

Trespass without consent

2022 Changes in legislation

Date: 10/05/2022

Unit: Local Policing Support Unit

Contact: Insp Terry Jacobs

Working Group Purpose

- To understand the changes in legislation on 28th June
- To understand the impact on organisations and communities
- To discuss any partnership response or changes
- Manage public expectations around multi-agency response



Local Authority Responsibilities

- “It remains the case that the response to unauthorised encampments requires a locally driven multi-agency response, led by local authorities and supported by police.”
- “The Government expects local planning authorities to assess the need for sites in their area and make provision accordingly. Local authorities are best placed to make decisions about the number and location of such sites locally, with due regard to national policy and local circumstances. Local Authority officers can make an agreement for negotiated stopping and for basic facilities to be provided by the council.”

– Home Office guidance



“Criminalisation” of Trespass

Fareham council leader Sean Woodward speaks out about traveller 'invasions' and welcomes Police, Crime, Sentencing and Courts Bill

Traveller camp 'didn't drop out of the sky', says councillor as he slams response

- Terminology
- Trespass has not been criminalised
- Significant incidents whilst trespassing has been criminalised
- Sensitive subject that receives significant interest from communities and community representatives

shown support to the [Police, Crime, Sentencing and Courts Bill](#) calling it a 'sensible law' for criminalising trespass of public open spaces.

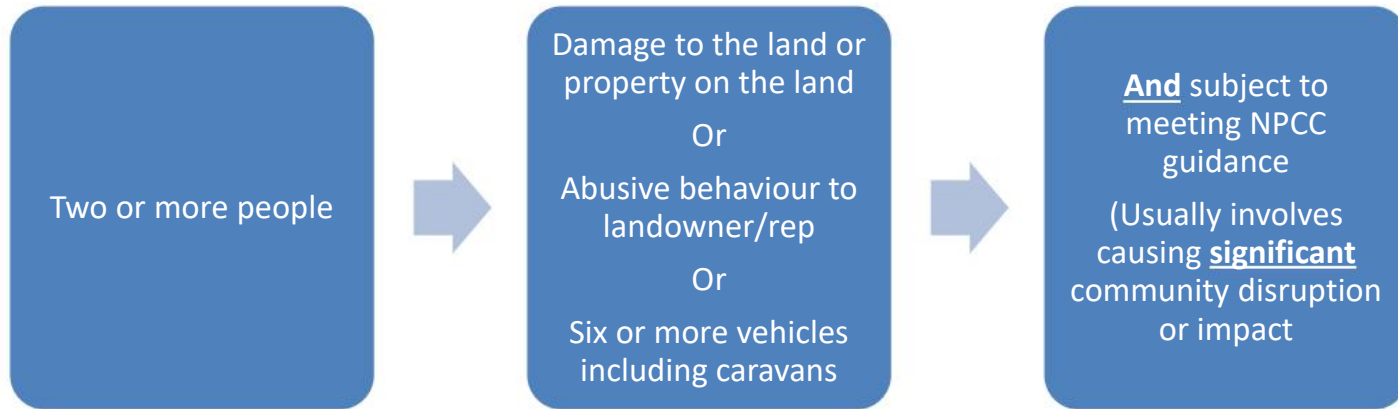
'If travellers did genuinely pitch up for a couple of days, leave the site clean and tidy when they left there would probably be far less of an issue,' he said.

'We've had many invasions or whatever you want to call it - it's called an unauthorised encampment.'



