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for Warwickshire

The Warwickshire Protocol 2017

Dealing with Unauthorised Encampments in Warwickshire

Contents

1. Introduction 3
2. Initial Actions 4
3. Communication 5
4. The Law 6
5. Data Protection 8
6. Post-Incident Debriefing 8
7. Summary 8
8. Review 9
Appendix 1a: Signatories to Protocol 10
Appendix 1b: Tactical and Operational leads for use of the Protocol 11
Appendix 2: Notification to Authorities of an Unauthorised Encampment 12
Appendix 3: Site Code of Conduct 13
Appendix 4: Information Sharing Meeting Checklist 15
Appendix 5: Template leaflet for residents and businesses 16

1. Introduction

1.1. Research and experience tends to strongly suggest that over the last four years most local authority areas in Warwickshire have experienced an increase in unauthorised encampments by Gypsy and Traveller communities. This experience has also been felt in Coventry and the West Midlands as a whole. It is probable this is due to a lack of suitable sites for prolonged stopping, population growth in the Gypsy and Traveller communities and due to members of the community continuing to practice a nomadic habit of life in accordance with their cultural identity.

1.2. This has led to increasing tensions and criticism from settled residential communities who seek redress from their local elected representatives. In some instances it has led to criminal and anti-social behaviours from within and outside the encampment. Consequently the effects have impacted on local authorities, private landowners, the courts and the police in terms of resource, time and cost.

1.3. This protocol is aimed at ensuring that the response to unauthorised encampments from local authorities, private landowners, the police and other salient agencies is cohesive, consistent, efficient and effective. It seeks to provide a set of shared principles and processes with clearly identified leads

1.4. Good communications and negotiation, setting clear expectations, seeking positive outcomes and being committed to challenging crime and disorder are key themes of this document. It is very important to maintain public confidence and uphold the law whilst being cognisant of the rights of the Gypsy and Travelling communities. Post encampment review is also a vital aspect of this document.

1.5. In following this protocol some key principles need to be established. The law needs to be upheld and positive action applied in a pragmatic, fair and balanced way. Behind all decision making must be the principles of justification, proportionality, legality and absolute necessity.

1.6. Whilst positive action will in most cases inevitably have to be taken, it is in a spirit of negotiation, clear communication and a partnership approach. Decision makers must take account of threat, harm and risk presented by the unauthorised encampment whilst being cognisant of issues relating to vulnerability, welfare and safeguarding in relation to members of the encampment. In addition, it would be prudent to take in to account the planning and land use provisions relating to the land. Ultimately decision making must take into account the needs, fears and concerns of the settled community.

2. Initial Actions

2.1. Following the report of an unauthorised encampment the information detailed within Appendix 2 must be collated upon first response to the encampment. It is the responsibility of the lead agency (see para. 2.2) to ensure this information is recorded. It is accepted it may not be the lead agency making the first response. Experience would tend to suggest it will probably be the police. However, the lead agency must ensure it is in possession of the information no later than one working day after receiving the first report of the encampment.

2.2. A positive and professional initial response is essential in setting the tone and effectiveness of the subsequent processes. It is a first priority to establish whether the land in question is owned by any of the signatories to this Protocol and if it is, that agency will be the lead agency.

2.3. Where the land trespassed on is owned privately, the district/borough local authority will offer initial advice if requested as the landowner may be inexperienced in such matters. However, it should be noted a district/borough local authority cannot make decisions for a private landowner. Distinct ownership and efficient positive action are the key steps to successful outcomes. ***It is vital the lead agency has a clearly appointed person(s) able to deal with and make decisions about the encampment.*** It is also extremely important to engage with the trespassers present at the encampment and those residing on the unauthorised encampment as the Site Code of Conduct Notice must be explained and served as soon as practicable by the lead agency or by the police on behalf of the lead agency. (See Appendix 3)

2.4. Within one to two working days an information sharing meeting should have been established to consider the views of all relevant stakeholders including the Gypsy and Travelling community. This is the responsibility of the lead agency. This may be a physical meeting, on or off site or virtual e.g. telephone conferencing, video conferencing. It is imperative that views are taken from decision makers representing all the relevant partners. A full assessment of the situation and associated risks must be made. The meeting should be documented, actions clearly identified, owned and completed. The meeting record should be shared and updated.

