



# **Merton Unauthorised Encampment Joint Protocol Policy**

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## 1. Introduction:

Merton is an outer London borough bordering Surrey to the south and Sutton, Croydon, Lambeth and Kingston to the west, north and east. Merton covers an area of 37.1 square kilometres.

There are over 120 parks and open spaces in Merton. These are a mixture of urban parks with playgrounds and other facilities and wild open spaces. The parks are usually fenced and locked at night, but the large number of green spaces are generally more open and are more difficult to secure.

Merton has experienced an increasing number of unauthorised encampments in the last few years. These have occupied land within the parks, on some of our highways and on private land, with some areas receiving multiple unauthorised encampments during this period. This has necessitated deploying additional resources to deal with the incursions. The same groups occupying the unauthorised encampments have moved from one location to another causing considerable additional work and financial costs for the council. Although in most cases unauthorised encampments have been dealt with very quickly and the sites are secured as best as is possible while maintaining access by the public, we need to ensure our policy for dealing with unauthorised encampments is as efficient as possible and thereby discourage unauthorised encampments. The 2010 policy has therefore been reviewed.

This policy covers the management of unauthorised encampments regardless of who the occupiers may be. However, the groups predominantly responsible in Merton are understood to be from the gypsy and traveller community. Merton Council acknowledges that the right to choose to lead a nomadic existence is enshrined in law and that it is not the role of a local authority to endorse, disrupt or discourage this lifestyle. However, people living a Gypsy and Traveller lifestyle should consider any potential nuisance or harm that they may inflict on others and the same standards of behaviour are expected of gypsies and travellers as for the rest of the community.

The council recognises its obligations under the Human Rights Act (HRA) 1998 and that gypsies and travellers are covered by the provisions of the Equalities Act 2010.

In respect of unauthorised encampments, the council strives to balance the interest of local residents and the travelling population and every unauthorised encampment will be considered on its individual circumstances. The practice of undertaking joint initial assessments on unlawful encampments where children, pregnant women, elderly or disabled persons are present, improves the quality of those assessments as well as affording the opportunity to develop more open trusting relationships between the Gypsy and Traveller community and the authorities.

Merton Council has provided an authorised fixed site with a total of 15 residential pitches for travellers since 1988. The site is owned by Merton council and is managed by Circle Housing Merton Priory (CHMP) through a service level agreement with Merton Council following the transfer of council housing stock to CHMP in 2010.

Merton's Core Planning Strategy 2011 Policy CS10 *Accommodation for Gypsies and Travellers* sets out the planning policy against which new traveller sites would be assessed. Between 2011 and 2013, Merton Council carried out a "Gypsy and Traveller Accommodation Needs Assessment". The research reviewed the need for accommodation for gypsies and travellers in line with national policy to inform the preparation of Merton's *Site and Policies Plan*. It concluded that re-letting of vacancies on the council's existing site at Brickfield Road presented the most deliverable option to meet identified needs and therefore the recommended 10-year target for additional Gypsy and Traveller caravan pitches is zero. Merton's *Sites and Policies Plan* was examined by an independent planning inspector who specifically reviewed this issue, and the plan was adopted in July 2014.

It is the responsibility of private landowners to deal with unauthorised encampments on their land but advice on how to deal with this is provided by council offers if required.

**The aims of the policy are to:**

- Develop a consistent and proportionate response to reports of unauthorised encampments on council property;
- Protect land and facilities in the borough at risk of unauthorised encampments;
- Deal swiftly with identified unauthorised encampments on council property;
- Comply with the council's statutory duties, including those under the Equalities Act 2010 and the Human Right Act 1998;
- Work with other local authorities, sharing information relating to unauthorised encampments.

**2. Local context:**

There has been a notable increase in unauthorised encampments in the last few years. Unauthorised encampments most frequently occur on land within the parks and open spaces and on highway land, but other sites have also been targeted including school land and privately owned land.

The majority of unauthorised encampments take place on parks and open spaces. Green spaces are difficult to protect by their very nature, not all parks are fenced and gated and the majority of open spaces are without any form of protection and are easily accessible from the road by vehicles. In addition many parks have car parks which are open to the public making any attempts to secure access difficult, although height restricting barriers have been installed to the vulnerable public car parks. Locks on gates have also known to have been broken to gain access.

