing on land without consent in or with a vehicle. It is a discretionary power for police to direct the removal of persons and their vehicles from the specific piece of land or where they intend to reside on land with a vehicle.

2.2 [Section 61](#) provides a discretionary power for police to direct the removal of persons and their vehicles from the specific piece of land where they are trespassing, providing certain pre-conditions are met.

2.3 It is a power that can only be used in certain circumstances and its use is not always effective, as the requirement to leave only relates to the location they are on. Using this power can result in the issue being pushed into neighbouring areas or other land.

2.4 [Section 62A](#) provides a discretionary power for police to direct trespassers to a designated site. Sussex presently have three sites, Surrey have none.

2.5 Offences (criminal or not) are only committed in law if a direction to leave has not been complied with or if a person(s) having been issued a direction to leave returns within 12 months.

3. Human Rights Act 1998

3.1 Giving a direction to leave clearly impacts on a person's Article 8 Right to respect for their private and family life and their home. Under Section 29(1) of the [Caravan Sites and Control of Development Act 1960](#) a caravan is defined as "...any structure designed or adapted for human habitation..."

3.2 In *Chapman v United Kingdom* (27238/95) (2001) 33 E.H.R.R. 18 the European Court of Human Rights held that article 8 imposed a positive obligation on the state to facilitate the nomadic way of life. It was said:

"...The vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases ... To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the Gypsy way life."

3.3 Where the encampment is not made up of a community who identify as Gypsy, Traveller or Roma (GRT) consideration still needs to be given to [Article 8 of the European Convention on Human Rights \(ECHR\)](#).

3.4 Any decision to evict or 'partially' evict a person or group must be evidenced in Encampment Direction Decision Rationale to show that it was proportionate, accountable, legal and necessary.

4. Responding to Reports of an Unauthorised Encampment

4.1 Not all Unauthorised Encampments will be reported to police as the primary leadership role is for local authorities. An encampment may already be in situ before police are notified. Where Local Authorities request police to attend a supervisor must be deployed to assist with the joint assessment and a Threat, Harm, Risk, Investigation, Vulnerability, Engagement (THRIVE) assessment undertaken.

4.2 The Forces may receive a report of an Unauthorised Encampment from the public, local authority or landowner. This will initially be recorded on Computer Aided Dispatch (CAD) and passed to the respective Force's Control Room (FCR) for deployment consideration. If there is a requirement for the police to attend, appropriate resources including a police supervisor will be deployed to the location.

4.3 In every case where officers are deployed to a report of a new encampment a supervisor must attend. This is to ensure that an Initial Site Assessment is completed (which should include any identified community tension), in order to allow a full review by the Duty Officer (Surrey) / G99 (Sussex).

4.4 There will be an expectation that, unless a crime is in progress, the landowner will be requested to attend at the same time as police.

4.5 Once the landowner is present the supervisor at the scene must engage with them. It is feasible that if the encampment is on private land (i.e. not owned by the local authority) they may be unaware of legislation available to them.

4.6 The landowner must be encouraged to engage with those encamped, supported by the police where necessary.

4.7 The supervisor at the scene will seek to confirm whether a request to leave the land has been given by an appropriate person (landowner or their representative) and any time limit set for this. If the request has been made and not been complied with officers must consider whether an offence under Section 60C has been committed.

4.8 NPCC Guidance states that Police Community Support Officers (PCSOs) must only be deployed to encampments as part of the local Neighbourhood Policing Team's response.

4.9 The Initial Site Assessment will be used to document any known risks, welfare concerns or other issues that must be considered as part of the decision making process. This must be added to the Niche occurrence.

4.10 There is an expectation that a representative from the relevant local authority will attend and complete their welfare form as there may be longer term housing or education requirements.

4.11 Once the Initial Site Assessment has been completed and the landowner is not wishing for those encamped to remain the supervisor at the scene must brief the Duty Officer (Surrey) / G99 (Sussex). During office hours the Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) must be notified of the encampment.

4.12 Vehicles at an encampment must be recorded on NICHE. If Police National Computer (PNC) or Data scanning checks are conducted on any vehicle this must be lawful and for a policing purpose. Officers and staff must, as a minimum, complete a [Driver and Vehicle Licensing Agency \(DVLA\) Vehicle Enquiry check](#) on each vehicle.

4.13 Code of Conduct documents must be given to the trespassers whilst they are on the land.

5. Role of Inspectors

5.1 The Duty Officer (Surrey) / G99 (Sussex) must liaise with the Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) to determine who will be taking command of the incident. If the Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) is not working the Duty Officer (Surrey) / G99 (Sussex) must take command until the Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) comes on duty. Where there is a gap in ownership the Critical Incident Manager (CIM) will ensure there is continuity of ownership.

5.2 The Inspector must consider attending and making an assessment themselves. Where they feel they can take command remotely they must be in a position to fulfil their role which is to review the risk, assess the current threats and assist in supporting the decision making of the CIM.