2.5. The Warwickshire County Council Gypsy and Traveller Liaison Team will ensure a document is created on ECINS for every unauthorised encampment. This is in order for the lead agency to log all salient information about the unauthorised encampment, such as, strategy, meetings, discussions, decision making and rationale. The log may also incorporate the Warwickshire Police Site Assessment document that is created by the police. This will be at the discretion and judgement of the Warwickshire Police Gypsy and Traveller Liaison Officer.

2.6. The meeting should clearly define the planned way forward for the next 48 hours whether leading to a scheduled eviction or a tolerated trespass arrangement. The plan should be revisited and revised regularly according to need. A significant incident on the site or raised tensions in the local settled community should give cause to conducting an early review.

2.7. Key issues to take into account are the intentions of the Gypsy and Travelling community, their actual behaviours, any welfare issues and the potential for criminal or anti-social activity associated with the unauthorised encampment. It matters not whether such activity is perpetrated by members of the encampment or by members of the settled community towards the encampment. Such behaviours and disruption will be viewed seriously. Whether the encampment is on land that is private; residential; public or business related is irrelevant. However, it is accepted local authorities have no control over private landowners actions or decisions. They do have recourse to powers under common law.

3. Communication

3.1. Good, timely, communication at all stages of dealing with an unauthorised encampment is vital to ensuring that local residents and businesses and the Gypsy and Traveller community are aware of the actions that are being taken to bring about a positive resolution. This protocol does not seek to prescribe all communication methodologies as the circumstances of each unauthorised encampment will be different and the communications tailored to suit as necessary. However, it should be a key priority when an unauthorised encampment occurs to establish a communication strategy, owned by the lead agency and supported by the other agencies as appropriate. This will provide consistency of communications and allow for a co-ordinated response.

3.2. The lead agency will be responsible for the co-ordination of the communications activities and should ensure clear ownership is established for individual elements, though these may be delivered by other agencies. For example, a leaflet to residents might be produced by the lead agency but delivered within the local area by the police Safer Neighbourhoods Team. A suggested template for a leaflet to residents and businesses is included at Appendix 5.

3.3. It must be recognised that communication is a two-way process and, as such individuals and networks can pass back information in respect of the impact the encampment is having on the local settled communities. Such feedback should be acknowledged and documented and used by the responsible agencies to further assess the encampment and its consequences. Any criminal activity or anti-social behaviour should be reported directly to the police.

3.4. As a general principle, it is important that the public has clear information about the ways in which agencies will deal with unauthorised encampments, before, during and after they occur. This should deal not only with encampments on public/local authority land or the highway, but also provide practical information and guidance for members of the public dealing with encampments on private land.

3.5. Consistency of communication is key to ensuring that conflicting information is avoided. It is preferable that there should be one central 'hub', to which agencies can signpost the public towards and from which updates can be shared. The Warwickshire County Council unauthorised traveller sites web page at http://www.warwickshire.gov.uk/travellerunauthorisedsites is the suggested basis for such an information hub, particularly as it allows the public to report encampments online and then be kept directly updated on progress. Local authorities can send updates direct to the WCC Gypsy and Traveller Liaison Team who will then update the web site.

3.6. Effort must be made to communicate with key local networks and individuals who can help convey messages on behalf of the responsible agencies, including elected members. Email, website, social media and direct messaging (for example leaflets distributed to affected residents and businesses) should be considered alongside the traditional print and broadcast media as the circumstances dictate, with the aim of maximising the reach of updates. Information updates must be timely, accurate and concise and signpost towards ways in which further feedback can be given.