While trying to 'secure or lock down' any access points to public open space there is a balance which has to be achieved between protecting the land from unauthorised encampments and changing the character of an area. The installation of soil walls, barriers and posts therefore needs to be considered carefully.

**3. Statutory duties of the council:**

The council must particularly have regard to its obligations under Equalities Act 2010 and the Human Rights Act 1998.

**Equality Act 2010 – Public Sector Equality Duty s.149**

- (1) A public authority must, in the exercise of its functions, have due regard to the need to –
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it:
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

### **Relevant Convention Rights**

#### **Article 8 Right to respect for private and family life**

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

#### **Article 14 Prohibition of discrimination**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

### **4. Legal Powers**

There are a number of powers available locally to tackle unauthorised encampments. The Department of Communities and Local Government (DCLG) issued guidance in August 2013 and 2015 on the powers that are available and these can be accessed at the DCLG website.

Where Gypsies and Travellers reside in vehicles on land they do not own without gaining the permission of the owner, they are 'trespassers'. Some unauthorised encampments can be dealt with through informal negotiation or the threat of formal action, but where this is not possible, action can be taken to forcibly remove them from the land. Private landowners, local authorities and the Police all have powers to deal with unauthorised encampments.

Section 77 and 78 – Local authorities can use S77 of the Criminal Justice and Public Order Act 1994 to direct those occupying the land to leave. Failure to move from the land, or returning to the land within a period of three months are both criminal offences, punishable by a fine of up to £1,000.

If the unauthorised occupiers fail to comply with a S77 direction, local authorities can use S78 of the Criminal Justice and Public Order Act 1994 to go to the Magistrates Court and apply for an order which allows the removal of unauthorised encampments. Responsibility for eviction lies with the local authority. Obstruction of the local authority exercising their power under this order is an offence, punishable by a fine of up to £1,000.

Further details on this power are included in Appendix 2.

## **Section 61 and 62**

The Police have a power to direct trespassers to leave land under S61 of the Criminal Justice and Public Order Act 1994. This is a discretionary power, which requires that one of the following three conditions must be met:

- Any of the Gypsies/Travellers has caused damage to the land or property on the land.
- Any of the Gypsies/Travellers has used threatening, abusive or insulting behaviour towards the owner/occupier, a member of his family or an employee or agent of his.
- That the Gypsies/Travellers have six or more vehicles between them.

It is an offence to fail to comply with a direction to leave by the Police or to return to the land within three months, punishable by up to three months imprisonment and/or fine of up to £2,500.

The Criminal Justice and Public Order Act 1994 S62 allows the Police to seize and remove vehicles if a direction under S61 has not been complied with, or the trespassers have returned to that land with a vehicle within a period of three months from the date of the direction under S61.

The Police have the power to remove trespassers where a suitable pitch is available under the Criminal Justice and Public Order Act 1994 S62 (a)-(b) and can be used where all of the following conditions are met.

- At least two people are trespassing.
- The trespassers have at least one vehicle between them on the land.
- The trespassers are present on the land with the common purpose of residing there for any period,
- The occupier of the land or a person acting on his behalf has asked the Police to remove the trespassers from the land.

It is a criminal offence for the trespasser to fail to leave the land as soon as reasonably practicable, or enter any land in the local authority area in order to reside there as a trespasser within three months of the direction being given. The penalty for this offence is up to three months imprisonment and/or fine of up to £2,500.

Further details on this power are included in Appendix 2.

## **Criminal Justice and Public Order Act (CJPOA) Considerations**

Following the introduction of the Criminal Justice and Public Order Act 1994 (CJPOA) concerns were expressed about the potential abuse of the new powers. As a result, the Department of the Environment issued a Circular 18/94, giving guidance to local authorities as to the use of their powers and which must be taken into account when considering the eviction of an encampment of Gypsies or Travellers.

The Circular emphasises that the powers must be used in a “humane and compassionate fashion and primarily to reduce nuisance and afford a high level of protection to private land owners” and not to “evict Gypsies needlessly”.

This has been supported by subsequent case law.

## **Town and Country Planning Act**

Under the Town and Country Planning Act, 1990, as amended, the Planning Enforcement Team can serve an Enforcement Notice with a Stop Notice on private land owners to remove unauthorised encampments, although these are rarely used to deal with this issue in Merton, due to the lengthy appeal process attached to these Notices.

