



**TRESPASS AND UNLAWFUL ENCAMPMENTS ON RAILWAY PROPERTY STANDARD
OPERATING PROCEDURE**

STANDARD OPERATING PROCEDURE			
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1 INTRODUCTION

- 1.1 This Standard Operating Procedure (SOP) enforces and is subject to the conditions of Policy/176/09.
- 1.2 This document covers the procedures to be applied when dealing with those who trespass on land belonging to another, with the intention of residing there. It can include trespass or unlawful encampment, gypsies and travellers, unlicensed musical events (raves) and other means of trespass.
- 1.3 The nature of travelling and unauthorised encampment means it cannot be sensibly seen as a purely local phenomenon. An eviction in one Area may have the effect of merely pushing the encampment over a local boundary for another authority or Area to deal with. Local authorities and police forces should work together across boundaries to assess needs and determine strategies in response to unauthorised camping over the wider area. At a minimum, authorities should work together at county level, ideally at regional or sub-regional level.
- 1.4 Relevant to this SOP are the illegal encampments that take place on land that is owned by Network Rail (NR), Train Operating Companies (TOCs) or other organisations whose businesses lease land or premises from them. It is essential before any action is taken under this legislation that every effort is made to identify who the landowner/responsible person is. Once identified they and their legal advisors must be included in any decision-making surrounding the removal of illegal encampments. If not NR/TOC land, British Transport Police (BTP) should liaise with Home Office (HO) force, who should then take the lead.

2 KNOWLEDGE

2.1 Terms and Definitions

- 2.1.1 **Unauthorised encampment:** This term is restricted to encampments of caravans and/or other vehicles on land without the landowner or occupiers consent and constituting trespass.

2.1.2 **Unauthorised campers:** Refers to people living on unauthorised encampments.

2.1.3 **Unauthorised development:** This term refers to a development carried out with the consent of the landowner but without the appropriate planning permission.

2.1.4 Additional terms and definitions are found under Legislation at [Appendix A](#) and Good Practice at [Appendix B](#).

2.1.5 The terms Gypsy and Traveller are recommended by the Equal Opportunities Commission (EOC) as an overarching title for all traditional, indigenous, hereditary travellers. The generic term denotes the whole population of those groups, families, and individuals who subscribe to Gypsy/Traveller culture and/or lifestyle. That lifestyle must involve travel for at least part of a year.

The main Traveller groups are:

- The Romanies or “Romany Chals” of England and Wales
- The Kale of North Wales
- The Romanies who have come to the UK from Europe in the last hundred years
- Irish Travellers
- Scottish Travellers
- Show and Fairground Travellers
- Bargees and other families living in boats
- New Age travellers.

2.1.6 The Human Rights Act (HRA) applies to all public authorities including local authorities, police forces, public bodies and the courts. This also applies to private companies when acting in a public capacity. With regard to eviction of unlawful encampments, the issue that must be determined is whether the interference with Gypsy/Traveller family life and home is justified and proportionate. Any particular welfare needs experienced by unauthorised campers are material in reaching a balanced and proportionate decision. The human rights of members of the settled community, respect for private

and family life, are also material if an authority fails to act to curb nuisance from an encampment.

2.1.7 Although unauthorised camping is unlawful, it is likely to continue while there are insufficient spaces to accommodate Gypsies and Travellers on authorised sites. While more places are being provided it is vital that local authorities, with their police and other partners, pro-actively manage encampments to minimise the disruption caused. It should be noted that due to the lack of authorised sites, Gypsies and Travellers feel that they have no choice but to trespass to accommodate their homes.

2.1.8 The principles of fair treatment are:

- To enforce the same standards of behaviour by unauthorised campers as are expected of the settled community
- To respond rapidly to any deterioration of behaviour and growing disruption from an encampment
- To facilitate access to services for Gypsy/Travellers on encampments
- To keep all parties informed of decisions and actions.

2.2 Responsibilities

2.2.1 The general context and recent research suggest:

- Unauthorised encampments vary widely; officers dealing with unauthorised camping should be prepared to react to individual circumstances.
- Good preparation and planning can minimise the disruption of unauthorised encampments. For this, sound intelligence and good networking is essential between local authorities and police forces in an area to keep everyone informed of Gypsy/Traveller groups and their movements. At the least, neighbouring authorities and other agencies that offer services for Gypsies and Travellers should always be informed when a large encampment is to be evicted.
- Clarifying roles and responsibilities allows all parties to know who will do

what in different circumstances, within the realistic limits and allowing some flexibility for individual stakeholders.

