



*'Making Merton Safer'*

## **A joint protocol agreement between Merton Borough Police and The London Borough of Merton**

Unauthorised Camping and Enforcement of Sec 61  
and 62A Criminal Justice and Public Order Act, 1994

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Chris BOURLET  
Chief Superintendent  
Metropolitan Police

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Ged CURRAN  
Chief Executive  
London Borough of Merton

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## **INTRODUCTION**

This document contains the policy and operational response to unlawful Traveller encampments within the London Borough of Merton. This is a joint policy agreed between the London Borough of Merton and Merton Borough Police. It acknowledges the status and rights of Gypsies and Irish Travellers as distinct ethnic groups and our duty under the Race Relations Amendment Act 2000 (RRAA) to positively promote good race relations. This protocol complies with the Human Rights Act (HRA) the Disability Discrimination Act and the Children's Act.

In respect of the Children's Act and "Every Child Matters" new duties to co-operate to promote the well being of children and young people are placed upon statutory bodies. Therefore part of the consultative group meeting should be an evaluation of the impact any decisions may have upon any children or young people present and what action needs to be taken to promote their welfare.

Each case of unauthorised encampment will be individually considered on its merits, before any decision on police response is made. It is vitally important that police act in a neutral, objective and open way.

Throughout this document the term "Traveller" denotes members of ethnic and cultural groups, including Gypsy Travellers, Irish Heritage Travellers, Showmen, Circus and New Travellers unlawfully encamped on land without the landowners permission. This document clarifies how authorities will respond. Whilst only Romany Gypsies and Irish travellers are recognised as distinct ethnic groups within the RRAA, all groups mentioned above would receive the same treatment under this protocol.

We recognise that the Merton area has a long history of Traveller culture and many of our residents are of Traveller Heritage. Travellers often struggle to access services and frequently experience poor outcomes in education, health and housing. Those who are highly mobile can miss out on the support they need. Therefore the local authority and its partners will endeavour to ensure that the needs of children, younger people and other vulnerable groups from highly mobile Traveller families are met. We acknowledge this means that the local authority and its partners have dual and sometimes conflicting roles in relation to Travellers who camp unlawfully.

Why is the protocol required?

- It is recognised by the Department for Communities and Local Government (DCLG) as being within best practice.<sup>1</sup>
- To provide a consistent approach to the management of unauthorised encampments.
- To improve effective communication with all agencies, the Traveller community and the public.
- To reduce the risk of confusion by provision of clear guidance to the Council and Borough Police Officers who become involved in unauthorised encampments.

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<sup>1</sup> A. Communities and Local Government (2006); Guide to effective use of enforcement powers.  
Part 1: Unauthorised Encampments.

B. Managing Unauthorised Camping, A Good Practice Guide (DCLG)

C. Guidance On Unauthorised Encampments – Association of Chief Police Officers of England Wales & Northern Ireland

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- To ensure those who unlawfully encamp are treated fairly, within the legal framework without the risk of discrimination.
- To ensure the safety and well being of all children and young people included in the group, including the well being of any unborn child.
- To ensure that mobile Travellers and their children are supported to access services if they have need to do so.
- To ensure rights and concerns of residents and the landowner are considered.
- To ensure that for all encampments, where relevant, Merton Council obtains the welfare assessments:
- To ensure no decision is taken about the future of an encampment before welfare enquiries are carried out to determine whether there are any pressing needs.
- To facilitate efficient and effective use of Merton Council and Police resources

### **Application**

This protocol provides guidance to Police officers, its staff, Merton Council officers and its agents who may be called upon to act in connection with unauthorised encampment. It provides specific guidance for:

- The first Police or Council officer to attend an unauthorised encampment.
- Police Duty Officers who are responsible for supervision of the initial Police response which may include enforcement action.
- Police Gypsy Traveller Liaison Officers (GTLO) who are required to liaise with the local council regarding arrange welfare assessments and to report to the consultative group.
- Local Authority and partner services who are required to carry out welfare assessments and report to the consultative group. Refer to protocol flow chart at appendix I.
- Police Chief Inspectors who are required to chair the consultative group meeting and decide whether to use police powers to remove, or not.

Several legislative provisions impact on unauthorised encampments. Police officers are however most directly affected by sections 61 and 62A of the Criminal Justice and Public Order Act 1994. (CJPOA). For ease of reference these provisions are reproduced in full at Appendix A to this document.

The use of CJPOA powers are entirely discretionary, there is no obligation on police to use them. Whether or not they are used will be governed entirely by individual circumstances.

The decision making process in respect of resolving unauthorised encampment is divided into three phases. Movement through the various phases should not be delayed, as it is important for the Traveller families involved, the public and authorities that an appropriate decision is reached quickly. This process only commences when a landowner, agent or occupier has made contact with and requested the assistance of police.

## **PHASE ONE**

### **Initial action**

This phase deals with the initial action to be taken when notification of an unauthorised encampment and a request for police action is received. Council staff/ or public, may inform Police by contacting the police non-emergency number on 0300123 1212. It is important to emphasise that initiating the first phase does not make the use of police powers to remove inevitable. This should be made clear at the first meeting of the consultative group.

### **POLICE INSPECTION**

When notification of an unauthorised encampment and a request for police action is received, the following procedure should be adopted. Refer to appendix B for flow chart.

1. A CAD (Computer Aided Despatch) message will be created and tagged "VWTravel." This will remain open until the phase two procedure is commenced when it will be closed and the name of the officer chairing the decision making group recorded on the message. Where the informant is the landowner or person acting on behalf of the landowner it is important to establish whether the following requirements are met by ascertaining:

The number of persons present and whether or not they intend residing on the land.

The trespass is taking place on land to which the legislation applies.

Reasonable steps have been taken by or on behalf of the occupier to require them to leave (although it should be noted that this is not a legal requirement for the use of S.62A). This should consist of the landowner setting a reasonable deadline by which the Travellers should leave the site. This deadline cannot be set by police and must be set by the landowner or a person acting on his behalf.

### **AND**

Any of those persons have caused damage to the land **or** to property on the land **or** threatening, abusive or insulting words or behaviour towards the occupier a member of his family or an employee or agent of his.

### **OR**

The persons have between them six or more vehicles on the land.

The answers will be recorded on the CAD message.

Where the number of vehicles is less than six there is potential that other police powers to remove may be available for use. Therefore where the number of vehicles is less than 6, the Police operator will need to know whether:

There are two or more people trespassing on the land.

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They have with them one or more vehicles on the land.

The landowner has requested police to remove them from the land.

