

March 2015 (V2)



<u>Policy Title</u>	Managing Unauthorised Encampments
<u>CCMT Sponsor</u>	ACC Operations
<u>Department/Area</u>	Operations
<u>Section/Sector</u>	Operations

CONTENTS:

1.0 Rationale

This policy offers guidance and support in managing incursion incidents. In addition, it will assist in improving the trust and confidence in policing of the communities affected and upholds the principles within the Equality Act 2010. This policy promotes positive relations and takes into account the traditional life style of many of those involved.

2.0 Intention

The aims of the policy are to explain:

- Police responsibilities;
- How to deal with a request for Police action.

3.0 General Principles

This policy applies to all Police officers and Police staff within Thames Valley Police. It explains the framework within which staff are expected to act. Any decision made shall be in accordance with this policy.

4.0 Guidance, Procedures & Tactics

4.1 Overall Stance of the Force

The responsibility for dealing with any unauthorised encampment will lie initially with the landowner/local authority. The Police may be requested to act if the

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encampment is on land where it may prevent lawful use by the owner or general public (e.g. on school grounds).

In considering any unauthorised encampment a balance must be maintained between the rights of those encamped (or seeking to encamp) and the rights of the landowners and the settled society. It must be borne in mind that trespass alone is not a criminal offence.

Officers must act in a neutral, objective and open way, ensuring each encampment is considered on an individual basis. Issues which arise will be primarily of a civil trespass and nuisance nature. The expected course of action by land owners will be through the civil courts. Police intervention will be limited to matters relating to criminal and common law.

4.2 Force undertaking

Like settled communities, those on encampments are entitled to a life free from the fear of crime, harassment and intimidation. We will therefore:

- Work in partnership with Local authorities using agreed protocols
- Be fair, open and honest in our dealings with those on encampments and inform them when making decisions that impact on their lives
- Investigate allegations of crime, harassment and intimidation against them
- Reassure the settled community that the authorities are taking action that is proportionate and appropriate

4.3 Police action

If this is a new incident, then the Duty Inspector should be informed and a resource dispatched to assess and obtain necessary evidence. This will allow an informed decision to be made with regard to any future action by the landowners, Local Authority or the Police.

The attending officer will:

- (i) Complete the Assessment Matrix (Appendix A).
- (ii) Refer to the Legislative checklist (Appendix B)
- (iii) Distribute copies of the Codes of Conduct on behaviour (Appendix C).

4.3.1 The recording of an unlawful encampment will commence through Command and Control. If necessary it will be Matched with other related URNs. The details from the initial assessment will be transferred onto NICHE (either CRI or Crime). Any information logging of persons and vehicles needs to be justified (as per ACPO guidelines) and will be in support of welfare or investigation purposes. Policy decisions will be included and updated on NICHE too, as will the fact there are no alternative sites available in the local authority area, if applicable. All further visits to the site shall also be recorded.

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4.3.2 The duty supervisor will monitor and assess the information and ensure that the relevant DMM for the area is made aware. Consideration for utilising Section 61 and 62 CJPO 1994 must be recorded with full rationale.

4.3.3 Powers and guidance

4.3.4 Section 77 of the Criminal Justice and Public Order Act 1994

4.3.5 The main power for a Local Authority to deal with unauthorised encampments, is under Section 77 of the Criminal Justice and Public Order Act 1994 (CJOPA). TVP staff should make reasonable enquiries to confirm if this section is being sought by the authority/landowner or if processes are already in place relating to the serving of such an order. If this is underway, then police intervention should be limited. The Authority landowner will have additional statutory obligations regarding welfare. It will seek directions to those persons and others with them to leave the land and to remove any vehicles and any other property they have with them. Failure to do so will be a criminal offence and may then require police involvement.

4.3.6 Section 62 (CJPO) 1994

4.3.7 The use of S62 should be considered first as the least intrusive option

- At least 2 persons trespassing
- Have between them at least 1 vehicle on the land
- They are present and have a common purpose of residing
- Appears to the officer that the person has one or more caravan in his possession or control on the land and that there is a suitable pitch on a relevant caravan site.
- The occupier of the land or person acting on their behalf has asked police to remove the trespassers from the land.

Section 62 A to E of CJPO allows the police to direct unauthorised encampments to where the local authority provides official sites and where there are suitable pitches in that Local Authority area.

Arrest powers and seizure of vehicles exist through the direction of S61 if the S62 notice is not complied with or, if the trespassers return within three months from the date of the direction to leave.

4.3.8 Section 61 (CJPO 1994)

Section 61 of CJPO, provides the police with the powers to direct persons to leave land and remove vehicles and/or other property, providing certain pre conditions are met.