## **Byelaws**

Merton's bylaws in respect of parks and open spaces do not give any specific powers in relation to unauthorised encampments.

## **Possession Proceedings**

An alternative to using the Criminal Justice and Public Order Act 1994 is through a claim for possession through the County Court or High Court. Court bailiffs would need to be used to remove trespassers from the land once a possession order has been granted. However, obtaining a hearing date and enforcement of the possession order generally takes longer than using Section 77 and 78 of the Criminal Justice and Public Order Act 1994.

## **Injunctions**

These would not offer any additional powers to Section 77 and 78 however they can be granted indefinitely and could provide a longer term solution. Case law shows however that an injunction is only likely to be granted in exceptional circumstances, such as a large scale encampment existing over a number of months with consequential damage, anti-social behaviour etc.

## **Private Land**

It is the responsibility of the private landowner to take action to remove trespassers and to deal with any environmental nuisance relating to unauthorised encampments on private land. As section 77 of the Criminal Justice and Public Order Act 1994 applies to occupied land without the consent of the landowner the council could take action on behalf of the owner. However, there is a resource and cost issue here and there would have to be a strong public interest for doing so, and the landowner would have to make a case to the council that justifies why they are not able to deal with it themselves.

## **Schools**

The council will use CJPOA powers but any period of 'tolerance' may not be appropriate due to the status of school and whether the encampments would be in place when the school was open.

## **5. Merton Council's approach to dealing with unauthorised encampments**

The council has responsibility for the management of unauthorised encampments on its own land. This includes any action for eviction.

Government guidance states that prior to a decision to evict, the authority must have regard to any obligations it might have under other legislation. This therefore helps ensure compliance with the Equality and Human Rights obligations referred to above.

The council therefore uses specific measures to ensure the necessary enquiries are made. The enquiries must be "meaningful" and take into account social services, housing and educational responsibilities as well as liaison with other authorities who may have statutory responsibilities, such as local Health and Welfare services, Particularly:-

- In respect of the Children's Act and "Every child Matters" duties to co-operate to promote the wellbeing of children and young people.
- Housing Act 1996 – obligations to homeless persons and to offer advice on housing options.
- Local Education Authority – statutory duty to make appropriate educational provision available for all school age children in their area, whether resident temporarily or permanently. Consideration should be given to the effects of eviction on the education of children "already enrolled, or in the process of being enrolled at the school". If there is a decision to proceed with an eviction and a family is moved elsewhere within the area of the authority, alternative education arrangements can be made.
- Local Health and Welfare Services – if as a result of its enquiries, an authority is aware that there may be occupiers at the site receiving assistance, (e.g. pregnant women, older people, newly born children) then they should liaise with the relevant statutory agencies.

If during a visit, an officer becomes aware of the above matters that may require further enquiry they would need to liaise with colleagues to obtain more specialist support or guidance.

The following criteria will also be taken into consideration before reaching a decision on eviction of unauthorised encampments on council owned land.

- Public health and safety – including highway safety, obstruction or danger to road users as well as environmental and other dangers.
- Any unacceptable nuisance caused to nearby residents or businesses.
- Whether the presence seriously interferes with or prevents the use of that land for its normal purpose or an imminent change of use.
- Any well-reasoned grounds for believing the presence cannot be managed effectively e.g. size or composition of the site, any threatening behaviour to local residents, council staff or others by site residents.

The process in respect of each case of an unauthorised encampment must include the following.

- A visit and assessment by an authorised council officer within 48 hours of notification.
- A copy of the assessment form is included in Appendix 1.