- Ensuring that policies and approaches reflect the human rights of both the settled and travelling communities, and are compliant with Race Relations Legislation, including new requirements which actively promote equality of opportunity and good race relations. This is the responsibility of all parties.
- Ensuring the prevention of anti-social behaviour and effective enforcement against perpetrators is the joint responsibility of the police and local authorities.
- Where police are seeking to use the powers under s62A of the Criminal Justice and Public Order Act 1994 (inserted by the Anti-social Behaviour Act 2003), a police officer must consult the local authorities in whose area the encamped land lies about the availability of suitable pitches on relevant sites. Liaison with local police forces will provide the appropriate contacts if they are not readily available. Section 62A of the Act allows the police to direct trespassers to remove themselves, their vehicles and property from land where a suitable pitch is available within the same local authority area; on a site which is managed by a local authority, registered social landlord, or other person or body as specified by order by the Secretary of State. In two tier authority areas, where a district council is situated within a county council area, the caravan site may be anywhere within the county council area.

2.2.2 There is a role for local authorities and police in managing unauthorised camping including the welfare of those in the camp. It must be recognised, however, that the principle landowner will have a large influence on the need to include police or otherwise.

2.2.3 The Courts recognise that the police and other public bodies have different resources and welfare duties from local authorities. Local authorities have the appropriate skills

and resources to enable them to make/co-ordinate welfare enquiries, and thus should respond positively to such requests.

- 2.2.4 Police may be notified of an eviction and called in, to stand by, to prevent a breach of the peace. If the officers attending or the local police force advises that it is inappropriate to carry out an eviction, it should always be delayed until an agreed time.
- 2.2.5 Dealing with any criminal behaviour on the part of unauthorised campers is the responsibility of the police. Other enforcement agencies may be involved depending on the nature of the crime, including Trading Standards Officers, Inland Revenue and Customs and Excise enforcement officers where there are indications of fraudulent trading, tax or excise evasion. A co-ordinated approach to enforcement is the key.
- 2.2.6 On occasions other agencies may request police officers to accompany them to an encampment to assist them for a lawful purpose. This might be where there is a perceived threat to Council officers, or to remove stray dogs for example. Such assistance is similar to other requests in other communities, and it is a matter for local discretion, and availability of resources, as to the level of police involvement. This involvement is to essentially prevent a breach of the peace. Officers must take care to ensure that they do not become agents for the other parties, and on such occasions maintain neutrality from the other's purpose, but provide reassurance to all involved that the peace will be maintained.
- 2.2.7 On occasion, police will be requested to attend during the exercise of Common Law powers of eviction (http://a00-cms/pvh/D41301.htm#common_law) often exercised on the landowner's behalf by contracted bailiffs. A number of companies carry out such actions, including some which serve notices requesting trespassers on land to leave by set times and dates. The power used is an ancient one, "to use such force as is reasonable" in the removal of trespassers from land. It is a legal power, but clearly the exercise of it could lead to confrontation in some circumstances. It is essential that police act impartially in these matters, keeping the peace and preventing crime and

disorder.

3 PROCEDURES

3.1 Supervision of encampments

3.1.1 Where appropriate, newly-established encampments will be visited by the police, and an Area Supervisor informed. This should, wherever possible, be together with the landowner, local authority (if applicable), and other relevant agencies (e.g. HO force) to:

- Make initial contact with the group and complete an Initial Site Assessment Form (see [Appendix C](#)) and assess the impact of the site's location (ascertain who is the landowner if it is not NR/TOC notify HO force), as well as the behaviour displayed by the occupants. The occupants should be spoken to in order to establish: their numbers and their identities (if criminal offences are suspected); the location of their last site, and to ascertain their views on desired duration of stay as well as any pressing welfare needs
- Determine any offences disclosed or apparent, for example, criminal damage caused to gain entry to land, obstruction of any footpaths or other highways, any other anti-social behaviour
- Brief those present on the acceptable standards of conduct or behaviour expected
- Assess whether the location of the encampment, behaviour of residents or needs of the landowner justifies an eviction using police powers. Liaise with NR/TOC, and inform the Area Management Team (AMT).