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Police will become more involved with the unauthorised encampments where aggravating factors come to light e.g. encampment on Primary Land or offences reported.

- The use of this power allows police to direct persons to leave the land and remove vehicles and/or other property.
- These powers can be used on any land except the highway. Officers should therefore consider offences under the Highways Act 1980 (S137), Road Traffic Act 1988 (S42) and the Road Vehicles (Construction & Use) Regulations 1986 (S103).

The decision to use section 61 is an operational one. In considering whether or not to use powers under this section, you should carry out an appropriate assessment. The following provides guidance in making that decision:

Area type

Officer Consideration

How the land is actually used by the local community will have a major impact on the decision to use section 61.

Primary Land -

The tolerance of an unauthorised encampment, would have a substantial impact on the quality of the life and enjoyment of property of the settled community in the immediate vicinity of the trespass. This will be referred to as 'Primary Land'. 'Immediate vicinity' will be determined by the distance and reasonableness of any complaint.

Primary Land could include:

School grounds, car parks or playing fields;
Recreation grounds and public playing fields;
Cemeteries;
Grounds of places of worship;
Hospital grounds;
Doctor's surgery car parks

Where there is an unauthorised encampment on Primary Land which meets the criteria set out within the CJPO, there will be a presumption in favour of the use of section 61 powers, subject to the 'considerations of common humanity' (see 5.7 risk assessment).

Secondary Land -

Where the unauthorised encampment is sited on land other than 'Primary Land', there shall be a general presumption against the use of section 61. However, this can be rebutted if the prevailing circumstances make it appropriate.

Factors to take into consideration when making this decision should include:

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- Is eviction using Section 61 a proportionate response?
- If section 61 is used, will the subjects then take up residence on more sensitive land?
- Unacceptable behaviour by unauthorised campers at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction;
- Significant disruption to the life of the surrounding community, e.g. encampments on sporting grounds in season;
- Serious breaches of the peace or disorder caused by the encampment;
- Traffic hazard;
- Public health risks;
- Serious environmental damage;
- Significant adverse impact on commercial activities.

Note: The simple fact that certain individuals within an unauthorised encampment are acting, have acted, or may act in a criminal or anti-social manner, do not necessarily make it appropriate to evict everyone on that particular site.

Issuing the 'Direction to leave'

The senior officer present may give verbal or written notice which may be:

- Hand delivered
- Attached to each caravan
- Verbally explained giving consideration to the literacy levels of the recipients

This section does not specifically require a notice, but serving one will negate any complaint that the individual was unaware of the consequences of his failure to leave the land. The use of Body Worn Camera is good practice where written notices are not appropriate.

Time scales to leave on serving the notice should take into account logistical difficulties and should be reasonable within the circumstances.

Failure to move within timescales

If the unauthorised campers fail to leave by the time and date specified by the police or return within 3 months of the direction, they commit an offence and the police have the power to seize and remove trespassing vehicles under S62C of CJPO.

4.3.9 Private Land

4.4.0 Common Law

- Common Law recognises landowner's rights to evict trespassers. Those asked to leave but refuse to do so may be evicted using reasonable force by the landowner or their agent. Land owners using excessive force may commit an offence.

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- Where the encampment is on private property, the police may be called to attend and carry out an assessment. This will be primarily to offer advice to the landowner regarding their rights.
- Land owners and their agents should be encouraged to notify police of any planned eviction carried out under any power.
- The role of the police is one of maintaining the peace and remaining impartial and should be explained to all parties. This is also the case when evictions are currently under way and a decision has been made for the police to be present.
- If there is a risk of a breach of the peace, then the police will have to consider the likely impact of any proposed action and provide advice to the land owner or their agent accordingly.
- Occasionally, private land may come into the 'Primary Land' definition and therefore consideration may have to be given around the use of police powers.

4.4.1 Seeking Removal

- Primacy will remain with the Local Authority or private landowner who may ask for police attendance to facilitate a peaceful resolution.
- The Duty Inspector will ensure that any local protocol has been followed and that an appropriate risk assessment has been carried out.
- It is essential that all those present including police officers and those on unauthorised encampments, land owners and agents, understand the police role is to;
 - (i) Keep the peace
 - (ii) Enforce the criminal law against any party present
 - (iii) Investigate crime

4.4.2 Welfare needs

Attending officers will consider the basic welfare needs of those on the encampment. Other partner agencies with an interest in the welfare needs may include the Local Authority and social and educational services.

4.4.3 Risk Assessment

Prior to the removal of any persons from an unauthorised encampment, a risk assessment will need to be carried out and recorded appropriately.

The 'common humanity considerations' mentioned in S61 of CJPOA are to be in the forefront of any decision relating to police involvement using this legislation.