2. The Police duty officer will be informed.
3. The Police Gypsy Traveller Liaison Officer (GTLO) will also be informed of the encampment when next on duty. (LIN topic 61 contains current contact details)
4. Inform the Local Authority. During office hours the Head of Property Management & Review on 0208 545 3083/3071 (or representative) will co-ordinate the attendance of the required council departments and agencies to provide, if necessary, the welfare assessments. They are also responsible for co-ordinating the appropriate departments attendance at the consultative group's meeting. Basic information will be shared with the agencies. Outside office hours contact London Borough of Merton telephone 020 8543 9750 who will endeavour to confirm whether land camped upon is owned by Merton Council<sup>2</sup>. A further call to the Council's Property Management & Review section will need to be made during office hours to co-ordinate the councils response. London Borough of Merton's Press office will be informed with the standard Traveller statement stating the application of this protocol to the unlawful encampment.
5. Police supervising officer and whenever possible the landowner who has requested police attendance, will attend the scene of the encampment and establish contact with the Travellers. This officer will commence an **incident management log** (PS303) and complete Common Assessment Report in appendix F. This will be emailed to the Council's Estates Surveyor to speed up the assessment process and reduce duplication. It is important this contact is made as soon as possible and not left until the GTLO is on duty or available.

The Police supervisor must make clear to all concerned, that police attendance in this first instance, is simply to carry out an initial assessment of the circumstances of the encampment. The officer should also explain the process that will take place and supply the Travellers with the Notice of Expectation at appendix C which includes an initial leniency agreement. As levels of literacy amongst Gypsies and Travellers can be low, the contents of the notice and its meaning should be thoroughly explained and understanding ensured.

This initial contact should establish; the number of adults and children living at the site, the reason for the choice of the site, the amount of time they intend to stay, whether they believe they have the permission of the landowner to be there, or any special circumstances they may wish to bring to immediate attention. Notes should also be made of the condition of the site to provide a baseline that may assist in determining decline or change in the surrounding site, and whether it is safe and suitable for such an encampment. A sketch map, or photos have been found to be of help when doing this.

Where the landowner is present and requires the Travellers to leave, this may be done in the presence of police, but police will not do this on behalf of a landowner. Such a requirement must allow the Travellers a reasonable time to leave. A statement covering the requirement and any conditions together with the response of the Travellers should be taken as a matter of good practice.

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<sup>2</sup> Council duty officers supplied with list of contact numbers for council departmental senior officers.

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This information will be recorded in the incident management log (PS303) and brought to the attention of the GTLO.

6. The GTLO will attend all unauthorised encampments within 24 hours of the initial contact or when next on duty and conduct a welfare assessment. If possible this should include everyone on the site that is available and willing to co-operate.

It is vitally important that the Travellers involved understand that while there is no statutory obligation to provide information for an assessment, it is in their interest to co-operate, as it will form the basis of subsequent decisions about the encampment. Non co-operation often arises from a mistrust of the motives of those involved, it self based on previous negative encounters. Travellers should be encouraged to seek the assistance of Traveller representative groups at an early stage. It must also be made clear however that non co-operation will not prevent the decision making process from taking place.

While the following list is not exhaustive any report should include the following factors:

1. The availability of site accommodation elsewhere on the borough, or the opinion of the Travellers towards being placed in housing.
2. The number and gender of Travellers.
3. Age range of Travellers.
4. Any illness, infirmity, disability or medical condition amongst the Travellers that might affect their ability to travel or possibly their reason for remaining.
5. The need to access local hospitals/doctors by Travellers.
6. Access/attendance of children at local schools.
7. Condition of the land (drainage, proximity to houses, roads etc.)
8. Access to water.
9. Arrangements to dispose of refuse.
10. Sanitary arrangements.
11. The views of the landowner.
12. The views of the Travellers.
13. The views of local residents or those who may be affected by the encampment.
14. Any incidents where the Travellers are victims of crime or any apparent increase/decrease in local crime and hate crime levels directly attributable to the encampment.
15. Any directly attributable evidence of 'flytipping'.
16. Whether or not any contact has been made with support services such as Traveller Education Service (TES) or Social Services and any action they may have taken.

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17. The willingness or otherwise of the Travellers to engage in the leniency agreement process.

18. Is the land contaminated.

19. Normal use of the land

20. How long the Travellers intend to stay.

This report should form the basis of any decision as to whether police powers to remove should be used. Additional information for subsequent children, on health and well being assessments, will be used to clarify if there is any reason not to use police powers to remove. The local authority's Children's Trust agencies agree to timely assessments in an agreed format and attendance at a consultative group as required. The GTLO should also make clear to those present that contact will be made with the local authority (and local Gypsy Traveller representative groups) to advise them of the presence of the encampment.

A copy of the report will be pasted in the computer under, Merton/Shared Folder/GTLO, in the incident management log (IML) (or within in the body of the PS303 form) and reference will be made to it during the decision making process in phase two. An intelligence report will be completed and the entry number added to the IML.

### **LOCAL AUTHORITY INSPECTION**

Local authorities should ensure, in accordance with their wider obligations, including complying with Human Rights legislation, proper welfare enquiries are carried out to determine whether there are pressing needs presented by the Travellers and where necessary the appropriate agencies are involved as soon as possible. (ref. DCLG. Guide to effective use of enforcement powers Part 1: Unauthorised encampments).

#### **Section A: Responsibilities Of Property Manager or Nominated Officer**

On receiving information of an unlawful Travellers encampment in the borough, and confirmation it is Council's land, promptly arrange site inspection.

- Contact the Police GTLO or Duty Officer to arrange a joint inspection as soon as possible.
- Best practice is to inspect within the first working day.
- The reasons for any actions taken on site to be explained to Travellers present.
- Will be useful to verify actual location of encampment on plan when on site.
- Make a written record of number of vehicles, model, description, registration and who it's assigned to.
- If not provided by Travellers, make an estimated note of number of people on property, in particular, older people above 60 years old and children up to 18 years old.
- Take photographs of the site and the surrounding area for verification as to whether there has been fly tipping at a later date or change in numbers. Travellers present to be informed of reasons for taking photos. Photographs should not contain identifiable people an in addition no photographs of children and people without permission.



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- Establish, if possible, name and contact number of encampment leader/spokesperson and family name of Travellers who would be willing to attend consultation meeting and speak on behalf of and communicate decisions to the others in the encampment.
- Enquire and note response to whether there are any Travellers with health issues, expectant mothers etc and flag up only issues initially identified by the Travellers to the relevant agency.
- Prompt Council's welfare Officers to inspect all unlawful encampments and provide update on subsequent unlawful encampments.
- Inform Travellers, if possible, where sanitation waste can be disposed of and the availability of water.

### **If not on Council Land**

- See appendix E.

### **On Return to Office**

Circulate a basic and informative email about the use of the protocol applied to the encampment to Ward Councillors, Leader, GTLO, Property Management & Review Manager, Chief Executive, LBM Solicitor, Departmental Directors, Merton Link Manager, the land department holding section manager, Press Officer(s) and others as appropriate. A standard wording for both press office and email can be agreed to show balance of the local authority responsibilities in regard to unlawful encampments.

Send separate email request for:

- Welfare assessments from Health officers (NHS Sutton and Merton).
- Housing Needs Assessment (all).
- Education Assessments (children under 16).
- Welfare of Children and Young People Assessments (under 18).
- Older People Assessments (women over 60, men over 65).

Time frame as agreed between GTLO, Duty Officer, Chief Inspector.