4. The Law

4.1.Utilising the most relevant and effective legislation for the unauthorised encampment in question is a matter for the lead agency and it's legal advisors. The following, though, may help decision makers in determining the best way forward via a legal route.

- Common Law – can be used by the landowner to regain possession of the land; does not require use of a court; enforced by the landowner or private bailiffs; has no sanctions should trespassers return. This option is not available to public bodies.
- Part 55 Civil Procedure Rules – can only be used by the landowner to regain possession of the land; requires a civil court procedure; possession can be enforced by county court bailiffs; no sanctions should trespassers return unless means have been adopted to identify the persons unknown. Sanctions become unavailable after the 3 month period where the court order is valid expires.

- Sections 77 – 78 Criminal Justice and Public Order Act 1994 – can only be used by a local authority on land forming part of the Highway, unoccupied land or occupied land without the consent of the occupier; used to remove identified individuals; magistrates court required when those directed do not leave; possession enforced by local authority; return of campers and or their vehicles within three months carries criminal sanctions.
- Sections 61 – 62 Criminal Justice and Public Order Act 1994 – can only be used by police; on any land except the highway; to direct that persons leave the land and remove any vehicles they have with them or any other property and a failure to do so or a return to the land within three months empowers a Police constable to seize and remove that vehicle; it is not only triggered where there are two or more persons trespassing with 6 or more vehicles but can be triggered where there are two or more persons trespassing and that any of those persons trespassing has caused damage to the land or to property on the land or where they have used threatening, abusive, insulting words or behaviour towards the occupier of the land, a member of the occupier's family or an employee or agent of the occupier; does not require the courts; possession enforced by police; return within three months – criminal sanctions.
- Section 62A-E Criminal Justice and Public Order Act 1994 – can be used by a Senior Police Officer to direct 1 or more trespassers to leave land and take any vehicles with them, but where it appears that the trespassers are in possession or control of caravans, there has to be a suitable pitch available on a relevant site before such a direction can be delivered; can be used on any land; is used for identified individuals and or their vehicles; does not require the courts; possession enforced by the police; return to the local authority area within three months – criminal sanctions.
- Injunction - Can be drafted to prohibit named individuals from engaging in certain activities or behaviours; can be expensive and difficult to obtain; a few local authorities have taken the approach and may be a viable longer term option.

4.2. In considering the legal approach decision makers need to be mindful of Article 8 of the Human Rights Act 1998 and being cognisant of the right to respect for private and family life. Decision makers will also need to be mindful of the fact that Gypsy and Travellers are a recognised ethnic group for the purposes of the Equality Act 2010 for which public bodies have a public sector equality duty.

4.3. For more detail on relevant legislation the document, *'Dealing with illegal and unauthorised encampments – a summary of available powers' DCLG March 2015* is recommended reading.

5. Data Protection

5.1. All information sharing commitments as made under the Protocol will be compliant and within the parameters of the Data Protection Act 1998 and it is for the agency sharing information to satisfy itself of that accordingly.

6. Post-Incident Debriefing

6.1. Following the departure of the encampment, within 48 hours a debriefing meeting should be held by the lead agency. This meeting could be virtual, or by way of telephone/video conference. At the very least the lead agency, within 48 hours of the departure of the encampment, should ensure that the ECINS log created for the unauthorised encampment is updated. It is very important that information reflecting what went well, not so well and any lessons learnt is documented. Constant improvement in dealing with unauthorised encampments and information sharing will be golden threads of the debriefing process.

6.2. Whilst positive action around unauthorised encampments is not at all designed to criminalise any members of the Gypsy and Traveller communities – law breaking will not be tolerated. In that respect as part of the debriefing process it is important the police document and appropriately share information and intelligence in respect of any criminal aspects of the encampment. The police will also utilise the information and intelligence gathered to help build up a picture of the problem across the County. This will help ensure agencies are intelligence led going forward and best placed to make good decisions and use of resources to deal with the challenges posed.