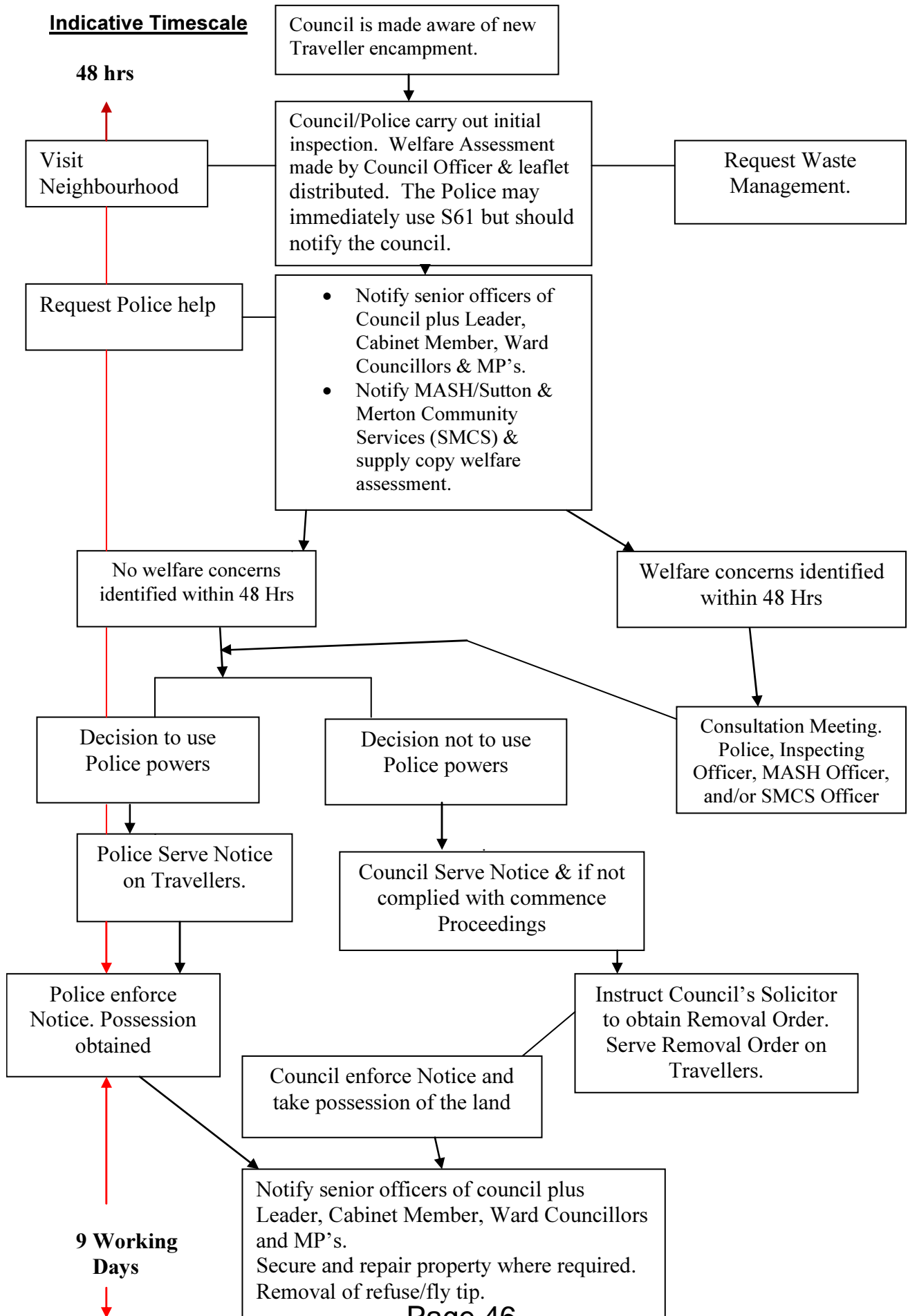
## **Police**

The creation of a local protocol is recognised as best practice by central government to provide a consistent approach to the management of unauthorised encampments, improve effective communication with all agencies, the Gypsy and Traveller community and the public, and reduce the risk of confusion by providing clear guidance to those officers, whether Police or local authority, who become involved with unauthorised encampments.

A joint protocol agreement between Merton Police and the local authority was developed in 2010 but this has been reviewed. An updated joint process of dealing with unauthorised encampments and enforcement of S61 and S62A of the Criminal Justice and Public Order Act 1994 is in draft form, with a London wide metropolitan Police protocol also currently being developed.

Some reports of unauthorised encampments will go directly to the Police. If the encampment is in process i.e. vehicles are in the process of moving on to land then the Police will usually intervene immediately to try and prevent it. If the encampment is already in place then subject to Section 61 powers the matter will be passed to the council to manage. Any encampment on private land is regarded as the responsibility of the landowner.

