

SUBJECT:	<i>Unauthorised Encampments</i>
REPORT OF:	<i>Cllr Patrick Hogan, Healthy Communities Portfolio Holder</i>
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WARD/S AFFECTED	<i>All</i>

1. Purpose of Report

1.1 To consider and adopt the Thames Valley police and Buckinghamshire County Council protocols for dealing with unauthorised encampments.

The PAG is asked to advise the Portfolio Holder on the following recommendations to Cabinet:

RECOMMENDATIONS TO CABINET

- 1. To delegate the final decision to adopt the TVP and BCC protocols on unauthorised encampments to the Head of Healthy communities in consultation with the Portfolio Holder for Healthy Communities.**
- 2 To work with all Bucks authorities to see if there is any scope to identify a tolerated temporary site(s) somewhere in Bucks to support the move on of unauthorised encampments**

2. Reasons for Recommendations

2.1 To ensure a partnership approach to dealing with unauthorised encampments.

3. Content of Report

3.1 Buckinghamshire experiences regular unauthorised encampments (UAE), which can cause tensions within local communities if not managed appropriately. They can also be expensive and time-consuming to clear. Whilst there are a range of powers available to local authorities, landowners, and the police to tackle encampments, it is not always clear which authority should lead and which powers are most effective. As a result, there is a risk of a perception of inconsistency in response and poor communication between local communities and statutory bodies within Buckinghamshire.

3.2 Additionally, during 2017, Buckinghamshire has been targeted by groups of travellers undertaking organised waste crime, which is being investigated on a regional level by the Environment Agency, but which has significant implications at the local level. The response to these incidences will be most effective where it is co-ordinated and where communication and information sharing is effective.

- 3.3 The draft protocols with Thames Valley Police and Buckinghamshire County Council provide details of the agreed approach between agencies to manage unauthorised encampments, including details about who is the lead authority in specific circumstances and which powers are available to them. The protocols set out the processes that will be followed for a broad range of encampments, clarify roles and responsibilities and will provide the basis for communication to local communities and interested parties.
- 3.4 Unauthorised encampments include vehicles and caravans, but also tented or other encampments related to homelessness or protests where vehicles are not necessarily involved. These protests may include persons opposing major infrastructure developments that are anticipated to come through Buckinghamshire as a whole.
- 3.5 Where consent has been provided by a landowner these protocols will not be available for use. Action would be required under relevant planning and other legislative routes.
- 3.6 Responsibility for dealing with an unauthorised encampment initially rests with the landowner. However, where there are aggravating factors then there may be a need for Local Authorities and Police to consider taking action
- 3.7 In accordance with Department of Communities and Local Government (DCLG) guidance, the Local Authority is the lead agency for unauthorised encampments should take an active role in engaging with site residents and in particular will take the lead on sites established on public land that do not require immediate Police action.
- 3.8 In Buckinghamshire the protocol establishes the County Council as the lead authority to deal with unauthorised encampments which include vehicles and caravans. Tented communities would be the responsibility of the District Councils to enforce under relevant licensing, public health and housing and antisocial behaviour legislation.
- 3.9 The range of powers that are available to landowners, all local authorities and police are detailed in appendix A.
- 3.10 Where an unauthorised encampment includes people residing in vehicles (and/or caravans), the local authority has the power to direct people to leave the land under Section 77 of the Criminal Justice and Public Order Act 1994 (CJPOA). If the direction notice is not complied with, the local authority can apply to the magistrate's court for an order requiring the removal of the encampment under Section 78 of the CJPOA. Once a court order has been issued, the local authority may evict the campers using reasonable force. The County Council has advised that whilst it will take the lead, the district councils may have to share any resource implications of a protracted investigation and enforcement situation.