7. Summary

7.1. In summary this protocol seeks to bring cohesion, consistency and sustainable effectiveness to the challenge of dealing with unauthorised encampments. It is absolutely recognised that such encampments can have a very significant and adverse impact on settled communities. Whilst consistent, positive and effective response is imperative it will be in a context of justification, proportionality, legality and absolute necessity. Negotiation must always prevail over any inclination for confrontation. However, criminal behaviour will not be tolerated whether within or outside of the encampment. It is an expectation of this protocol that the police will robustly gather information and intelligence and utilise it positively to neutralise any criminal behaviours.

7.2. The longer term sustainable solutions to unauthorised encampments go beyond the scope of this protocol and probably lie within the realm of national and local

government planning and housing strategies. Warwickshire will contribute to the bigger conversation both on a regional and national basis as it is fully recognised and accepted that a wider collaborative approach is needed as part of the overall strategy.

8. Review

8.1. This protocol document will be reviewed every 12 months from the date of adoption.

Appendix 1a: Signatories to Protocol

Signed: ……Date: …….

On behalf of Warwickshire Police and Crime Commissioner

Signed: ……Date: …….

On behalf of Warwickshire County Council

Signed: ……Date: …….

On behalf of Warwickshire Police

Signed: ……Date: …….

On behalf of North Warwickshire Borough Council

Signed: ……Date: …….

On behalf of Nuneaton & Bedworth Borough Council

Signed: ……Date: …….

On behalf of Rugby Borough Council

Signed: ……Date: …….

On behalf of Warwick District Council

Signed: ……Date: …….

On behalf of Stratford-on-Avon District Council

Appendix 1b: Tactical and Operational leads for use of the Protocol

Organisation	Contact; Role; Address	Phone	E mail
Warwickshire Police and Crime Commissioner	Chris Lewis; Policy and Research Officer; 3, Northgate St., Warwick CV34 4SP	01926 418086 07971 602631	chrislewis@warwickshire.gov.uk
Warwickshire County Council			
Warwickshire Police			
North Warwickshire Borough Council			
Nuneaton & Bedworth Borough Council			
Rugby Borough Council			
Warwick District Council			
Stratford-on-Avon District Council			

Appendix 2: Notification to Authorities of an Unauthorised Encampment

Experience to do date shows that in the vast majority of instances when an unauthorised encampment is reported, the police are the first to be notified. Warwickshire Police commence an 'Initial Site Assessment Form'. Warwickshire Police will utilise the form to convey the following information to the relevant authorities:

- Date of arrival of travellers
- Address and location of encampment
- Land ownership
- Number of units and vehicles
- Profile of encampment e.g. numbers of families; business activities; associated equipment/effects; presence of animals
- Intended departure date
- Immediate problems/welfare issues
- Contact details

It is then expected that the ECINS log (see para. 2.5.) created for the unauthorised encampment will be utilised by the lead agency.

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Appendix 3: Site Code of Conduct

Warwickshire POLICE

Unauthorised Encampments

Code of Conduct

To ensure those members of the settled and gypsy 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.

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 - this is 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.
- Burning, 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.
- Using the area for open toileting. You must NOT deposit or leave human waste in or near this unauthorised encampment area.
- Abuse, intimidation or harassment of any person who is lawfully using the area.
- Excessive noise or other forms of anti-social behaviour especially after 10pm and before 7am.
- Animals that are not kept under control (including dogs fouling public places) 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 principles are the same standards of behaviour that are expected of the settled community. Warwickshire 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.