- Email to the agencies should be kept brief (must not include any personal information) and include:
  - Title use of protocol in relation to unlawful encampment
  - Location of unlawful encampment
  - How access was obtained
  - Number of vehicles, number of older and younger persons to include estimate of number of Travellers between 0-6 yrs and above 60 yrs old.
  - Family name of Travellers
  - A request for written assessments on Housing Needs, Education, and Welfare of Children and Young People and Older Persons. If required Health Officer report/consultation of those, if any, with health issues.
  - Include when possible, date, venue, time of key officers Traveller consultation meeting. This is the responsibility of the Property Management & Review Manager, nominated officer or as indicated/agreed with the GTLO/Police Chief Inspector.

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Contact Housing Options Manager, Traveller Education Service (TES) etc and confirm they are providing the requested assessments. Share any information in regard concerns to help inform children service assessments.

Arrange for sturdy bins to be provided, not loose plastic bags, and refuse collection.

### **Prior to Traveller Consultation Meeting**

- Monitor the site. Frequency depends on site and numbers of Travellers and record any changes in site condition.
- Visit neighbouring properties and inform them of unlawful encampment and provide reassurance that the Local Authority and Police are working together to implement the Traveller Protocol.

### **Section B: Responsibilities Of Children Services**

- Health and Education Services will assess the needs of the children and young people on the site. This assessment will be in an agreed format. The Sutton and Merton Travellers Education Service will coordinate any assessment in term time and work with school admissions to seek school places for all school age children. If the encampment is during the school holidays Education Welfare will visit to ascertain school places for the start of any new term and any wider welfare concerns. Health Visiting will be informed and assess the health needs of the family. If further health services are required these referrals/requests will be supported.
- If the families have been previously assessed then the previous assessment, if still relevant will be submitted and no extra visit will be required.
- If wider health, education or welfare assessments are required referrals will be made and Common Assessment Framework (CAF) completed.

### **Section C: Older People Assessments**

- Assessment will be offered to any men over 65 years, women over 60 years who have a need for social care provision such as assistance with personal care. Eligibility for any services will be in accordance with Fair Access to Care Services and will be subject to financial assessment. If the person is not eligible for services, advice and information will be provided and appropriate signposting to other relevant services.

### **Section D: Housing Needs Assessments**

- The Housing Needs team will carry out an assessment of the housing needs of Travellers and provide information and assistance on the various housing options that are available. Alternative options may include information of the availability of Traveller sites in Merton and elsewhere, applying to go on the Council's waiting and availability of private sector accommodation A Formal Part VII Housing Act 1996 homeless assessment will be carried out where this has been triggered in accordance with the law.

### **Section E: Health Assessments**

- Health Visiting is a universal service to all families with children under the age of five years. Following initial notification of an encampment the Sutton and Merton Community Services Health Visiting service will undertake a visit in

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order to undertake a holistic assessment of the health needs of the children and family. This will be according to the guidelines and protocols within Sutton and Merton Community services incorporating the Framework for Assessment and other tools as appropriate.

- Where health needs are identified a care plan will be devised in partnership with the family and implemented. This may include further visits and/or referral to other health services. Sutton and Merton Community services will confirm to the local authority that the assessment has been completed but will not share its content.
- If there is a health concern that could influence further decisions to move the encampment this will be highlighted to the local authority.

## PHASE TWO

### Decision

#### The Consultation Meeting

The purpose of the meeting is to determine whether Section 61 will be invoked. The meeting will be separated into three parts.

#### Part1 (a)

Introduction and representation from Ward Councillor, Traveller /representative, Police, Agencies and Council Officers – this is not a public meeting

- Meeting to be held within a maximum of two working days from initial encampment.
- The purpose of this part of the meeting is to discuss with one representative of the Travellers with the local authority and police the key characteristics of the unlawful encampment. A ward councillor will be invited to act as a representative of the local public and landowners eg. If there is an unauthorised encampment on one of the commons a representative from the Common Conservators will be invited to attend.
- Prior to meeting ensure Travellers have not voluntarily moved on.
- Meeting chaired by substantive or Chief Inspector.
- There will be no disclosure of confidential personal details of the families at the meeting.

#### Part 2 (b)

Confidential Assessments – Ward Councillor and Traveller/representative absent.

NB: This is a professional only meeting as confidential information will be shared.

- Housing, Health, Education, Younger and Older Persons assessments and recommendations re access to services and consequences of action to move on the needs of children and young people, plus any additional referrals to additional services, where relevant, to be provided within maximum two working days of notification, ideally within one. (Note if the family have been assessed recently and the Assessors advise that the assessments are still valid no further assessment will be required).
- Council Property Management and Review Manager/Estates Surveyor or nominated officer to take case file including all the assessments/reports to the meeting.
- Purpose of the meeting is, to collate, advise/inform by key officers (Housing Needs, Education etc) the meeting must be structured to separate assessment from enforcement to ensure confidentiality of the personal details of the families involved should be respected and maintained throughout the meetings. Consideration should be given to consequences of action to force the family to move on and whether any conditions of leniency might be put to the Travellers. If possible decide on the appropriate action to be taken by either Police or Local Authority.

Part 3 (c)

Decision Making and Communication of decision to all.

If possible decide on the appropriate action to be taken by either Police or Local Authority. Interested parties will be informed of the decision. Police will personally visit the Travellers immediately to serve Section 61, if appropriate.

**Post Consultation Meeting**

If Police resolve to use their powers (under S61), Property Management and Review Manager to provide, if possible, assistance as requested.

- Continue to monitor and record property, location characteristics.
- Property Management and Review Manager or nominated case officer must be on site with GTLO on departure of Travellers.
- Prior arrangements should be made to make good or install preventative security to prevent repeat of unlawful encampments.
- Send email confirmation when Travellers have vacated property.

If meeting resolves that it is the Council's responsibility to remove the Travellers, the Council's Solicitor must be instructed to obtain where appropriate, Court Removal Order.

- Property Management and Review council officer/nominated officer will assist council solicitor to attend Magistrates Court to obtain Removal Order and serve unlawful encampment notice.

And

- Police will support council officers when serving notices, to prevent a breach of the peace.
- Should the council and Police decision be to allow the Travellers to remain they will be offered the leniency agreement as shown in appendix G.

This phase provides guidance as to whether or not police powers to remove may be used. It presupposes that the criteria detailed in either S.61 or S.62A of the Criminal Justice and Public Order Act (CJPOA) for the use of such powers have been fulfilled. Police are not obliged to use either power. It may also be an appropriate time for Merton Council to consider using their powers in line with guidance from the DCLG entitled "Guide to the effective use of enforcement powers. Part 1. Unauthorised encampments."

The decision this group takes concerns not only the occupation of a piece of land but also the homes and lives of local Merton residents and Travellers. It can affect Travellers access to health care, education and other services the settled community often take for granted. The decision made should take into account all factors that may impact on the unlawful encampment and the settled population that live and work around it.

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In cases of simple trespass where there are no additional factors such as crime or disorder the use of police powers should not be seen as a first resort or even necessary in the long term. Landowners should be reminded that whenever possible they ought to attempt to resolve matters of simple trespass themselves by making application for an order for repossession of the land from a Court. Similarly local authorities have adequate powers to resolve trespass on both private and public land that should be explored before resorting to the use of police powers. While police will support landowners in exercising their lawful rights in cases of simple trespass, by standing by to prevent a breach of the peace, they should not usurp the functions of the civil courts in resolving disputes over land ownership.