3.1.2 Liaison should be maintained with the landowner; those most affected by the establishment of the encampment and partner agencies to assess the need for police intervention. The local authority, as lead agency for unauthorised encampments, should take an active role in engaging with the site residents and will in particular take the lead with sites established on their land, which do not require immediate police action.

- 3.1.3 Periodic visits by police officers to the site should be completed, to monitor the situation, to note any community tensions, and to reassure all communities. These visits will be enhanced if completed along with designated local authority staff members, and carried out as discretely as possible to minimise the impact of increased tension between the local community and those on the encampment. The absence of such visits will not prohibit the future use of police powers, but may provide valuable evidence, and an audit trail to support decision-making.
- 3.1.4 Attending officers should complete an initial site assessment form, attached at Appendix C to be used by the senior officer present to determine the potential need to evict using police powers (i.e. use of powers Under the Criminal Justice and Public Order Act 1984 – (CJPOA)). The decision whether or not to utilise police eviction powers should be periodically reviewed to establish if circumstances have changed that will require the use of a police eviction to protect the rights of others. All information concerning the site and the site occupants should be shared with all involved partner agencies, to ensure that a balanced common approach is adopted in fairness to all.
- 3.1.5 A separate Command & Control (C&C) log will be created for each encampment notified to BTP. The log will be retained as an open log for the duration of the encampment. Any calls from the public relating to the encampment, or directly attributable to its occupants, should be recorded within the log, including any complaint calls. The log can be used to record community intelligence, whilst crime intelligence should be recorded separately in accordance with National Intelligence Model (NIM) procedures.
- 3.1.6 Details of vehicles and persons present should be recorded; this will provide evidence of presence at any stage, and will facilitate future checks, to ensure there is no return within three months (subsection 4(b) of Section 61 of CJPOA). See [Appendix D](#) for vehicle log sheet. Any PNC check results should be added to the log and any intelligence should be submitted in the normal format.

3.1.7 The log may be used to update and record any considerations of decisions related to eviction made by senior officers. Where separate C&C logs are created for specific incidents, which relate to the encampment, these should be linked to the main log once concluded.

3.1.8 At the conclusion of the occupation of the encampment the log should be endorsed suitably with the outcome, including any eviction powers used, and the general behaviour and conduct of the residents. This information can be subsequently used to inform the decision-making process for future sites established by noted individuals.

3.2 Decision-making and record keeping

3.2.1 Decisions about what action to take in connection with an unauthorised encampment must be made in the light of information gathered. Decisions must always be:

- 'Lawful' – that is in line with local policy and procedures, taking into account relevant legislation.
- 'Necessary' – there is a need to act to prevent crime e.g. Anti-Social behaviour etc.
- 'Proportionate' – in that they take account of the rights and needs of both the settled community and trespassers.

3.2.2 All decisions (including any decision to allow an encampment to remain for a period) must be fully recorded and documented. Any damage and nuisance should be recorded either on the Initial Site Assessment Form or the C&C log; a photographic or video record might also be taken in support. Records should also be kept of all complaints received about the encampment, with comments as to their validity. Information passed to unauthorised campers should be recorded, along with offers of assistance made – for example help with a housing application, offer of a pitch on an authorised site – and the response. Similarly it would be good practice to record the fact that an encampment was unproblematic and did not cause nuisance or damage. Any complaints received, including any from Gypsy/Traveller unauthorised campers, should be recorded.

- 3.2.3 The establishment of an unauthorised encampment can raise many concerns with the landowner and neighbouring members of the settled community.
- 3.2.4 It is essential that the police response takes account of behaviour, whether criminal, anti-social or nuisance, in combination with the impact on the landowner and settled community rather than simply because encampments are present at a specific location. Police powers to evict people from unauthorised encampments do exist, as provided for by section (s) 61 and s62 A-E, CJPOA 1994. These powers will be used where behaviour or conduct is considered to be inappropriate, or where the impact of an encampment on others is unacceptably high.
- 3.2.5 The allegation of a crime or identification of an individual suspect at an encampment may not be grounds alone for consideration of a full group eviction. However, if the grounds exist that require the use of s61 CJPOA 1994, there is power to evict that individual and his/her vehicles. The factors must be weighed accordingly, and a decision taken on the necessary and proportionate action required. Actions that may be considered are: the giving of advice, arrest, eviction, or a combination of all three.
- 3.2.6 In making decisions, it should be emphasised that the lead role should normally lie with local authorities. Police powers should not normally be considered as a first response unless other factors are present, or become relevant (see 3.3 below).