Appendix 3 continued

The above Code of Conduct has been successfully used by Warwickshire Police in recent times and it is proposed this document will be suitable for the foreseeable future. Even though the police are not the lead agency in the main, it seems practical for them to continue serving the Code of Conduct on initially attending the site having received the report of the encampment. The following notes are provided to help give guidance to the use of and interpretation of the Code:

The purpose of this code of conduct is to build relationships between all relevant parties and encourage good social behaviours by members of the encampment. Active compliance and cooperation with this code and respect for the site and its neighbours is essential. It should be noted, however, that the literary skills of members of unauthorised encampments can be varied. It cannot be assumed that by physically serving the Code, the process is complete. Verbal explanation must be provided.

Active compliance does not mean that the members of the encampment will be offered a tolerated trespass arrangement. The presumption is that the site will be vacated as soon as possible and ideally within 24 hours. It should be made clear that the failure to follow the Code of Conduct could result in enforcement action against any and all individuals.

Enforcement may include the use of Community Protection Notices. Such action is a relatively new consideration in dealing with unauthorised encampments. These notices were introduced under the Anti-Social Behaviour, Crime & Policing Act 2014 to stop businesses, organisations or individuals over the age of 16 from committing anti-social behaviour which spoils the communities' quality of life. They can be used to deal with most problems or nuisances which negatively impact on or affect the community, by targeting those responsible.

The lead agency may give consideration to the installation of temporary bins and toilets. Such measures could lead to cost savings in the longer term. However, it is fully recognised this is a decision for each local authority dependent on a range of local policy and cost recovery fact.

Damage to property or the environment will be tolerated. Costs for remedying any damage caused must be paid by the group or will lead to eviction from the affected site and all future sites.

Any allegations of criminal behaviour will be reported to the police.

Appendix 4: Information Sharing Meeting Checklist

In undertaking a full assessment of the unauthorised encampment it is recommended that the following topics, as a minimum, are considered in order to achieve a good and comprehensive decision making process. This list is not definitive and decision makers should consider all issues they believe to be relevant in the context of the particular unauthorised encampment that is being considered:

- In relation to the location of encampment – has ownership of the land been confirmed? Has the lead agency been established?
- Is there any particular sensitivity or risks in relation to the site? The level and type of complaints received; associated political issues and pressures may have to be taken into consideration.
- Any significant nuisance related to use of site? e.g. burning of fires/rubbish/ incorrect or illegal disposal of waste materials.
- Any damage to any surrounding properties or places occurred due to the setting up of the encampment?
- Are there stray animals of any description related to the encampment causing public nuisance.
- Are there any safety implications related to site in particular public health issues?
- Are there any relevant planning permissions associated with site?
- What are the travel intentions of the encampment?
- Are any members of the encampment presenting with any welfare issues in relation to health, safeguarding or vulnerability?
- Are there any education requirements to be considered?
- What are the actual numbers of people and vehicles involved with the encampment? Have details been documented where appropriate?
- Has the encampment Code of Conduct been served? Is there any evidence of breach or non-compliance?
- If there are breaches should the police be considering utilising powers under sections 61 and 62 of the Criminal Justice and Public Order Act 1994?

Appendix 5: Template leaflet for residents and businesses

Other local authorities outside of Warwickshire have effectively utilised leaflets in neighbourhoods affected by unauthorised encampments. The following wording may be of use should any Warwickshire lead agency choose to take such an approach:

Unauthorised encampment in your area

Relevant local authority/public body/landowner, Warwickshire Police and your local councillors are aware of the unauthorised encampment in your area.

We want to reassure you that we are working together with the settled and traveller communities to resolve the situation as quickly as possible.

This can take time and may be subject to a legal process.

If you have any issues of anti-social behaviour or crime, please report these to the police on 101.

If you wish to report other issues to your local authorityl please email email.address@xcouncil.gov.uk or call *[insert number]*

Further updates about the steps the agencies are taking to resolve the situation will be published online at http://www.warwickshire.gov.uk/travellerunauthorisedsites

You can also report issues online through this site and provide contact details to be kept directly informed of key developments.

Local Authority

Warwickshire Police