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- Animals - Are they considered dangerous and will control measures be required?
- Health & welfare- To the occupants of the encampment e.g. illness, disability, pregnancy, elderly or very young children
- Implications –Affecting both those on the encampment and wider community such as by moving the group are they being directed to a site where they may be removed again?
- Intelligence- Is there a direct threat to the public or police officers from the occupants of the encampment?
- Number of people on the encampment?
- Perceptions of the police- while the safety of all those to be removed is of paramount importance, the necessity to deploy officers in numbers to be overtly present should be reviewed accordingly. The ‘no surprise approach’ should be adopted, the situation dynamics may change but officers should be conscious of the wider image to the surrounding communities about those on the encampments. Consideration must also be given to keeping the local community up to date with the events surrounding the encampment, whilst attention to avert fears and concerns should remain with appropriate measures in place if necessary.
- Risk of public disorder/injury- contingencies should be considered to negate or minimise risk or injury to officers or those present on the encampment and members of the public.
- Sanitation - Causing health hazards?
- Traffic – Assess the danger towards those on unauthorised encampments, the settled community and the police.
- Type and condition of land – Are specialist vehicles, equipment and clothing required?
- Vehicles – Numbers and types?

The attending officer will:

- (iv) Complete the Assessment Matrix (Appendix A).
- (v) Refer to the Legislative checklist (Appendix B)
- (vi) Distribute copies of the Codes of Conduct on behaviour (Appendix C).

5.0 Challenges & Representations

Superintendent
Head of Joint Operations Unit
Thames Valley Police HQ
Oxford Road

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Kidlington
OX5 2NX

6.0 Communication

This policy will be published on the Managers Briefing via the TVP intranet site. This policy, upon request, will be made available in Braille or another language. Page | 8

6.1 [Links to Police National Legal Database/Other](#)

(Link to Criminal Justice Public Order Act 1994 Ss 61, 62A-E)

6.2 [Implementation Strategy \(Policy Impact Assessment\)](#)

- Publishing the policy on the Force Intranet.
- Publishing the Equality Impact Assessment on the intranet and internet
- Facilitating public availability
- Monitoring updates to Authorised Professional Practice (APP) and advising policy owners/HoDs as appropriate
- Retrieving the policy for review on the appropriate date (**at least every three years**)

7.0 Compliance and Certification

7.1 [Human Rights Audit](#)

This will be addressed within the Equality Impact Assessment.

7.2 [Equality Impact Assessment](#)

The Equality Impact Assessment has been completed.

7.3 [Management of Police Information \(MoPI\)](#)

Information will be collected, processed and deleted in accordance with [MoPI Guidance](#).

7.4 [Data Protection](#)

Subject Access Requests are dealt with centrally by the Public Access team within the Joint Information Management Unit, to ensure an appropriate and timely response is given in accordance with the legislation.

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7.5 [Freedom of Information Act](#)

This policy will not be made available to the public as it contains police tactics.

7.6 [Protective Markings](#)

This policy is Not Protectively Marked

7.7 [Health & Safety at Work](#)

Supervisors will conduct a Health & Safety risk assessment – prior to any operation.

8.0 Monitoring and Review

The ACC Operations will be responsible for:

- Monitoring relevant changes in legislation
- Monitoring relevant Court rulings – domestic, European and Human Rights
- Monitoring changes as a result of Home Office Circulars
- Monitoring developments at the ACPO Policy Unit and updates to Authorised Professional Practice (APP)
- Monitoring examples of good practice from other forces and other organisations
- Monitoring representations made by individuals and relevant organisations
- Monitoring relevant equalities data
- Reviewing the policy at the appropriate time - **at least every three years.**

For use by the Policy Management Unit Only

<u>Chief Officer Policy Authorisation</u>	
Policy signed off by:	

Name of relevant ACC	Date 24th October 2014

Version	Date Reviewed	Author	Reason
V1	October 2014	James Willis	-Change from Local Policing to NHP&P -Race Relations Act superceded by Equality Act -Traveller Management Unit no longer exists -To provide for a consistent approach across TVP
V2	April 2015	Graham Hadley	-Removal of reference to landowners exercising S.77 from S.4.3.5 and Appendix B; -Damage criterion in Appendix B moved from S.62 to under S.61.

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Appendencies

Appendix A Matrix

Appendix B Flow Chart S61 Criminal Justice Public Order Act 1994

Appendix C Code of Conduct Unauthorised Encampment

APPENDIX A

Assessment

Exact location of site	
Number of people involved	
Number of vehicles present	
Number of Caravans present	
Identity of landowner (if possible)	
Intended length of stay	
Reasons for stay	
.....	
.....	
.....	
Where they intend moving to at the end of their stay	
Whether or not reasonable steps have been taken by or on behalf of the occupier/land owner to ask the people to leave and if so, what the outcome was	
.....	
.....	
Any offences that have occurred	
Ascertain any welfare issues and identify any apparent welfare issues not disclosed by those on unauthorised encampments	
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.....	
.....	