However, in the absence of adequate site provision a pragmatic approach perhaps leading to a leniency agreement (see below) should be taken.

It is unlawful for Travellers to camp on land they do not own without the landowner's permission. There are locations where immediate action to remove them should be taken because the encampment is seriously disrupting the ability of the settled community to make use of facilities or to conduct business. (ref. DCLG . Guide to effective use of enforcement powers Part 1: Unauthorised encampments). Unless there are exceptional circumstances, such that their removal would cause serious harm to one or more of the Travellers for instance during a pregnancy. These sites include:

- School car parks or playing fields
- Car parks particularly hospital, supermarket or leisure facilities
- Urban parks and Commons
- Recreation grounds and public playing fields
- Areas where toxic waste or serious ground pollution is present.
- Encampment is very close to a busy highway, potentially endangering the health and safety of the Travellers and others.
- NB. s61-62 Criminal Justice and Public Order Act 1994 can be used on any land except the highway.

### Whether Merton Council or Merton Borough Police may lead on unlawful encampment.

Where reasonable steps have been taken by Merton Council as landowner, to ask, people trespassing on Council's land, to leave and:

- a) they have caused either damage to property, used threatening, abusive, insulting words or behaviour towards Council officers, its agents, or
- b) they have six (6) or more vehicles,

Merton Police may invoke S61/62 CJPO Act (Remove from land).

Merton Council will be responsible to initiate proceedings in all other situations.

Case law (R v The Commissioner of the Metropolitan Police ex p. Small) has established that police officers are not under any obligation to undertake welfare

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enquiries with unauthorised campers, however they must be aware of humanitarian considerations when considering action to remove an encampment.

**Extreme care should be exercised when considering the use S.62A as certain requirements must first be met by the local authority.**

**The following process should be used when coming to a decision about the appropriateness of using police powers:**

A consultative group will be drawn together, chaired by a Police officer not below the rank of Chief Inspector.

Where it is vital that a decision to use police powers is urgent, it may not be possible to draw together the consultative group in the time available. These circumstances, where Police act in isolation, without consultation, will be exceptional.

Efforts should still be made to consult with partners and the decision to proceed in isolation should be agreed by a Police officer not below the rank of Chief Inspector.

This exceptional process does not negate the need for a welfare assessment or the completion of a decision log. This log should be signed off by the Chief Inspector who agreed the process at the earliest opportunity.

The remainder of the process to be followed remains as detailed below.

Representatives of the following should be invited to attend the **consultative group**; the list should not be seen as exhaustive or prescriptive:

- Local Residents, represented by one Ward Councillor involved in part 1 - of the confidential section of the consultation meeting.
- Representative of the Travellers or those who speak for them.
- Police SMT (Senior Management Team), Operations and the GTLO.
- Local authority Legal, Housing, Social Services, if required, Traveller Education, Highways Dept, Environmental Health, Property management and Review, Press Office.
- NHS Sutton and Merton.
- A Common Conservators if unauthorised encampment is on one of the commons.

The presence of the Ward Councillor and Traveller representative in part 1 of the consultative meeting is beneficial for expressing views and showing transparency of the decision making process but their presence must not be allowed to interfere with the process for which the meeting has been called.

The group will consider the circumstances of the encampment together with reports, representations and any other relevant factors. Chief Inspector, will decide if Police powers to remove will be used.

**The underpinning principle of Section 62A CJPOA 1994 is that in order to use these provisions a suitable pitch must be available on a relevant site for that caravan or caravans.** Therefore where the use of S.62A powers is being actively considered there are particular factors that have a bearing and that should be considered before any use of S.62A powers over S.61 is recommended. These are:

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- A. The Act places a duty on an officer intending to use the provisions of this Act to consult every local authority within whose area the land is situated to identify a suitable pitch for the caravan, or each of the caravans, on a relevant caravan site in the local authority's area. The chair of the Consultative Group must be satisfied that this consultation has been properly carried out and that the group knows the current state of vacant pitches in the borough. The local authority will bring this information to the meeting.
- B. Determining suitability of a pitch requires a number of questions to be answered satisfactorily:-
- 1). Will family groups be broken up?
  - 2). Is the pitch appropriate for the size of caravan?
  - 3). Are there tensions between ethnic or family groups that will arise or be exacerbated if a caravan is directed to a particular site?

The question of tensions between ethnic or family groups is difficult to answer and assess without detailed knowledge of the groups concerned and is made more complex by the extended nature of such family groups. The Consultative Group is strongly advised to contact local Gypsy Traveller representative groups and to speak to the Gypsies or Travellers concerned before coming to any decision.

Information gained must be interpreted reasonably. It is not the intention of the Police that legislation provided by Parliament simply be used, but should be used sensitively and appropriately.

If the answers to these questions reveal the proposed pitch is unsuitable, there is a presumption that a S.62A direction will not normally be given.

- C. Is the site a 'relevant' one for the purposes of this Act? It must be within the local authority area, and meet various criteria for facilities. Local knowledge should not be relied upon. Details of the local authority official that stated the site complied with the legislative requirements should be obtained and recorded. If the site is not a relevant site then it is not useable and a direction must not be issued. In November 2009, no Sec.62 sites exist in London Borough of Merton.

Any decision made must be;

- **Proportionate** – In that any response is tailored to meet the specific circumstances of each encampment
- **Legal** – Insofar as it is lawful, complies with local and Police policies and procedures, takes into consideration relevant matters. It should not consider, or take account of, matters that are irrelevant or based on prejudice.
- **Accountable** - In that it takes into account the rights and needs of all affected parties.
- **Necessary** – In the sense of being required and not perverse or irrational.



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This decision and a detailed account of the factors considered will be recorded in the incident management log and signed off by the Chief Inspector. The incident management log will remain 'open' until the unlawful encampment ends.

## PHASE THREE

### Activity following decision to remove or not

#### No use of Police powers at this time

This deals with the process where the decision made is that the use of Police powers is **not** appropriate. If Police have decided that the use of Police powers is **not appropriate at this time** the decision **will** be kept under constant review. It should be emphasised that while police are not using their powers it does not mean that local authorities will not be using theirs.

The decision should be communicated to the Travellers as soon as the decision has been made by the Chief Inspector chairing the group. At the same time any conditions that the Travellers will be asked to comply with will be notified to them (see **Leniency** agreements below). While there is no statutory obligation to comply with these conditions a failure to agree to them or any subsequent breach of any of them may provide grounds to re-consider police powers to remove. In this case the procedure outlined in the "Decision" phase should be followed and recorded in the same way.

#### Closure

At the close of the incident the incident log will be signed off by the Superintendent Operations or designated deputy.

For quality control purposes and so that good practice can be identified and shared a copy of the log will be forwarded within 7 days to the GTLO, SPOC for MPS, Room 264 Victoria block, New Scotland Yard. This does not remove the requirement to submit the borough unauthorised encampment return to the Diversity and Citizen Focus Directorate within 7 days of the end of each calendar month.

#### Leniency Agreements/Acceptable Behaviour Codes

- See appendix G.

