

PROCEDURE – Unauthorised Encampments

Number: D 0706

Date Published: 30 January 2014

1.0 Summary of Changes

This document has been amended to make reference to ECTU constable instead of sergeant, and the author details have been updated.

2.0 About this Procedure

This procedure details how Essex Police will respond to unauthorised encampments on land by individuals intending to reside on that land without the permission of the landowner.

The procedure will not be used to deal with:

- Unlawful development, whereby individuals purchase and occupy land, with or without planning permission. Such matters will be referred to the local council or unitary authority;
- Illegal occupation of unoccupied buildings, i.e. squatting; such matters will be dealt with by the owner through the civil courts;
- Raves - where the matter relates to a rave, officers should consult D 0601 Procedure - Raves;
- Squatting in residential premises - Section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 creates an offence of squatting in a residential building.

Working with our partners we will create safer communities and promote community cohesion by:

- Building confidence in all the communities we serve;
- Protecting the public against crime and anti-social behaviour;
- Gathering intelligence and assessing the effects of police and partner actions on local communities.

This procedure will ensure a consistent approach across all partner agencies in dealing with unauthorised encampments. It complies with the ACPO Guidance on Unauthorised Encampments and the findings published in 'Common Ground' by the Commission for Racial Equality. A flowchart is available to illustrate this process.

Local authorities, including Essex Police, have a responsibility to act in a manner that **fairly balances the rights and freedoms of all individuals concerned including Gypsies, Travellers and other local residents, ensuring any decisions are proportionate to the circumstances.**

The Equality Act 2010 makes it unlawful to treat an individual less favourably on the grounds of colour, race, nationality or ethnic or national origins. Following a nomadic lifestyle is lawful and is a culture that is recognised and protected through legislation. Romany Gypsies and Irish Travellers are protected under the Equality Act 2010.

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Where occupants at unauthorised encampments are victims of crime or anti-social behaviour, they must be given access to services in the usual way. If there is a perception that the incident is racially motivated then the matter should be dealt with in line with force policy.

There is no legal right to trespass and the law provides a wide range of powers to remove people who are unlawfully on land. The establishment of any unauthorised encampment can raise many concerns with the landowner and neighbouring members of the settled or business community. Any decision to evict must be lawful, necessary and proportionate if it is to comply with the legislation outlined above.

It is essential that any police response properly takes account of the behaviour of all involved, whether this is criminal, anti-social or nuisance behaviour, in combination with any impact on the landowner and the local community.

Police powers to evict people from unauthorised encampments are embedded within Sections 61 and 62 A-E, CJPOA 94.

These powers are discretionary and can be used where behaviour or conduct is considered to be unlawful, inappropriate, or where the impact of an encampment on others is deemed unacceptable. This position is consistent with all other areas of enforcement within the community.

In managing unauthorised encampments officers should be aware that in Essex there are a lack of pitches on authorised sites and there are no designated 'transit sites'; therefore, 62 A-E, CJPOA 94 will currently not be utilised in this force.

3.0 Risk Assessments/Health and Safety Considerations

There are no specific risks that arise from the implementation of this procedure. Each incident will have a degree of risk associated with the individual circumstances that are reported. Officers engaging with individuals who are part of an unauthorised encampment will be required to conduct a site assessment, part of which will include the assessment of any risk associated with the safety and welfare needs of those who remain within the encampment.

Officers or members of police staff will be required to conduct a dynamic risk assessment concerning their own personal safety, whenever they engage with the occupants of an unauthorised encampment; this will include the implementation of standard working practices to protect the safety of operational staff.

Where a decision is made to enter an unauthorised encampment to enforce the lawful eviction of the inhabitants, a full operational risk assessment will be required using form PERS52.

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4.0 Procedure

4.1 Essex Countywide Traveller Unit (ECTU)

The Essex Countywide Traveller Unit (ECTU) has been established to provide a key role in dealing with all matters relating to Gypsies and Travellers, including all unauthorised encampments, the management of permanent sites provided by the local authority and the provision of health, education and fire safety services. The ECTU is managed by the unit manager and operates from County Hall, Chelmsford, between 0800-1700 hours, Monday to Friday.