- 3.11 The police have discretionary powers under Sections 61 and 62 of the CJPOA to remove trespassers from land, excluding highway land, where the trespassers have failed to adhere to a request to leave the land and to seize their vehicles. These powers have to be used in accordance with the guidance detailed in appendix B. As such the police advise they will not be used in the event of minor crime and disorder such as accessing land by the removal of a lock. Where significant risks are identified as detailed in Appendix B the police will consider the application of these powers.
- 3.12 Section 62 of the CJPOA may only be used where there is a site that the travellers may be moved to. As there are no sites in Buckinghamshire this options is not available to the police. The police have advised officers on the effective use of a local authority owned site in Sandwell MBC which enables the travellers to be directed to. If they fail to move to the designated site they can be evicted from the district. The nightly costs of the site are such that unauthorised encampments choose to move out of the district. A joint business case with the other local authorities in Buckinghamshire could be considered. This would enable a designated site managed by a local authority in Buckinghamshire to be used to direct travellers to in a similar manner.
- 3.13 Where a landowner tolerates an unauthorised encampment and decides not to evict from the site, action can be taken under relevant planning legislation for a breach of planning. S77-78 Criminal Justice and Public Order Act 1994 can also be used by any Local Authority irrespective of the ownership of the land. This power allows identified individuals to be removed from land when directed to do so. The involvement of Courts is required when unauthorised campers do not leave when directed. Currently BCC officers are not delegated to use this power in these situations any action would be considered on an individual case basis. The District Council equally has the power should it wish to utilise it.

Communication

- 3.14 Both protocols identify the need for effective communication, a single point of contact and community information on incidents
- 3.15 Both Chiltern and South Bucks Districts websites have been reviewed to provide advice and contact details, web forms and information as to what residents can do to report unauthorised encampments. The [single point of contact](#) being the Buckinghamshire Gypsy and Traveller service
- 3.16 The out of hours advice service operating in Chiltern and South Bucks will report cases through to the Buckinghamshire Gypsy and Traveller service or the police as necessary.
- 3.17 In cases of suspected crime, the police ask residents to [report a crime](#) via the website or 101 number

3.18 Following reports the police together with BCC will lead the investigation and establish a Unauthorised Encampment Management Group, to agree a strategy for management and communication. That Unauthorised Encampment Management Group will include key contact officers from the district, county and police as well as representatives of the landowner and other agencies that may be involved e.g. Environment Agency. This group will act as the single point of contact for members; residents etc. and provide updates as necessary. The aim being to manage the information in relation to an incident.

Escalation Process

3.19 On occasion there may be disagreement as to the action to be taken and which agency should be taking the lead role in relation to a particular unauthorised encampment. Where there is disagreement between the Local Authority and Thames Valley Police about the action to be taken, then the issues should be documented and escalated to senior management for further discussion and resolution. In Thames Valley Police this will be the LPA Commander/Deputy LPA Commander. For Local Authorities this will be the identified Director/Senior Manager

Incidents

3.20 Since last autumn there have been two incidents of large scale encampments across Chiltern and South Bucks, one at the service station and the other in Denham. On both occasions the protocol has successfully addressed the issues and the unauthorised encampments have been moved on in a timely fashion. As a result of the manner in which they have been addressed neither of these events has caused community concern. The same period have also seen one family move around South Bucks seeking a permanent encampment. Sporadic cases of tented communities have occurred but have been moved on by landowners.

The Healthy Communities PAG is asked to consider the report and make recommendations to the Portfolio Holder for Healthy Communities.

4. Options

- 4.1.1 *To agree to the unauthorised encampment protocols with BCC and TVP*
- 4.1.2 *To suggest amendments to the protocols*
- 4.1.3 *To consider the option of a transit site for travellers*

6. Corporate Implications

6.1 *Financial – There are no additional costs arising from the operation of the two protocols, however should a site be found to provide a transit site for unauthorised encampments a business case would be required to be presented to members*

6.2 *Legal – the protocols outline the range of powers available to the various agencies involved with unauthorised encampments and actions taken would be considered on a case by case approach in accordance with guidance*

7. Links to Council Policy Objectives

- 7.1 Delivering cost-effective, customer focussed services-
- 7.2 Working towards safe and healthier local communities.

