

APPENDIX E - SECTION 61 CRIMINAL JUSTICE & PUBLIC ORDER ACT 1994

FLOW CHART AND GUIDANCE NOTES

IF:-

I believe that two or more of you have entered the land as trespassers, that you have a common purpose of residing on the land

- Who is the landowner?
- Are there 2 or more people?
- Have they entered the land as trespassers?
- Are caravans or other 'living' vehicles present?

and that reasonable steps have been taken by or on behalf of the person entitled to possession of the land to ask you to leave

- What reasonable steps has the landowner taken to ask the trespassers to leave? e.g.**
- Verbal request: (supported by written statement)
 - Are there witnesses to the request?
 - Have notices been served requesting them to leave - who served them, and how. Were they displayed prominently?
 - Do the Police have a copy of any notice served?

I FURTHER BELIEVE THAT:

One or more of you has caused damage to the land or property on the land

- Damage can be ANY damage e.g.
- Padlock to gate
 - Digging away earth mounding (cost money to have put in place or to repair)
 - Could be litter in worst cases or engine oil contamination etc

OR

One or more of you has used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his.

- Equivalent to Section 5 Public Order Act
- Only applies to landowner or agent – NOT all members of public
- Will the victim provide a written statement?

OR

You have between you six or more vehicles (including caravans) on the land

- Vehicles includes motor vehicles and caravans
- Where S61 applies, consider this Guidance.

THEN S61 MAY BE APPLIED. IF IT IS,

- S61 Notices must be served and copies kept (carbon)
- Details of people and vehicles must be recorded
- A 'reasonable' time (in the circumstances) must be given for them to leave the land
- Trespassers welfare issues must be taken into account

FAILURE TO COMPLY

- Power of arrest - any person who fails to comply without reasonable excuse to leave the land
- Power to seize any vehicle not removed

HUMAN RIGHTS TESTS

Is the eviction proposed:

- Legal - are the elements of Section 61 present?
- Necessary - is it necessary to evict the group?
 - Would other policing methods suffice e.g. high profile patrols, or individual arrests for other offences?
- Proportionate - is the decision balanced?
 - Have the needs of the landowner or settled community been balanced with the needs of the trespassers?
 - Do all the trespassers need to be evicted or can specific individuals be identified?
- Accountable - is the rationale behind the decision recorded and available?

DECISION MAKING GUIDANCE

- It is recommended that decisions to evict be made by an Officer not below the rank of Inspector.
- All decisions, whether to evict or not to evict, will be recorded, including with rationale.