**Protocol Flow Chart/Process Maps - A Guide**





**Appendix 1 – Checklist**

# QUESTIONNAIRE

**Checklist of circumstances of travelling families illegally camped in London Borough of Merton.**

**Carried out by (name of officer) .....**

**Accompanied by: .....**

**Date: ..... Time: ..... Duration of visit:.....**

<b>SECTION ONE : General Site Details</b>		
<b>1.1</b>	<b>Location of site</b>	
<b>1.2</b>	<b>Number of : - Caravans - Cars</b>	
<b>1.3</b>	<b>Condition of Caravans</b>	
<b>1.4</b>	<b>Condition of Site including :</b> <b>- water source</b> <b>- sanitation arrangements</b> <b>- road safety for children</b> <b>- waste disposal arrangements</b>	
<b>1.5</b>	<b>Access to site including:</b> <b>- Details of access for emergency vehicles</b> <b>- Safety of access arrangements</b>	

## SECTION TWO : Make Up of Travelling Group

<p><b>2.1</b></p>	<p><b>Details of families on site including (approximately) :</b></p> <ul style="list-style-type: none"> <li>- any newborn children on site.</li> <li>- No. of children 0-4 years</li> <li>- No. of children 5-7 years</li> <li>- No. of children 8- 11 years</li> <li>- No. of children 12-16 years.</li> <li>- No. of Adults</li> </ul>	
<p><b>2.2</b></p>	<p><b>Number of individual group 'pulling' together including:</b></p> <ul style="list-style-type: none"> <li>- numbers in each group.</li> <li>- reasons for group <i>(family/working together)</i></li> </ul>	
<p><b>2.3</b></p>	<p><b>Ethnicity of Groups</b> <i>(i.e. English travelling families, Irish travellers etc.)</i></p> <p><b>Reason for Travelling</b></p>	
<p><b>2.4</b></p>	<p><b>Occupation of Groups</b> <i>(e.g. road laying, tree felling, selling etc).</i></p>	

**SECTION THREE: Social Assessment**

**Note: It is essential that the purpose of this assessment is made clear at the outset i.e. to determine whether the Authority has any statutory responsibilities to these individuals and whether the presence of the encampment should be tolerated for any period of time. Families should not feel pressurised to give information Permission should be sought from the 'adults in charge' before any children are spoken to.**

<p><b>3.1</b></p>	<p><b>Where have group travelled from (including 3 most recent halts) ?</b></p>	
<p><b>3.2</b></p>	<p><b>What level of supervision of children is evident generally on site?</b></p>	
<p><b>3.3</b></p>	<p><b>Have any children or young people on site got additional needs? Include :</b></p> <ul style="list-style-type: none"> <li>- children who may be ill or requiring medical treatment.</li> <li>- children with disabilities.</li> <li>- children currently undergoing, treatment locally.</li> </ul> <p><b>Please give details of doctor, hospital etc.</b></p>	

<p><b>3.4</b></p>	<p><b>Are children currently known to Social Services in another area? (i.e. children on CP Register children currently the subject of court proceedings, Children receiving support from another local authority)</b></p>	
<p><b>3.5</b></p>	<p><b>Do all children appear well?</b></p> <p><b>Include:</b></p> <ul style="list-style-type: none"> <li>- <b>appropriately dressed for the weather.</b></li> <li>- <b>Allowed to speak freely in front of adults</b></li> <li>- <b>No obvious signs of distress/neglect.</b></li> </ul>	
<p><b>3.6</b></p>	<p><b>Do any adults wish to speak privately to a social worker?</b></p>	
<p><b>3.7</b></p>	<p><b>Are there any pregnant women on site?</b></p>	

<b>SECTION FOUR: Education Assessment</b>		
<b>4.1</b>	<p><b>Are any children attending local schools? (If so, please give details)</b></p> <p><b>Numbers:</b></p> <p><b>Ages:</b></p>	
<b>4.2</b>	<p><b>Do any children have special educational needs? If yes – what are their needs?</b></p> <p><b>Where were they identified?</b></p>	
<b>4.3</b>	<p><b>What are the general arrangements for education for the children on site?</b></p>	
<b>4.4</b>	<p><b>Would any family like advice/support in relation to their children’s education?</b></p>	

<b>SECTION FIVE: Housing Assessment</b>		
<b>5.1</b>	<p><b>Does any family have a tenancy in another area?</b></p>	
<b>5.2</b>	<p><b>Would any family like advice about their housing situation?</b></p>	