#### Decision taken to remove

##### Introduction

Where the use of police powers to remove is deemed appropriate the procedure outlined below should be followed. It is however good practice to ensure that the decision is communicated to the Travellers as soon as possible. This may be an

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appropriate point to formally make the requirement for the Travellers to leave the land and to serve the form 3190 (Appendix D). An officer not below the rank of Inspector will personally make the requirement to leave to all those Travellers to whom it applies. Making this requirement does not mean that removal process must commence immediately but there is a presumption that it will follow as soon as the requirements of the protocol on removals have been complied with.

Police involvement in removals from unauthorised campsites can be broken down into three types:

- Police involvement at the request of a landowner in order to prevent a breach of the peace while any removal by the landowner or their agents takes place.
- Police use of powers under S.61 CJPOA.1994 in response to the request of a landowner, agent or occupier.
- Police use of powers under S.62A CJPOA 1994 at the request of a landowner, agent or occupier.

Each of these events poses different challenges to the officer involved in policing them, and each will need to be dealt with individually. It is therefore impossible to give blanket guidance, as each operation will need to be conducted according to the prevailing circumstances and specific needs.

### **Police involvement at the request of a landowner in order to prevent a breach of the peace while a removal by the landowner or their agents takes place.**

While possession orders issued through the County Courts are available to private landowners they will often try to regain possession of their land using their common law rights. Landowners are entitled to do so using reasonable force and will often request the attendance of police to 'prevent a breach of the peace'. Similarly landowners will frequently employ firms of bailiffs to carry out such removals for them but still request police be in attendance.

Except where the landowner is a local authority, the requirement to carry out welfare and HRA enquiries prior to making a decision to remove does not apply i.e. private landowners are exempt.

Police will generally agree to requests to attend the site of an encampment to prevent a breach of the peace. Officers must be aware that where there is dispute over ownership of land, it is not the role of police to usurp the functions of the court. The full circumstances of the proposed removal should be obtained and recorded in an incident management log that will be maintained for the duration of the incident.

Before agreeing a time and date for the removal with the landowner, police must conduct a risk assessment, and the landowner advised if it is thought inappropriate to carry out a removal at the time proposed by the landowner. Risk assessments should follow the format detailed in the process for the use of S.61 CJPOA and a copy placed in the incident management log.

It must be made clear to landowners requesting police attendance at these removals that police will not become involved in the removal process itself. They are there solely to prevent a breach of the peace. Strict and demonstrable impartiality must be maintained at all times and police must be prepared to act if the bailiffs/landowners or Travellers perpetrate any criminal offences. A supervising officer will attend all such

removals and will take command of any police resources deployed. Any decisions made at the incident will be recorded in the incident management log.

At the conclusion of the incident a copy of the incident management log will be forwarded to the Diversity and Citizen Focus Directorate so that good practice can be identified and circulated.

### **Police use of powers under S.61 CJPOA.1994 at the request of a landowner**

The use of police powers under S.61 CJPOA should be seen as a position of last resort to be considered when removal is urgent. This section presupposes that the decision-making process set out above on Unauthorised Encampments has been followed and it is the decision of the consultative group that S.61 powers are appropriate for use.

Before any operation to remove people on an unauthorised encampment, irrespective of size, is carried out a risk assessment will be completed using form 3166 or 3167.

Particular attention should be paid to the following areas:

- Type and condition of land – Is special clothing/vehicles required?
- Number of people on the unauthorised encampment
- Number and type of vehicles
- Health of the occupants of the site – Is there potential that the London Ambulance Service will be required, should the removal be carried out if such a danger exists? Are there people present who have a disability that needs to be catered for?
- Age of Travellers – are there elderly adults or young children on the encampment? What facilities might be required to safely carry out the removal with these present?
- Health and education assessments to ensure the Local Authority is fulfilling its duty to promote the welfare of children and young people, including unborn children.
- Animals – Are they a danger or will they be in danger, are specialist resources required to contain them? Have adequate arrangements been made for the storage of any animals seized?
- Sanitation – Any health hazards present?
- Demeanour of the occupants of the encampment – This should be intelligence led rather than based on generalisations or preconceptions that conflict will be inevitable.
- Does community and criminal intelligence indicate there any direct dangers to police officers?
- Have weapons been seen or are they suspected? – The evidence for this should be assessed objectively

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- What are the consequences for the occupants of the site of the removal process, where can they go, are we simply moving a group to another site from which they may need to be removed at a later stage? Is this cost effective?
- Implications for the wider community
- Wider perceptions of police – While the safety of all people involved in the removal is paramount its planners should assess whether its necessary for police officers to be dressed in public order kit, or for large numbers to be overtly present at the site of the removal. Police should be conscious of the negative effect this type of response sends to the wider community about Gypsies and Travellers. Consideration should be given to inviting local Gypsy Traveller representative groups to be present at a removal to ensure police actions are proportionate and reasonable
- Traffic considerations – will there be a danger to police, the public or to Gypsies and Travellers?
- Are there adequate arrangements in place to ensure that any property seized e.g. caravans, will be stored safely?

This list is clearly not exhaustive; each individual encampment will have its own unique issues, which will need to be considered in any risk assessment process. A record of all issues considered and the factors put in place to mitigate them will be placed in the incident management log.

While the legislation gives authority to the senior officer present at the scene to direct persons to leave the land it is MPS policy that the direction to leave will be given in person by an officer not below the rank of Inspector before the removal process commences.

The direction will be given verbally to all of the Travellers to whom it applies and confirmed whenever circumstances allow by service of a written notice on form 3190 (see appendix D). The service of form 3190 is not however a statutory requirement.

A person failing to comply with a requirement to leave the land as soon as is reasonably practicable or returning to the same piece of land within three months commits an offence for which a constable in uniform may arrest without warrant.

Removal from an unauthorised encampment will necessarily have a huge impact on the daily lives of the people involved in the encampment. Every effort should therefore be made to allow them to move off the land voluntarily prior to having to conduct a forcible removal.

Once a removal operation has commenced it should be conducted as efficiently as possible having due regard for health and safety issues and the human rights of all those involved. While it is important that adequate resources are available to ensure that removal can be completed successfully an overt show of force is neither necessary nor desirable. Resources should be deployed accordingly. Where difficulties arise negotiation should be seen as the way forward rather than the use of force. Ideally, Borough Police GTLO will be present.

### **Police use of powers under S.62A CJPOA 1994 at the request of a landowner**

- See appendix H.

**APPENDIX A**

**Sections 61 and 62 of the CJPO Act 1994 are reproduced here in full:**

**"Public Order — Collective Trespass or Nuisance on Land" – Section 61**

**Powers to Remove Trespassers on Land**

61. (1) If the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and:-

(a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his; or

(b) that those persons have between them six or more vehicles on the land,

he may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.

(2) Where the persons in question are reasonably believed by the senior police officer to be persons who were not originally trespassers but have become trespassers on the land, the officer must reasonably believe that the other conditions specified in sub-section (1) are satisfied after those persons became trespassers before he can exercise the power conferred by that sub-section.

