

Unauthorised Encampments

January 2021 to November 2021

148 Unauthorised Encampments (141 for the same period in 2020)

14 Moved on under S61 CJPOA (39 for the same period in 2020)

The general trend over the last 5 years is that the criminal element of UE's has reduced dramatically. The ASB and aggravating factors that bring the NPCC guidance into play and allow for the proportionate use of S61 are seen with far less frequency. Anecdotally RET officers have been told that Essex has a reputation as a no-nonsense approach to the management of unauthorised encampments and is best avoided for criminals who live within nomadic communities.

It is not and an aim of Essex Police to reduce the number of unauthorised encampments in Essex. The aim is to apply the law consistently, without fear or favour. The NPCC guidance is referred to in all cases to ensure that when S61 is used it is proportionate and justifiable. That said, if there is justification, there will be no hesitation to use the powers under this act.

RET have been provided with the latest draft legislation with regards 'Statutory guidance for Police on Unauthorised Encampments'. The aim of this proposal is to 'strengthen Police powers to tackle unauthorised encampments.

The draft is available for view at: -

<https://www.gov.uk/government/collections/the-police-crime-sentencing-and-courts-bill>

It must be noted that this document is clearly marked 'DRAFT'. As such the finer points of the police response to an unauthorised encampment, if this bill is passed, would require further guidance and direction from The National Police Chief Council who will provide guidance on the application of the legislation.

To highlight some key points in the draft it seems that the police can make the initial request to vacate the land. It will be required to also evidence that the trespasser who has failed to leave the land has caused or is likely to cause significant damage, disruption or distress. Significant is later defined.

Section 60D provides police the power to remove property on the land retain it for 3 months or until the conclusion of any criminal proceedings.

A question we have raised in relation to the draft is that the legislation seems to point towards a person responsible for the offence of damage etc. It is not clear if, as an example, an individual is causing damage with a quad bike to land if the whole encampment should be moved on or just the individual.

It seems that S61 will still be an available power in a strengthened form. It can be used on a highway and allows for a direction to leave to be issued to all trespassers even if just one of their number has, for example, caused damage. Whereas the new act requires issues to be 'significant', the strengthened powers under s61 do not. It seems that if there are 6 or more vehicles on the land then S61 can be used without further justification.

The draft also makes mention of the Governments expectation that local authorities assess the need for sites in their area.

Once the legislation is finalised there will be sufficient time to put in place working practices before the act comes live.