**SECTION SIX: Traveller's View**

<b>6.1</b>	<b>What are their views about their current situation?</b>	
<b>6.2</b>	<b>Where are they planning to move next? Include:</b> <ul style="list-style-type: none"><li>- <b>their intended date of departure.</b></li><li>- <b>are they moving together?</b></li></ul>	
<b>6.3</b>	<b>What specific hardships will they face if they are moved prior to this date?</b>	
<b>6.4</b>	<b>What are the reasons for unauthorised camping in this Borough?</b>	
<b>6.5</b>	<b>Are any follow up visits planned?</b>	

6.6	<p>Have all families/groups been given information about how to contact local services. Including :</p> <ul style="list-style-type: none"> <li>- GP's surgeries</li> <li>- Children &amp; Families, Social Services</li> <li>- Housing Department</li> <li>- Education Welfare Department</li> </ul>	
<b>SECTION SEVEN:</b>		
7.1	<p>Names of any individuals known to the Council as having been involved in previous illegal/unlawful encampments</p> <p>If names not known can any individuals be recognized as having been involved in previous unlawful/illegal encampments – and if so a description of them</p>	
7.2	<p>Have any other agencies been involved/need to be involved and in what capacity</p> <ul style="list-style-type: none"> <li>- Police</li> <li>- Social services</li> <li>- other</li> </ul>	
7.3	<p>Has the Council received any complaints regarding the occupation and nature of these complaints</p>	

<p><b>7.4</b></p>	<p><b>Is it necessary and proportionate for the Council/another agency to take action in order to promote and/or protect the interests of the inhabitants of the Borough?</b></p> <p><b>If so, what factors has the Council taken into account? (i.e. preservation of the wider environment/wider public interest/abatement of nuisance etc)</b></p>	
<p><b>7.5</b></p>	<p><b>Are any of the following actions appropriate and if not why not (for example have such actions been taken previously or have individuals demonstrated the intention to ignore such enforcement action or would such actions be prohibitively expensive):-</b></p> <ul style="list-style-type: none"> <li><b>- summary possession proceedings</b></li> <li><b>- section 77 and 78 Criminal Justice and Public Order Act 1994 (Council powers of removal)</b></li> <li><b>- Section 61 and 62 or 62A – E Criminal Justice and Public order Act 1994 (Police powers of removal)</b></li> <li><b>- Injunction pursuant to section 222 Local Government Act 1972/section 1 Localism Act 2011/section 130 (5) Highways Act 1980 in relation to this site/on other land owned or controlled by the Council or the Highway</b></li> </ul>	
<p><b>7.6</b></p>	<p><b>Are there any medical, welfare, social or other reasons why the Council or some other agency should not take action to remove the occupants from the property?</b></p>	



<b>7.7</b>	<p><b>Are the individuals habitually resident in the Borough?</b></p> <p><b>If so and they are removed from their encampment/restrained from setting up an unlawful/illegal encampment on other land owned or controlled by the Council or the Highway are there any traveler sites/other lawful encampments available to them?</b></p>	
<b>7.8</b>	<p><b>If the occupiers are removed from the site and/or prevented from setting up an unlawful/illegal encampment elsewhere on Council owned/controlled land/the highway will the impact of being removed from the property have health educational or other implications?</b></p>	
<b>7.9</b>	<p><b>In making its decision as to the action to be taken has the Council applied its equality policies and procedures?</b></p> <p><b>What type of factors has the Council taken in to account to ensure there is no breach of its equality duties?</b></p>	

7.10	<p>In deciding what action to take has the Council taken into account whether there is any alternative which is less detrimental to the occupants/the occupant against whom the action is proposed?</p> <p>If so please state why the alternative action is not appropriate?</p>	
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**SECTION EIGHT:**

**8.0 Any other relevant Information**

**Signed:** .....

**Please complete on day of visit and return to:**

## **Appendix 2 – Legal Powers**

The main power for the local authority to deal with unauthorised encampments is under Section 77 of the Criminal Justice and Public Order Act 1994 (CJOPA).

Under s.77 if it appears that persons are for the time being residing in a vehicle or vehicles within the authority's area:-

- On any land forming part of the highway.
- On any other unoccupied land; or
- On any occupied land without the consent of the occupier.

The authority may then give directions to those persons and others with them to leave the land and remove the vehicle or vehicles and any other property they have with them. Failure to do so is a criminal offence.