(3) A direction under sub-section (1) above, if not communicated to the persons referred to in sub-section (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) If a person knowing that a direction under sub-section (1) above has been given which applies to him:-

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given,

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(5) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.

(6) In proceedings for an offence under this section it is a defence for the accused to show:-

(a) that he was not trespassing on the land, or

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(b) that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(7) In its application in England and Wales to common land this section has effect as if in the preceding sub-sections of it:-

(a) references to trespassing or trespassers were references to Acts and persons doing Acts which constitute either a trespass as against the occupier or an infringement of the commoners' rights; and

(b) references to "the occupier" included the commoners or any of them or, in the case of common land to which the public has access the local authority as well as any commoner.

(8) Sub-section (7) above does not:-

(a) require Action by more than one occupier; or

(b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(9) In this section:-

"common land" means common land as defined in section 22 of the Commons Registration Act 1965;

"commoner" means a person with rights of common as defined in section 22 of the Commons Registration Act 1965;

"land" does not include:-

(a) buildings other than:-

(i) agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988 or, in Scotland, section 7(2) of the Valuation and Rating (Scotland) Act 1956, or

(ii) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;

(b) land forming part of:-

(i) a highway unless it falls within the classifications in section 54 of the Wildlife and Countryside Act 1981 (footpath, bridleway or by way open to all traffic or road used as a public path) or is a cycle track under the Highways Act 1980 or the Cycle Tracks Act 1984; or

(ii) a road within the meaning of the Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2)(a)(ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the Countryside (Scotland) Act 1967;

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"the local authority", in relation to common land, means any local authority which has powers in relation to the land under section 9 of the Commons Registration Act 1965;

"occupier" (and in sub-section (8) "the other occupier") means:-

(a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; and

(b) in Scotland, the person lawfully entitled to natural possession of the land;

"property", in relation to damage to property on land, means:-

(a) in England and Wales, property within the meaning of section 10(1) of the Criminal Damage Act 1971; and

(b) in Scotland, either:-

(i) heritable property other than land; or

(ii) corporeal moveable property,

and "damage" includes the deposit of any substance capable of polluting the land;

"trespass" means, in the application of this section:-

(a) in England and Wales, subject to the extensions effected by sub-section (7) above, trespass as against the occupier of the land;

(b) in Scotland, entering, or as the case may be remaining on, land without lawful authority and without the occupier's consent; and

"trespassing" and "trespasser" shall be construed accordingly;

"vehicle" includes:-

(a) any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and

(b) a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960;

and a person may be regarded for the purposes of this section as having a purpose of residing in a place notwithstanding that he has a home elsewhere.

This section replaces the provisions formerly in section 39 of the Public Order Act which is repealed and sets out powers under which a senior police officer may direct trespassers to leave land if certain conditions are satisfied. Failure to obey such a direction, or any return to the land as a trespasser within three months, is an offence.

A constable in uniform who reasonably suspects that a person is committing an offence under this section has a power of arrest without warrant.

## **SECTION 62**

### **Supplementary Powers of Seizure**

62. (1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse:-

(a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered the land as a trespasser with a vehicle within the period of three months beginning with the day on which the direction was given,

the constable may seize and remove that vehicle.

(2) In this section, "trespasser" and "vehicle" have the same meaning as in section 61."

### **Effect of sections**

#### **Section 61 of the Criminal Justice and Public Order Act 1994**

This Section confers powers on a senior police officer to direct trespassers to leave land if certain conditions are satisfied. Failure to obey such a direction, or any return to the land as a trespasser within three months, is an offence. A constable in uniform who reasonably suspects that a person is committing an offence under this Section has a power of arrest without warrant. The power conferred by this Section is **discretionary**. Police are **not** obliged to exercise their discretionary powers. Police have a power **not** a duty.

#### **Section 62 of the Criminal Justice and Public Order Act 1994**

This Section provides supplementary powers to the police to seize and remove vehicles belonging to people to whom a direction to leave under Section 61 applies. The Police (Retention and Disposal of Vehicles) Regulations 1995, provide for the retention, safe keeping, disposal and destruction by the police or persons authorised by them, of vehicles seized under these powers.



**Section 62A CJPOA**

**60 Power to remove trespassers: alternative site available**

After section 62 of the Criminal Justice and Public Order Act 1994 (c. 33) insert-

**"62A Power to remove trespassers: alternative site available**

(1) If the senior police officer present at a scene reasonably believes that the conditions in subsection (2) are satisfied in relation to a person and land, he may direct the person-

- (a) to leave the land;
- (b) to remove any vehicle and other property he has with him on the land.

(2) The conditions are-

- (a) that the person and one or more others ("the trespassers") are trespassing on the land;
- (b) that the trespassers have between them at least one vehicle on the land;
- (c) that the trespassers are present on the land with the common purpose of residing there for any period;
- (d) if it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans;
- (e) that the occupier of the land or a person Acting on his behalf has asked the police to remove the trespassers from the land.

(3) A direction under subsection (1) may be communicated to the person to whom it applies by any constable at the scene.

(4) Subsection (5) applies if-

- (a) a police officer proposes to give a direction under subsection (1) in relation to a person and land, and
- (b) it appears to him that the person has one or more caravans in his possession or under his control on the land.

(5) The officer must consult every local authority within whose area the land is situated as to whether there is a suitable pitch for the caravan or each of the caravans on a relevant caravan site which is situated in the local authority's area.

(6) In this section-

"caravan" and "caravan site" have the same meanings as in Part 1 of the Caravan Sites and Control of Development Act 1960;

"relevant caravan site" means a caravan site which is-

- (a) situated in the area of a local authority within whose area the land is situated, and
- (b) managed by a relevant site manager;

"relevant site manager" means-

- (a) a local authority within whose area the land is situated;
- (b) a registered social landlord;

"registered social landlord" means a body registered as a social landlord under Chapter 1 of Part 1 of the Housing Act 1996.

(7) The Secretary of State may by order amend the definition of "relevant site manager" in subsection (6) by adding a person or description of person.

(8) An order under subsection (7) must be made by statutory instrument and is subject to annulment in pursuance of a resolution of either House of Parliament."

## **61 Failure to comply with direction: offences**

After section 62A of the Criminal Justice and Public Order Act 1994 (c. 33) (inserted by section 60) insert-

### **"62B Failure to comply with direction under section 62A: offences**

(1) A person commits an offence if he knows that a direction under section 62A(1) has been given which applies to him and-

- (a) he fails to leave the relevant land as soon as reasonably practicable, or
- (b) he enters any land in the area of the relevant local authority as a trespasser before the end of the relevant period with the intention of residing there.

(2) The relevant period is the period of 3 months starting with the day on which the direction is given.

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(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.

(4) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.

(5) In proceedings for an offence under this section it is a defence for the accused to show-

(a) that he was not trespassing on the land in respect of which he is alleged to have committed the offence, or

(b) that he had a reasonable excuse-

(i) for failing to leave the relevant land as soon as reasonably practicable, or

(ii) for entering land in the area of the relevant local authority as a trespasser with the intention of residing there, or

(c) that, at the time the direction was given, he was under the age of 18 years and was residing with his parent or guardian."