Between these times the ECTU constable should be asked to attend any incident involving unlawful encampments. Although based centrally they will endeavour to attend all encampments across the County within the hours above. The ECTU constable is contactable on Ext: 489065 or mobile 07854 064258 and call sign XD 650.

Incidents that occur outside the ECTU hours of operation will be attended by local police officers for assessment and a decision as to any action required. If immediate action is not required the matter may be referred to the ECTU for subsequent attention.

In accordance with guidance issued by the Department for Communities and Local Government, the relevant local authority will be the lead agency for unauthorised encampments. The ECTU will act on behalf of the landowner or Local Authority in managing any communication with the members of the unauthorised encampment.

4.2 Initial Report

A STORM incident log will be created for each unauthorised encampment notified to the police. This incident will be used to record the following:

- Any calls from the public relating to the encampment;
- Any calls from the occupants of the encampment;
- Any incidents directly attributable to the occupants of the encampment.

It will be the responsibility of the Force Control Room supervisor to ensure that this incident is tagged as 'Unauthorised Encampment' and should be brought to the attention of the ECTU constable and the Local Policing Area Commander. The Command Team will have oversight of the management of such incidents.

The ECTU constable will attend the encampment and make a primary assessment of the site. Where unavailable another unit will be allocated to respond and assess.

If the ECTU constable is not on duty the most appropriate unit will need to be allocated for attendance. The incident will then remain open pending an update from the ECTU.

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4.3 Scene Assessment

Officers or staff initially attending the scene should:

- Begin a dialogue with members of the encampment to determine the following:
 - The full identify of any individual granting permission for them to be present on the land;
 - The identity of all occupants including the number of adults and children present;
 - Identify any immediate welfare needs;
 - Full details of all vehicles and caravans;
 - The location of their last site;
 - The duration of their intended stay;
 - The identity of a representative to act as a point of contact;
 - Serve the code of conduct (form C129) on the representative, together with a suitable verbal explanation of the type of conduct that will be classed as unacceptable and which will have the potential to lead to their eviction from the land. If a representative is not identifiable, it is advisable to serve the code of conduct on all occupants of the unauthorised encampment;
- Identify the landowner or their agent and obtain their name, address and telephone number;
- Gather evidence to identify the point of entry and any offences committed to gain entry, i.e. criminal damage;
- Takes steps to preserve any evidence, e.g., photographing the site, and consider requesting the attendance of a scenes of crime officer (SOCO);
- Complete an Initial Site Assessment form C125.

Once complete, a copy of form C125 will be emailed to the ECTU constable to allow further action to be taken. Original copies of the form will be forwarded to Neighbourhood Policing Command, for the attention of the ECTU constable.

Landowners should be advised that reasonable steps must be taken by them to ask the trespassers to leave before police powers can be used and a record should be made of when this has been done.

4.4 Senior Officer On-Site Assessment

Legislation requires the most senior officer present at the site to make an assessment concerning the eviction of the unauthorised encampment. The ECTU constable will be the senior officer present in most cases and will complete form C126 Eviction Rationale, detailing the rationale for any decision to evict and providing a clear audit trail. The decision will then be communicated to the District Commander or LPA lead. This is to provide oversight and to ensure that District leads are clear on the rationale for the use / non-use of police powers and to provide additional support to the decision maker.

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When available the ECTU constable forms an important part of the decision making process. Through their expertise and knowledge they are able to determine whether it is proportionate and necessary to use police powers under Section 61 of the CJPOA and will provide a lead role with regard to eviction and subsequent legal action.

Where the ECTU constable is unavailable, an officer not below the rank of Inspector will attend the site. The Inspector will be required to make an overall assessment to determine whether an urgent eviction is required prior to the attendance of the ECTU constable at the next available opportunity. In deciding whether an urgent eviction is required, the Inspector must have due regard to the eviction criteria detailed at section 4.5 and must be sure in their own mind that such action needs to be taken before the return to duty of the ECTU constable.

Prior to any police powers being used to evict the occupants, the senior officer on site will inform the Duty LPA Commander, if unavailable, the Duty Silver Commander.

It is recognised that the impact of encampments can change over time; consequently there will be a need for on-going engagement and assessment to effectively manage these sites. In the first instance the ECTU constable will maintain responsibility for site assessment and reviewing the use of police powers. Any change in circumstances should be communicated to the District or LPA leads.