A Direction is served by the authority, and if the person on whom it was served fails, as soon as practicable, to leave the land or, having left, enters the land within 3 months beginning with the date on which the Direction was given, then they are guilty of an offence.

If the persons given a Direction fail to leave in response to such a Direction, the authority can apply to the Magistrates Court for an order under Section 78 for removal of persons and their vehicles which are unlawfully encamped on the land.

The order made by the Court can also authorise the local authority to take such steps as are necessary to ensure the Direction is complied with. This can include entering on the land with tow-away vehicles, Police etc. Again, it is a criminal offence to wilfully obstruct any person trying to exercise powers conferred on them by an Order.

In essence therefore, the procedure for dealing with encampments is a four stage process:-

- i. Notification of the encampments presence following which the local authority carry out welfare assessments (see later note);
- ii. A Direction Notice is served upon the persons on the land requiring the removal of the encampment.
- iii. If the encampment does not move in accordance with the Direction, application is made to Court for a Removal Order requiring the unauthorised encampment to leave the land, if it does not do so, giving the authority power to enter the land to remove the vehicles;
- iv. Following service of the Removal Order, the authority can enter the land to effect the removal of the vehicles.

Service of documents can be by:-

- giving it to the person named on it; or
- fixing it to a prominent place to their vehicle or caravan; or
- if the notice is to “unnamed occupants of vehicles”, but fixing it to every vehicle on the land; **and**
- displaying a copy of the notice on the land where it can be seen by persons camping on the land; **and**

- if on private land, giving it to the owner and any occupier.

Only the individuals who have been served with a Direction Notice will be affected by it, and consequently any subsequent Order for removal will only apply to them. For this reason steps to secure the site from further unauthorised entry should be considered (ensuring that provision is made for emergency access). Fixing the Direction Notice to a caravan on the land at the time of the service of the Notice, but which is empty, will be sufficient as substituted or deemed service. It is important to be able to prove service of the Direction Notice as it has the effect of making the presence on the land a criminal offence.

### **Police Powers**

The Police have power to deal with unauthorised encampments under Section 61 of the CJPOA. However, the Metropolitan Police Service through guidance issued by ACPO have indicated that the existence of the local authority's powers, means that the lead role for decision making should rest with the local authority and the use of Police powers should not normally be considered as a first response.

If they choose to do so a senior Police officer (defined by the Metropolitan Police as an officer not lower than the rank of Superintendent) can direct persons to leave land and remove their vehicles or other property if:-

- reasonable steps have been taken by or on behalf of the occupier to ask them to leave (i.e. if they are on local authority land and the local authority has carried out the circular enquiries); and
- they are causing damage to the land (includes grass being trampled or the dumping of rubbish); or
- have between them six or more vehicles.

If, having been given such a direction, they fail to leave the land as soon as reasonably practicable or, having left the land, re-enter it within a period of six months from the date direction was given, it is an arrestable offence.

In deciding whether to make such direction the senior officer may decide to take into account similar considerations to those set out in the Circular guidance which applies to local authorities. Again the ACPO guidance states:-

'The lead role in the management of unauthorised encampments will be with local authorities. Forces should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments, including the use of Police powers under Section 61 or 62 of the Criminal Justice & Public Order Act 1994 where:

- i. **Local amenities are deprived to communities or significant impact on the environment.**  
This could include for example, forming an encampment on any part of a recreation ground, public park, school field, village green, or depriving the public use of car parks. The fact that other sections of the community are being deprived on the amenities must be evident before action is taken.
- ii. **There is local disruption to the economy.**

Local disruption to the economy would include forming an encampment on a shopping centre car park, or in an industrial estate, if it disrupts workers or customers, or agricultural land, if this results in the loss of use of the land for its normal purpose.

**iii. There is other significant disruption to the local community or environment.**

This might include where other behaviour, which is directly related to those present at an encampment, is so significant that a prompt eviction by Police becomes necessary, rather than by other means.

**iv. There is a danger to life.**

An example of this might be an encampment adjacent to a motorway, where there could be a danger of children or animals straying onto the carriageway.

**v. There is a need to take preventative action.**

This might include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at this newly established site.'

The mere presence of an encampment without any aggravating factors will not normally create an expectation that Police will use their powers.

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