3.3 Dealing with Crime and Anti-social Behaviour

- 3.3.1 Some encampments are associated with criminal and anti-social behaviour. The Government is clear that criminal and anti-social behaviour is not acceptable from unauthorised campers, just as it is not acceptable from members of the settled community.
- 3.3.2 Using the principles of the NIM an assessment should be made whenever an unlawful encampment is discovered.

- 3.3.3 Some NR staff and contractors may feel intimidated to go through unlawful encampments, particularly in rural areas at night when alone.
- 3.3.4 It is also important to identify and take action against unacceptable behaviour towards encampments by members of the settled community. Harassment of, and violence against, Gypsy/Traveller unauthorised campers is unacceptable. Local authorities and police, as public bodies, have responsibilities under the Race Relations (Amendment) Act 2000 to promote good race relations.
- 3.3.5 Police may receive complaints relating to the behaviour of occupants at unauthorised encampments, or from the occupants relating to other people. The initial police response to such calls should, of course, be the same as for any other incident, and graded on its priority. If attendance to see a complainant is appropriate, or to investigate a report, then an appropriately staffed police resource should attend to investigate.
- 3.3.6 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 accordance with the BTP Hate Crime SOP (<http://a00cms2/BTPIntranet/Default.aspx?page=19865>). Such incidents should not be used as grounds for eviction under s61 CJPOA 1994.

3.4 Action against Unauthorised Encampments

- 3.4.1 Many encampments are dealt with through negotiation. Where this fails, local authorities have two main sets of powers to tackle unauthorised encampments.
- A landowner (including a local authority) can obtain a possession order in the civil courts requiring the removal of trespassers from property, including land. Under the Civil Procedures Rules Part 55, the claim must be issued in the County Court in whose jurisdiction the property or land is situated. Exceptionally the claim may be issued in the High Court if there is substantial risk of public



disturbance or of serious harm to persons or property which properly require immediate determination.

- The CJPOA 1994 gives local authorities in England and Wales powers to make directions to leave land being used by itinerant groups (s77). It is an offence to fail to comply with such a direction. In proceedings for an offence under this section, it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable, or his re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency. If the direction to leave is not complied with, the local authority can apply to magistrates' court for an order requiring the removal of vehicles and any occupants from the land (s78).

3.4.2 Home Office Circular 45/1994 says "The decision whether or not to issue a direction to leave is an operational one for the police alone to take in the light of all of the circumstances of the particular case. But in making this decision the senior officer at the scene may wish to take account of the personal circumstances of the trespassers; for example, the presence of elderly persons, invalids, pregnant women, children and other persons whose well-being may be jeopardised by a precipitate move." Case law (Small) has established that, while police officers do not have to undertake welfare enquiries as such, they must be aware of humanitarian considerations in reaching their decisions and must ensure that all decisions are proportionate. A decision may be taken to explicitly exclude individuals or families with serious welfare needs from a s61 direction to leave.

3.4.3 Above all, s61 should be used within the framework of a jointly agreed strategy for managing unauthorised camping. Local authorities, police and other stakeholders should agree the sorts of circumstances in which s61 might be considered appropriate. It is also important that s61 should be used consistently within a local area. <http://www.yourrights.org.uk/yourrights/rights-of-gypsies-and-travellers/evictions-from-unauthorised-encampments/criminal-justice-and-public-order-act-1994.shtml>.

3.4.4 Regular exchange of monitoring information on unauthorised encampments between

police and local authority personnel (where lawful i.e. data protection compliant) is important. In particular, each party should keep the other informed about decisions taken and progress.

