



## **TRESPASS AND UNLAWFUL ENCAMPMENT ON RAILWAY PROPERTY POLICY**

### **1. POLICY STATEMENT**

- 1.1 This policy provides guidance in relation to the management of unauthorised encampments and other forms of trespass on railway property. This takes into account the Department of the Environment, Food and Rural Affairs (DEFRA) and Association of Chief Police Officers (ACPO) advice on managing unauthorised encampments. It acknowledges that inadequate provision of facilities for Gypsies and Travellers, both permanent and transitory, is a contributory factor to unauthorised encampment. Neither this factor, nor a Travelling heritage allow for trespass, particularly when accompanied by unacceptable conduct or behaviour that may impact significantly on the lives of others.
- 1.2 This policy applies to England, Wales and Scotland.
- 1.3 This policy (and associate Standard Operating Procedure (SOP) – SOP/176/09) applies to all British Transport Police (BTP) officers and police staff.
- 1.4 There is a need to ensure that officers/staff deliver a lawful, balanced and consistent service to all members of the community, recognising and addressing, wherever possible, the needs of all.
- 1.5 There is already an offence of Trespass on the railway which is prohibited by law and this relates to offences on or near the railway line. Unlawful encampments do not usually fall under this offence however this should also be considered

### **2. OVERVIEW**

- 2.1 This policy replaces combines and updates the old PNLD Policies of Squatters (D55800-D55804) and Squatters - CJPO Powers (D90135).
- 2.2 Unauthorised camping itself does not constitute a criminal offence but it is a civil trespass (unless an offence of Railway Trespass is made out), however when



unauthorised camping takes place on unsuitable and visible locations it can cause opposition from neighbouring and settled communities. There may also be safety implications, for example, where an authorised access point is blocked, and Network Rail (NWR) members of staff are not able to carry out essential duties.

2.3 Unauthorised encampments will be managed by BTP in partnership with other responsible Agencies. Wherever possible, a multi-agency response should be considered, in accordance with protocols established by the Crime and Disorder Act 1998. The latest guidance suggests that Local Authorities should take the lead role although joint strategies will also involve a number of other agencies such as Gypsy and Traveller representatives (e.g. NIAG). See footnote for other examples.<sup>1</sup>

2.4 This policy and associated SOP should:

- Provide a structured consistent response to unauthorised encampments throughout BTP ensuring decisions are lawfully balanced, appropriate and capable of withstanding scrutiny and challenge.
- Promote good race relations by providing a proportionate and effective response to unauthorised encampments.
- Balance the needs of resident communities with those of Gypsies and Travellers.
- Allow encampments to be managed in an efficient, effective and consistent way, taking account of potential levels of nuisance for local residents and their rights and responsibilities balanced against those of the Gypsy and Travellers rights and responsibilities
- Enable BTP to work with partners, other forces, agencies and the voluntary sector to address issues of social inclusion
- Minimise risk of harm to people and damage to railway property through a strategic and proactive approach to offences of trespass.

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<sup>1</sup> Gypsy and Traveller support organisations, Housing/accommodation officers, Planning officers, Highways agency, Environmental Health, Education, Health, Social services, Police, Local Authority Legal Department and the Media.



- 2.5 Unauthorised encampments present a number of conflicting issues. The decision to use police powers remains at the discretion of the senior officer present. His/her decision however, should be made in accordance with this policy and supporting operating procedures, and the grounds for any action/inaction recorded.
- 2.6 BTP must ensure that the rights and responsibilities of all members of the community are not unjustifiably breached. There is an expectation that all members of the community will maintain acceptable standards of behaviour and show respect for others. Should those living or present on an unauthorised encampment fail to maintain such standards, then police action may be considered appropriate.
- 2.7 Decisions to evict persons from land must, be balanced and be compliant with the terms of the Human Rights Act 1998, demonstrating legality, necessity, and proportionality, as well as principles of common humanity. The grounds for each decision must be fully recorded by the decision maker and kept for audit processes or legal challenge for seven years.
- 2.8 In making decisions, it should be emphasised that the lead role should normally lie with NWR and/or TOCs/Local Authorities. Police powers should not normally be considered as a first response unless other factors are present, or become relevant.
- 2.9 The legal basis for this policy document is derived from a number of key pieces of legislation. (See footnote <sup>2</sup>)
- 2.10 It is acknowledged that this policy has the potential to engage the following Articles:
- Article 5 Right to Liberty
  - Article 8 Right to Respect for Private and Family Life.

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<sup>2</sup> Race Relations (Amendment) Act 2000, Human Rights Act 1998, Section 61 of the Criminal Justice and Public Order Act 1994, Section 62 A-E of the Criminal Justice and Public Order Act 1994, Section 77 of the Criminal Justice and Public Order Act 1994, Section 55 British Transport Commission Act 1949, Common Law power of landlord in relation to trespassers on land, Section 16 Railway Regulation Act 1840, Section 23 Regulation of the Railways Act 1868, The above powers are not exhaustive.



### **3. APPLICABLE DATE, MONITORING AND REVIEW**

- 3.1 This policy is applicable from August 2010, and will be reviewed on a periodic basis and at least every three years from date of publication.

### **4. OWNERSHIP**

- 4.1 This policy is owned by the Assistant Chief Constable of Territorial Policing.

### **5. ASSOCIATED DOCUMENTS**

- [SOP \(176/09\) Trespass and Unlawful Encampments on Railway Property.](#)
- [http://www.acpo.police.uk/asp/policies/data/ACPO%20Guidance%20on%20Unauthorised%20Encampments.pdf.](http://www.acpo.police.uk/asp/policies/data/ACPO%20Guidance%20on%20Unauthorised%20Encampments.pdf)
- <http://a00-cms/pvh/D41301.htm>