5.3 The CIM will act as the 'gate keeper' by ensuring decisions recommended by the Duty Officer (Surrey) / G99 (Sussex) are consistent with the wider Forces approach and consider resourcing and relationship impacts. It is the Duty Officer (Surrey) / G99 (Sussex) who will remain the tactical commander.

5.4 The Duty Officer (Surrey) / G99 (Sussex) must identify if there is any person within the encampment who is causing damage, disruption, or distress. If this is SIGNIFICANT

damage, disruption, or distress then Section 60C could be a tactical option. If it is not significant damage, disruption, or distress then either Section 61 or Section 62A are tactical options, where this is the case at least one of the five conditions outlined in the NPCC Guidance should be met before using these powers.

5.5 Where necessary a proactive community communications plan must be considered (e.g. leaflet drops in the area / PCSOs engaging immediately with affected residents.) This must be documented on the Niche report. A communication plan must also cover the encampment community.

5.6 The Duty Officer (Surrey) / G99 (Sussex) must consider creating a Community Impact Assessment (CIA) / Community Tension Assessment (CTA) to support ongoing action and media enquiries.

5.7 Consideration must be given to making contact with Corporate Communications and Public Engagement Teams, or the on-call member of staff.

5.8 Liaison must take place with local authority, District / Borough Council or Parish Council in which the land is, irrespective of who the landowner is.

5.9 Once a full assessment has been made by the Duty Officer (Surrey) / G99 (Sussex), they must contact either the Divisional CIM or on-call CIM unless a fast time response is needed (e.g. necessity to use Section 60C where a group intends to reside and are pulling onto land at that time the CIM is the decision maker to ensure consistency in decision making).

6. Injunctions

6.1 If a local authority has an injunction to deal with trespassers on land then they should take primacy in dealing with this. Neighbourhood Policing Teams should already be aware of what injunctions are in place.

7. Role of the CIM

7.1 The lead role in any encampment must rest with the landowner (which may be the local authority) and the use of discretionary police powers should not normally be considered as a first response (NPCC Guidance). The role of CIM provides a consistent approach in dealing with Unauthorised Encampments with oversight of longer term partnership relationships and any potential community tension.

7.2 Excluding a fast time requirement the CIM will be the final decision maker as to whether police powers will be used. Their decision to use or not to use police powers, together with their rationale, will be recorded in the Encampment Direction Decision Rationale and uploaded to the Niche occurrence.

7.3 The presumption must be that powers available by Section 60C, 61 or 62A will not be used unless the impact upon the settled community (as set out in the (NPCC Guidance) is deemed to outweigh any [Human Rights Act 1998](#) considerations in respect of those occupying the land as trespassers.

7.4 The CIM must ensure that when they are available, senior partners within the local authority are appraised and that there is a clear understanding between partners of the aims and responsibilities. It is accepted that this will generally be during office hours.

7.5 It is necessary to consider the impact that the police response has on the local and wider communities' confidence in the police. As with every incident escalated to them, the CIM must consider whether the incident should be declared a Critical Incident. This would not ordinarily be the case.

7.6 If the decision is made to use police powers the CIM may seek advice from the on-call Public Order Public Safety Advisor (POPSA) to assist in determining options, contingencies and actions. Where the use of police powers is absolutely necessary every effort should be made to achieve the result by the least intrusive method.

7.7 The CIM will need to ensure that there are sufficient resources to manage the situation and any direction to leave being issued.

7.8 In the unusual event of an encampment arriving overnight the Duty CIM will be notified only if the immediate use of discretionary police powers is being considered by the Duty Officer (Surrey) / G99 (Sussex).

8. Direction to Leave

8.1 Where authorisation has been given to issue a direction to leave under the legislation the CIM must give consideration to allowing the encampment to remain on the land until a set time so that the individuals do not have to travel during the evening or into the night or for any other welfare reason.

8.2 The wording of any direction to leave issued by police must specify the trespassers must leave the land and remove their vehicles within a time specified. The time for compliance with the direction is at the discretion of the officer issuing the notice.

8.3 It is the senior officer present whose authority gives the direction to leave, not the CIM. The senior officer should have their details on the paperwork.

8.4 Where [Section 62A](#) is utilised the additional guidance must be used.

8.5 Consideration needs to be taken around the resources required, Health and Safety for the police staff and trespassers involved and as appropriate any absolute or qualified rights under ECHR. The least intrusive tactics to achieve the outcome of removing the group will be employed.

8.6 The CIM, together with the Duty Officer (Surrey) / G99 (Sussex), must be satisfied that a need for immediate action is met.

8.7 Where immediate enforcement action under the legislation is seen as a justified and proportionate response, then there may be limited occasions where the local authority have been asked to complete welfare enquiries but have not by that time had the opportunity to complete the checks. In these circumstances the local authorities must be informed as soon as possible of the need for enforcement and the rationale recorded.

8.8 Any welfare enquiries can and must be made promptly and this is the responsibility of the local authority. Where police take immediate action or action during hours when the local authorities are not immediately available there is an even greater emphasis on the police to consider and record humanitarian considerations.