- 3.4.5 As a minimum, local authorities should inform private landowners about their rights to recover land from trespassers, through the courts or using common law powers; officers should not offer legal advice to landowners but rather refer them to Citizens' Advice Bureaux or solicitors, but should remind landowners about the importance of using reputable bailiffs and only 'reasonable force'.
- 3.4.6 Within the overall strategy for managing unauthorised camping, the local authority might consider acting more directly against encampments when requested by a private landowner, particularly if the police are not prepared to use s61 to evict the encampment. Police should take action if any criminal offences are perpetrated during eviction action by bailiffs or private firms.
- 3.4.7 Local authorities have discretion to set notice periods beyond the legal minimum. For example, the direction to leave served under the CJPOA can require unauthorised campers to leave in 24 hours, 48 hours, or a longer period. Decisions about the length of notice given should be taken in the light of the circumstances of each encampment.
- 3.4.8 The respective roles of the local authority, police and other agencies in forced evictions should be clearly established in a local strategy for managing unauthorised camping. Since this is an area where good practice is hard to establish, it is particularly important that all agencies should monitor and evaluate local instances of eviction and learn from that experience.
- 3.4.9 The lead role in the management of Unauthorised Encampments, will be with local authorities. However, police will take a positive, and if necessary a leading role, in bringing about the prompt and lawful removal of unauthorised encampments where:
- A. Local amenities are deprived to communities**



This could include, for example, forming an encampment on any part of a recreation ground, public park, school field, village green, or depriving the public use of car parks.

B. There is local disruption to the economy

Local disruption to the economy would include forming an encampment on a shopping centre car park, or in an industrial estate, if it disrupts workers or customers, or agricultural land, if this results in the loss of use of the land for its normal purpose.

C. There is other significant disruption to the local community

This might include where other behaviour, which is directly related to those present at an encampment, is so significant that a prompt eviction by police becomes necessary, rather than by other means.

D. There is a need to take preventative action

This might include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will be displayed at this newly established site. This reasoning will take on greater emphasis if the land occupied is privately owned as the landowner will be responsible for the cleansing and repair of their property.

E. Disruption to Essential Railway Duties by Rail Staff or Contractors

This might include an authorised access route being blocked, which could have a negative impact on ability to react to incidents or carry out maintenance work.

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

3.4.11 In all cases, as stated above relevant Human Rights processes must be applied to all decisions made i.e. that the elements of s61 are satisfied, and that it is necessary and proportionate to use the powers.

NB: Section 61 CJPO Act relies upon reasonable steps being taken, by, or on behalf of the land owner, to ask trespassers to leave in every case before



police powers can be used. Only under certain circumstances will BTP act as landowner's agents and only then, if all other options have been precluded. (See [Appendix E](#) for flow chart).

3.4.12 On each occasion that a decision is considered to use or not to use police powers under s61 and s62 A-E of the Criminal Justice and Public Order Act 1994, the decision should be recorded and the rationale evidenced in detail.

3.4.13 The decision, and the rationale behind it, should be recorded on forms devised specifically for this purpose, attached at [Appendix F](#). A Superintendent must be notified of and endorse each decision, whether to use or not to use the powers, and sign each decision form. It may be the case that, for some encampments, several assessments, and decisions are carried out and recorded over a period of days or weeks before an encampment is vacated. In other cases, a single form may suffice.

3.4.14 Decisions to evict or not must, of course, be balanced (as directed by legislation and Government guidance), 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.

3.4.15 All police decisions and actions will be made in compliance with the provisions of the Human Rights Act 1998. Any action will only be such as is necessary for public safety, the prevention of disorder or crime, the protection of health, or for the protection of the rights and freedom of others.

3.4.16 All police actions will be conducted in a manner compatible with the operational principles of safety, lawfulness, necessity, proportionality, and common humanity. Actions should be completed in a manner that is the least intrusive to achieve the purpose. It is necessary to achieve a balance in the protection of the rights and freedom of all persons concerned with a specified unauthorised encampment.

4 MONITORING AND COMPLIANCE

- 4.1 Assistant Chief Constable Territorial Policing is the BTP lead for Trespass and Unlawful Encampments.

- 4.2 Area Commanders and Heads of Departments (where applicable) are accountable for compliance with this SOP within their Police Area.

- 4.3 This SOP will be reviewed every three years.

5 APPENDICES

Appendix A - Legislation,

Appendix B - Good Practise,

Appendix C - Site Assessment Form,

Appendix D - Vehicle Log,

Appendix E - Section 61 Flow Chart,

Appendix F - Eviction Decision Form,

Appendix G - Obstruction - Sample Form and

Appendix H - Direction to Leave Land - Sample Form.