**62 Failure to comply with direction: seizure**

(1) After section 62B of the Criminal Justice and Public Order Act 1994 (inserted by section 61) insert-

**"62C Failure to comply with direction under section 62A: seizure**

(1) This section applies if a direction has been given under section 62A(1) and a constable reasonably suspects that a person to whom the direction applies has, without reasonable excuse-

(a) failed to remove any vehicle on the relevant land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered any land in the area of the relevant local authority as a trespasser with a vehicle before the end of the relevant period with the intention of residing there.

(2) The relevant period is the period of 3 months starting with the day on which the direction is given.

(3) The constable may seize and remove the vehicle."

(2) In section 67(1) (retention and charges for seized vehicles) after "section 62(1)" insert ", 62C(3)".

### **63 Common land: modifications**

After section 62C of the Criminal Justice and Public Order Act 1994 (c. 33) (inserted by section 62) insert-

#### **"62D Common land: modifications**

(1) In their application to common land sections 62A to 62C have effect with these modifications.

(2) References to trespassing and trespassers have effect as if they were references to Acts, and persons doing Acts, which constitute-

- (a) a trespass as against the occupier, or
- (b) an infringement of the commoners' rights.

(3) References to the occupier-

- (a) in the case of land to which the public has access, include the local authority and any commoner;
- (b) in any other case, include the commoners or any of them.

(4) Subsection (1) does not-

- (a) require Action by more than one occupier, or
- (b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(5) In this section "common land", "commoner" and "the local authority" have the meanings given by section 61."

### **64 Interpretation**

After section 62D of the Criminal Justice and Public Order Act 1994 (inserted by section 63) insert-

#### **"62E Sections 62A to 62D: interpretation**

(1) Subsections (2) to (8) apply for the interpretation of sections 62A to 62D and this section.

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(2) "Land" does not include buildings other than-

- (a) agricultural buildings within the meaning of paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988, or
- (b) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.

(3) "Local authority" means-

- (a) in Greater London, a London borough or the Common Council of the City of London;
- (b) in England outside Greater London, a county council, a district council or the Council of the Isles of Scilly;
- (c) in Wales, a county council or a county borough council.

(4) "Occupier", "trespass", "trespassing" and "trespasser" have the meanings given by section 61 in relation to England and Wales.

(5) "The relevant land" means the land in respect of which a direction under section 62A(1) is given.

(6) "The relevant local authority" means-

- (a) if the relevant land is situated in the area of more than one local authority (but is not in the Isles of Scilly), the district council or county borough council within whose area the relevant land is situated;
- (b) if the relevant land is situated in the Isles of Scilly, the Council of the Isles of Scilly;
- (c) in any other case, the local authority within whose area the relevant land is situated.

(7) "Vehicle" has the meaning given by section 61.

(8) A person may be regarded as having a purpose of residing in a place even if he has a home elsewhere."

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**APPENDIX B**

**IT SHOULD BE REMEMBERED THE USE OF THE POWERS IN THE FOLLOWING FLOWCHART ARE ENTIRELY DISCRETIONARY.**

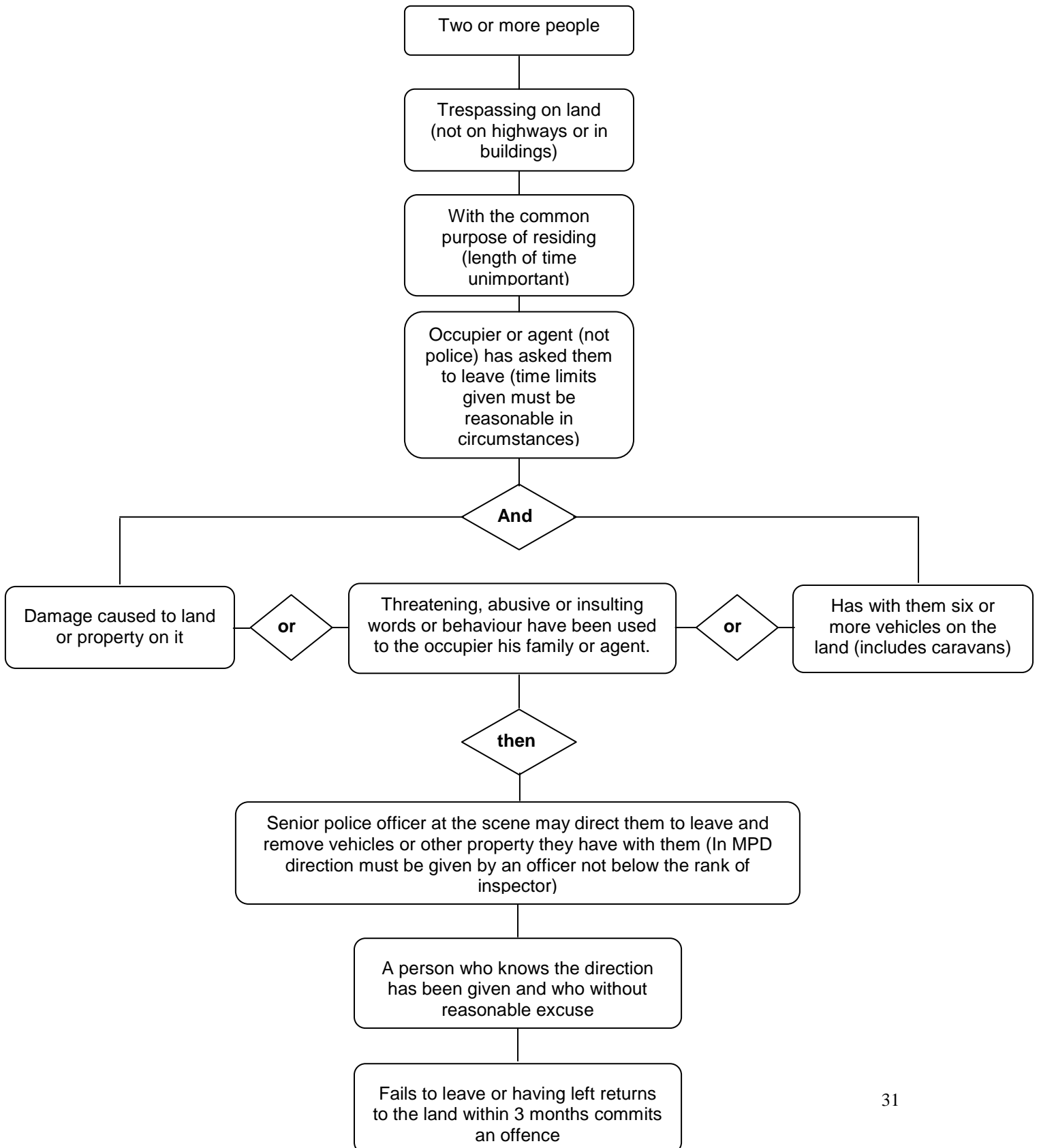
**THE MPS RESPONSE TO SUCH ISSUES BE DEMONSTRABLY UNBIASED.**

**A BALANCE MUST BE MAINTAINED IN THE POLICE RESPONSE TO UNAUTHORISED ENCAMPMENTS BETWEEN RESPECT FOR THE LIFE STYLE CHOICES AND RIGHTS OF THOSE OUTSIDE SETTLED SOCIETY AND THE RIGHTS OF LANDOWNERS AND THE SETTLED COMMUNITY.**