Where the ECTU constable is unavailable the responsibility for on-going assessment will revert to a local Inspector.

There may be occasions where there is a difference of opinion over the apparent impact of an encampment on the community and the associated use of police powers. In these circumstances the decision should be referred to the Silver Commander for assessment and adjudication.

An aide memoire form C127 provides further advice and guidance regarding the scene assessment and eviction rationale.

4.5 Decision to Use Police Powers

If the decision is to utilise powers under Section 61 of the CJPOA 1994, then reasonable steps must be taken by the landowner to ask the trespassers to leave before police powers can be used (see form C130).

Any direction to leave must be given verbally and in writing (if practicable) whereby the senior officer on site would complete form C59 and ensure it is served on the occupants.

Once a final decision is reached, the original STORM incident should be endorsed with the outcome, including the use any police powers. A periodic review will be conducted by the Equality of Service Manager in conjunction with the Strategic Independent Advisory Group.

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The legislation relating to the use of S61 CJPOA is very clear and will be the primary factor in determining the use of police powers. The following factors must also be considered in addition to the legislation to decide whether it is proportionate and necessary to use the legal powers.

- **The community is deprived of local amenities, or there is a significant adverse impact on the environment**, e.g. forming an encampment on any part of a recreation ground, public park, school field, village green, or depriving members of the public the use of car parks. The fact that other sections of the community are being deprived of the amenities must be evident before action is taken;
- **There is local disruption to the economy**, e.g. forming an encampment on a shopping centre car park or in an industrial estate, particularly where it disrupts workers or customers. This would include agricultural land, especially where it disrupts the use of the land for its normal purpose;
- **There is other significant disruption to the local community or environment** which is considered so significant that a prompt eviction by police becomes necessary;
- **There is a danger to the life of any individual**: 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;
- **There is a need to take preventative action**: This might include where occupants of an encampment have persistently displayed anti-social behaviour at previous sites and there is reason to believe the behaviour will continue;
- **There is a significant increase in local crime which is *attributable to the unauthorised encampment***. The allegation of a crime or identification of an individual suspect should not be grounds alone for consideration of a full group eviction.

The mere presence of an encampment without any factors listed above should not normally create an expectation that police powers will be used. This should be communicated to the public, landowners, local authorities and other agencies.

It should be noted that, where there are insufficient grounds for local authorities to take action, then Essex Police will not automatically consider using police powers to evict.

Further advice and guidance for applying this procedure can be found on the Neighbourhood Policing Command intranet site.

4.6 Decision Not to Use Police Powers

If the decision is to not utilise powers under Section 61 of the CJPOA 94, the landowner should be advised of the rationale and an update provided for the ECTU constable. The decision not to use police powers will be reviewed at regular intervals throughout the duration of the unauthorised encampment, taking into account the conduct of the occupants and the eviction criteria.

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Should the circumstances change, giving rise to a decision to evict, then the site must be re-visited by the ECTU constable or, in their absence, an officer of the rank of Inspector.

In managing the monitoring of the site the ECTU constable will ensure:

- Periodic visits by officers/staff are maintained to local residents and occupants of the site;
- The impact of the unauthorised encampment on all communities is monitored;
- Details are recorded of every additional vehicle/s that remain at the unauthorised encampment;
- Effective steps are taken to build community relations with site residents and also to identify community tensions;
- The details of any further incidents relating to occupants of the unauthorised encampment are documented within the original Eviction Rationale form C116.

This process will be overseen by the Local Policing Area Commander.

4.7 Retention and Disposal of Records

Documents mentioned in the above procedure will be retained in line with G 0833 Procedure – Retention and Disposal and will be retained by the ECTU constable within Neighbourhood Policing Command, HQ.

5.0 Monitoring and Review

All completed documents must be forwarded to the ECTU constable within Essex Police who will ensure that this procedure is complied with. A representative dip sample will be conducted periodically by the Equality of Service Manager.

This procedure will be reviewed after one year, by or on behalf of the Chief Inspector, Neighbourhood Policing Command, to ensure that it remains up-to-date and fit for purpose.

6.0 Related Procedures

None

7.0 Related Policies

None

8.0 Information Sources

- Department for Communities and Local Government Guidance on Managing Unauthorised Camping