8.9 The decision to serve a notice under the legislation should take into consideration that if anti-social or criminal behaviour is focused amongst particular individuals within the group, or if a member of the group is ill (identified through the site assessment by either police or local authority), it may be appropriate to take action to evict identified individuals, but not the group as a whole.

8.10 Where a group or individual, having been given a request / direction to leave, fails to comply with that direction an offence may have been committed. Officers should investigate such offences taking into account any defence or reasonable excuse raised. Any arrest for any offence must be in accordance with the Police and Criminal Evidence Act 1984 Code G.

9. Ongoing Policing of Unauthorised Encampments

9.1 There will be circumstances where encampments remain either at the agreement of the landowner or whilst alternatives are sought (e.g. local authority seeking eviction through the courts.)

9.2 Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) will have responsibility and ongoing oversight of all Unauthorised Encampments on their area. The expectation is that the ongoing Unauthorised Encampment will be policed at appropriate times. Officers must continue to consider Article 8: Right to a Private Life for those present. Patrolling in the middle of the night or multiple times during a shift without a specific purpose is unlikely to be considered reasonable.

9.3 Police officers and police staff working in communities with Unauthorised Encampments in the locality should use the opportunity to work with both the settled and travelling communities to reassure, to gather intelligence and to ensure that concerns are dealt with through an evidence based approach. The police are impartial, must establish relationships and be equally available to all. The aim of this work should be to:

- Reduce incidents of crime and disorder
- Minimise escalations of or mitigate any community tensions
- Identify offenders from any of the communities and target those individuals with the objective of proving or disproving their involvement in offences.

9.4 Police officers and police staff must ensure that they deal with the individuals responsible for criminality, including anti-social behaviour, and not target whole communities. Where possible police officers and police staff should engage with people from these communities and local authorities to develop preventative measures and promote a positive working relationship. Where encampments contain members of the GRT community they are particularly susceptible to be offended against and less likely to seek help from police – efforts should be made to ensure that they are supported and reassured.

9.5 As with any marker, the use of PNC markers on vehicles on Unauthorised Encampments must be justified for operational reasons, where the information or intelligence necessitates action to be taken by police to deal with the vehicle. Markers must be subject to regular review and removed when no longer necessary.

9.6 Where it is identified that a crime has been committed, the appropriate crime must be recorded on Niche to comply with the National Crime Recording Standard (NCRS). It is important that we record accurate data in the records we hold about protected characteristics. This data is critical to delivering outstanding public service because it deepens our understanding of what our communities demand from us, what response we currently give and where we need to improve. Protected characteristics can be defined as age, gender, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race (including colour), nationality, ethnic or national origin, religion or belief and sexual orientation.

Mandatory Flags

Some crime data is flagged by the Home Office. There are Hate Crime, Metal Theft, Domestic Abuse, Online Crime, Child Sexual Abuse, Child Sexual Exploitation, Alcohol, Corrosive Based Substances and Honour Based Abuse. There is detail which supports each of these important flags at [Counting rules for recorded crime - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/Counting_rules_for_recorded_crime_-_GOV.UK.pdf)

Further information can be found in respective Force policies

Surrey: Crime Recording Policy

Sussex: Crime and Incident Disposal, Recording and Auditing Policy (757)

10. Recording of Unauthorised Encampments

10.1 In all cases, whether police powers are used or not, an occurrence must be created on Niche with the Occurrence Type set to 'Unauthorised Encampment.' Relevant documents must be attached to this.

10.2 Once created all ongoing decision making and rationales must be recorded on the Occurrence Enquiry Log (OEL) rather than the CAD.

10.3 Officers must record vehicle details on the 'Involved' tab of the occurrence.

10.4 Where CJPO Act 1994 legislation is used to direct a group to leave the occurrence must be updated to include any known persons associated with the Unauthorised Encampment. This is necessary should an offence under the legislation is committed at a later date.

10.5 When an Unauthorised Encampment ends the Borough Commander / Neighbourhood Policing Inspector must finalise the report using the Unauthorised Encampment OEL Finalisation Template found on Niche under type 'Finalisation'.

11. Review of Unauthorised Encampments

11.1 All 'live' Unauthorised Encampments will be discussed at Divisional Daily Management Meetings (DMM) to ensure that there is strategic oversight of the situation. The Borough Commander (Surrey) / Neighbourhood Policing Inspector (Sussex) will have ownership of the ongoing partnership and community liaison as well as managing any CIA / CTA and ongoing police activity relating to the site.

11.2 Any encampments which have been deemed a Critical Incident or have a significant impact on the community or resources must be discussed at the relevant Force grip / management meeting.

11.3 All information concerning the site and the site occupants can be shared with all involved agencies (subject to the provisions of the [Data Protection Act 2018](#)), to ensure that a balanced common approach is adopted in fairness to all.

Team: Operations Command - Ops Support

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