8. Next Step

- 8.1. To agree the protocols and consider if a transit site would be available within Buckinghamshire*

Background Papers:	None
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Appendix A: Available Powers

<p>Landowner</p> <p>(This includes the Local Authority when it is their land)</p>	<p>Part 55 Civil Procedure Rules allow them to seek possession of their land through the Courts.</p> <ul style="list-style-type: none"> • Can only be used by landowner • Used to regain possession of land • Require Civil Court procedure • Enforced by County Court bailiffs • No sanction if trespassers return <p>Common Law Powers</p> <ul style="list-style-type: none"> • Can only be used by landowner • Used to regain possession of land (tort of trespass) • Does not require involvement of the Courts • Enforced by landowner and/or private bailiffs • No sanction if trespassers return • Trespasser who entered land peaceably should be asked to leave and given opportunity to leave prior to force being used • May use no more force than is reasonable to evict • If considering use landowner should notify Police • Police may wish to be present to prevent a Breach of Peace • If Police believe it is inappropriate to attempt eviction in the circumstances action should be delayed until Police believe safe to continue
<p>Local Authority</p>	<p>S77-78 Criminal Justice and Public Order Act 1994</p> <ul style="list-style-type: none"> • Can only be used by Local Authority • Can be used on any land irrespective of ownership • Used to remove identified individuals from land • Only require involvement of Courts when unauthorised campers do not leave when directed • Enforced by Local Authority Officers or private bailiffs employed by them • Return to location within three months carries criminal sanctions <p>Injunctions</p>

	<ul style="list-style-type: none"> • Can be used to protect vulnerable sites • Where intelligence suggests will be targeted • Believed disruption will be caused. • In defined area • Pre-emptive power <p>Tent/caravan site licensing powers</p> <ul style="list-style-type: none"> • These powers limit the use of land as caravan/camp sites. <p>Byelaws</p> <ul style="list-style-type: none"> • Pre-emptive power to prohibit encampments • Powers of seizure and retention of property can be applied, which could include tents and sleeping equipment. <p>Obstruction Of Public Highway</p> <ul style="list-style-type: none"> • Need to show there is an obstruction being caused • Can apply to court for a removal and disposal order <p>Planning powers</p> <ul style="list-style-type: none"> • There are a number of powers under the Town and Country Planning Act 1990 that can be considered depending on the circumstances
<p>Police (Police powers are discretionary)</p>	<p>S61-62 Criminal Justice and Public Order Act 1994</p> <ul style="list-style-type: none"> • Can only be used by Police. (Discretionary Power) • Can be used on any land except the highway • Used to remove identified individuals from land • Criteria must be met e.g. 2 or more persons trespassing and either caused damage, been threatening to landowner or agent, have six or more vehicles with them. Landowner must have taken reasonable steps to require persons to leave • Does not require involvement of Courts • Enforced by Police • Return to location within three months carries criminal sanctions <p>S62A-E Criminal Justice and Public Order Act 1994</p>

	<ul style="list-style-type: none">• Can only be used where alternative site available• Can only be used by Police• Can be used on any land• Used to remove identified individuals from land• Does not require involvement of Courts• Enforced by Police• Return to Local Authority area within three months carries criminal sanctions
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(This list is not exhaustive as there may be other powers available to deal with specific issues or problem behaviours associated with a particular unauthorised encampment).

Appendix B: Use of Police Powers

As per National Police Chiefs Council (NPCC) and DCLG guidance, Local Authorities have a leadership role to play in the management of unauthorised encampments. NPCC recommend police should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments where:

1. Local amenities are deprived to communities or there is significant impact on the environment

This could include a recreation ground, public park, school field, public car park. There must be evidence that other sections of the community are being deprived of the amenities before action is taken.

2. There is local disruption to the economy

This could include significant disruption to workers or customers using business premises or if an encampment is on agricultural land and it results in loss of use of the land for its normal purpose.

3. There is other disruption to the local community or environment

This would include ASB/criminal activity linked to those present at an encampment, which is so significant that prompt eviction by Police becomes necessary rather than by other means.

4. There is a danger to life

For instance where an unauthorised encampment is on the edge of a motorway and there is a danger of children or animals straying onto the carriageway.

5. There is a need to take preventative action

For instance where a known group of individuals have caused or persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at a newly established site.

In all the above cases police action will still need to be lawful proportionate and necessary and compliant with Human Rights and Equality legislation. The mere presence of an encampment without any aggravating factors should not normally create an expectation that police will use eviction powers. If Section 61 CJPOA 1994 powers are to be used it will also be necessary to show that the landowner has taken reasonable steps to ask trespassers to leave before police powers can be used.