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APPENDIX B

ASSESSMENT MATRIX			
DIRECTION TO LEAVE S62		DIRECTION TO LEAVE S61	
Issue	✓	Issue	✓
1. At least 2 persons trespassing?	<input type="checkbox"/>	1. Two or more persons trespassing with a common purpose to reside with Caravans/living vehicles?	<input type="checkbox"/>
2 Have between them at least 1 vehicle on the land?	<input type="checkbox"/>	2. Have reasonable steps been taken by the owner/agent or person entitled to possession to ask trespassers to leave?	<input type="checkbox"/>
3 They are present and have a common purpose of residing.	<input type="checkbox"/>	3. Abuse to occupier/family/agent? OR are there are six vehicles or more present? Has any damage been caused to the land or property on the land?	<input type="checkbox"/>
4. Appears to the officer that the person has one or more caravan in his possession or control on the land AND THAT THERE IS A SUITABLE PITCH on a relevant caravan site.	<input type="checkbox"/>	IF 'YES' TO ALL THE ABOVE THEN USE OF S61 IS LAWFUL. HOWEVER IT WILL NOT ALWAYS BE APPROPRIATE TO USE THE POWER: CONSIDER THE BELOW & RECORD TO SUPPORT.	
5. The occupier of the land or person acting on their behalf has asked police to remove the trespassers from the land	<input type="checkbox"/>	4. Is this on PRIMARY LAND?	<input type="checkbox"/>
		5. Have you considered presence of significant welfare issues affecting trespassers?	<input type="checkbox"/>
		6. Is there evidence that the trespassers are or have committed offence, breach of the peace or disorder, or that they are likely to do so?	<input type="checkbox"/>
NON POLICE POWERS USED?	<input type="checkbox"/>	7. Has their presence caused any significant disruption to the life of the surrounding community, or to sensitive land or to impact on commercial activities, or is it likely to do so in the immediate future?	<input type="checkbox"/>
Has a S77 application been made by the Local Authority? Officers will monitor the progress of this and intervention will only be as below (notwithstanding offences arising)	<input type="checkbox"/>		
Has the S77 been served? The exercise of this power may involve the police when there is potential for disorder, in which case it remains a matter for local police judgement as to whether police intervention is desirable	<input type="checkbox"/>	8. S61 Notice served? Decision of all above with any supportive comments to be recorded	<input type="checkbox"/>

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APPENDIX C

Code of Conduct

To ensure those members of both the settled and travelling communities can live together in a peaceful and unprejudiced way we expect you to comply with this Code of Conduct. We expect you to treat the land you have occupied with respect, and that you respect the rights and freedoms of other people who also wish to use the area.

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Behaviour that may result in your eviction from a site includes the following:

- **Camping upon any land designated as a public amenity**, such as parks, recreation areas, school fields and similar locations (not an exhaustive list).
- **Interfering with the rights and freedoms of other members of the public, including interrupting the operation of legitimate businesses.**
- **Forcing entry to land**, by causing damage to any fixtures, fittings or landscaping (including planted areas). This includes digging away of earthwork defences, which have been placed at landowner's expense to prevent trespass.
- **Causing any other damage to the land itself, or property on it.** Particular care should be taken not to cause damage to those features provided as public amenities.
- **Driving vehicles along any footpath, or other highway not specifically designed for road vehicles.** This practice is not only unlawful but is also highly dangerous.
- **Parking vehicles or caravans on any road, footpath or other highway that causes an obstruction to other people wanting to pass by.** This includes parking immediately next to footpaths.
- **Dumping or tipping rubbish, waste materials or trade waste such as tree cuttings, rubble, etc.** It is your responsibility to keep the site clean and tidy. Council Traveller Liaison Officers can direct you to Civic Amenity Sites (Council tips) where you will be able to pay to dispose of trade waste.
- **Use of the area as a toilet.** You must not deposit or leave human waste openly in public areas.
- **Abuse, intimidation or harassment of any person who is lawfully using the area.**
- **Excessive noise or other forms of anti-social behaviour.**
- **Animals that are not kept under control or that attack persons lawfully on the land, or nearby.**
- **Interference with electrical, water or gas supplies.** Any person(s) found abstracting electricity, or wasting quantities of water may be subject of criminal proceedings.

These codes are the same standards of behaviour that are expected of the settled community. Thames Valley Police are committed to ensuring that all policing issues that affect you are balanced; however behaviour that is deemed unacceptable within society will not be tolerated.