Current Position

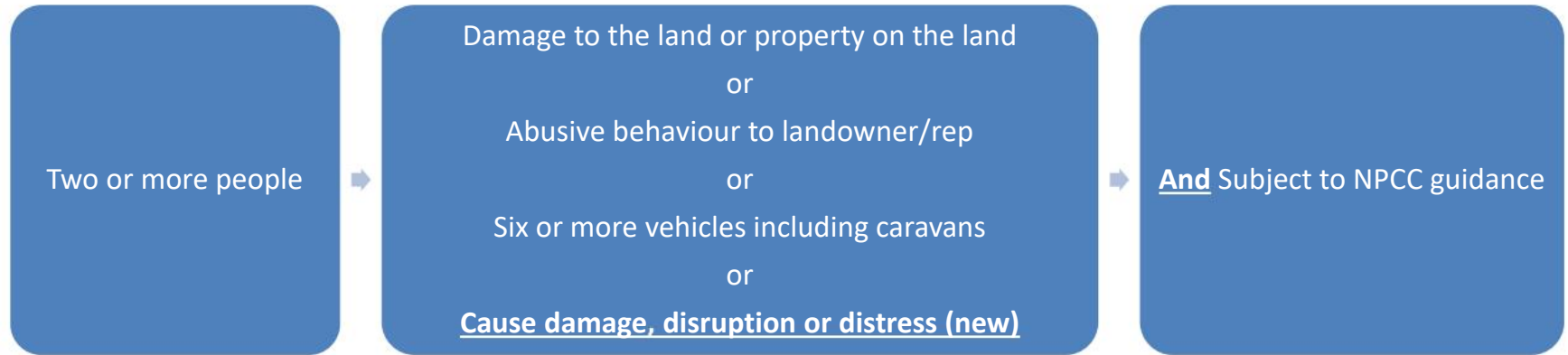
- Summary of current S61 CJPOA and policing powers



NPCC – National Police Chiefs Council
CJPOA – Criminal Justice and Public Order Act 1994

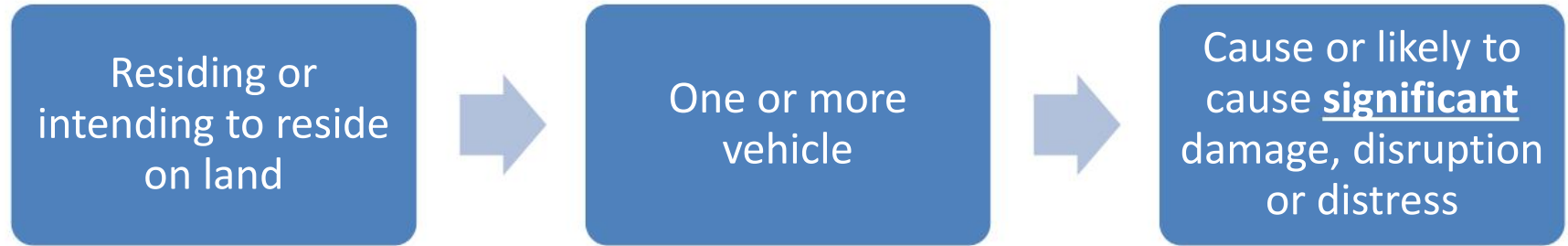
What is changing to S61?

- Changes to S61 CJPOA will now include a condition that they have caused damage, disruption or distress.
- Broadly this will lower the current threshold removing the word significant which was in NPCC guidance



Residing on land without consent S60c Offence 2022 act

- Creation of new offence (S60c 2022 Act)
- Offence will be committed when the act is complete as opposed to S61 offence where failing to leave or return creates the offence



- Must be requested to leave by landowner, representative or police



Significant (S60C 2022 act)

- Statutory Guidance - police decision as to whether significant
- Threshold for significant will be outlined in statutory guidance
- Neither law nor guidance provide definition of significant
- Dictionary - “large or important enough to have an effect or to be noticed.”



Highways

- A direction under S61 can be issued now on land that forms a highway but only whereby certain conditions are met
- Suggests that residing on a highway will now fall into scope for S61.
- How might we identify the 'landowner'?



What's the key changes then?

- S60c 2022 will be for more serious incidents
- S61 adds damage, disruption or distress and no longer needs to be “significant”
- Police can now make the request to leave S60c
- Highways now covered under S61



Anticipated policing issues

- Policing response will always be proportionate and consider public sector equality duty
- Likely increase in number of S61 evictions due to lower threshold
- There remain no transit sites within Essex to direct people to move on to
- Managing expectations around what practically these changes will mean
- Managing welfare provisions if arrest becomes necessary – children, vulnerable people.



Anticipated partner issues

- Managing public expectations around what practically these changes will mean
- Informing key stakeholders, partners and communities
- Shared understanding of the legislation and practical applications of eviction



Next Steps

- Essex Police reviewing and amending policy and guidance
- All trespass without consent will be overseen by the Rural Engagement Team (Consistency)
- We await final NPCC guidance
- Essex Police chief officers to agree our policing position.
- Partners asked to identify any issues for follow up meeting
- Partners asked to consider appropriate briefings within their organisation and local partners e.g councillors, parishes etc



Questions?