Encampment Found

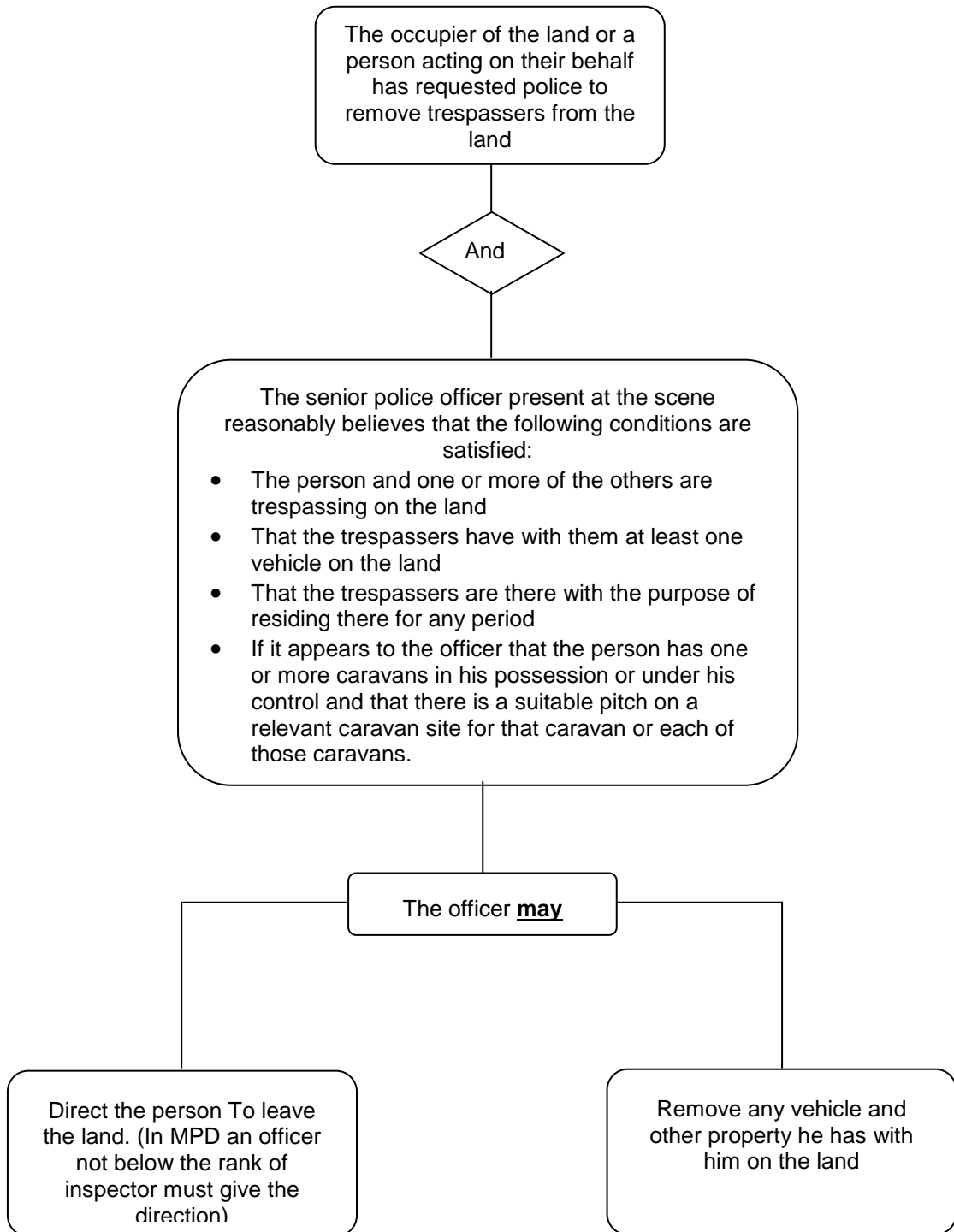
Does S.61 or 62A Criminal Justice and Public Order Act 1994 apply

S.61 Power to remove trespassers from land



OR

**S.62A – Power to remove trespassers where an alternative site is available**





**APPENDIX C**

**Metropolitan Police Service ~ Notice of expectation**

You are currently camped on land within the Metropolitan Police District without the permission of the landowner. While you are here you can expect the same level of response from police as any other member of the community.

The service of this notice does not mean that the landowner or local authority will not take action themselves to remove you from this land.

You will soon be visited by a police officer who will ask whether there is any reason why your encampment cannot move. This officer will also ask questions about the circumstances of the people on the encampment.

From the answers a report will be prepared that forms part of the process that will lead to decision being made as to whether or not police powers will be used to remove you from this land.

You don't have to co-operate with this officer but doing so gives you an opportunity to explain your circumstances in a way that might help you.

In the very near future a meeting may be held to decide whether or not police powers will be used to remove you from this site. If that meeting is held you or someone that can speak for you will be invited to attend.

If you decide not to co-operate a decision will still be made.

If the meeting decides not to use police powers to remove you from this land you may be asked to comply with some conditions while you remain here, these will be explained to you but you do not have to agree to comply with them. If however you feel you do not want to comply with these conditions then the question of whether to use police powers to remove you will be reconsidered in light of what you say. The police decision not to use their powers does not preclude the Council or other using theirs.

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If you have any questions, suffer any harassment or become the victim of crime please contact the Police Gypsy Traveller Liaison Officer who is usually a ward Police Sergeant whose name and telephone number are below:

PS Gary Cotton tel. **020 8721 2742**<sup>3</sup>

Or

A/PS Louise Vickers GTLO tel. **020 8649 3576**<sup>4</sup>

While this process is underway you should comply with the following conditions:

- Rubbish and waste should be stored safely and appropriately – please ask the local authority for refuse bags and sturdy bins for domestic waste and use them, and for the nearest sanitary waste disposal point:-
  
- No damage must be caused to the site including the land, this includes depositing human waste.
  
- Vehicles should be driven with care and within any designated access routes and not be driven around the site unnecessarily
  
- No noise nuisance should be caused.
  
- Only park on land not required for another purpose.
  
- Keep groups small and no additional families should join the encampment.
  
- Do not behave in a manner likely to cause disruption to the surrounding community or use anti social behaviour. (To respect local residents an businesses). This includes animals.
  
- Bring any incidence of anti social behaviour or hate crime directed against you to the attention of the person named above or to your local police station. If the matter is urgent you should dial 999 if not urgent, 0300 1231212.

Your local police station is situated at:.....

---

<sup>3</sup> Phone number as of May 2010 (Longthornton Ward)

<sup>4</sup> Phone number as of May 2010 (Cricket Green Ward)

APPENDIX D



**Criminal Justice and Public Order Act 1994, Section 61 -  
Powers to remove trespassers on land**

# **NOTICE TO LEAVE LAND**

## **Trespassers on Land**

**(Section 61 Criminal Justice and Public Order Act 1994)**

You are directed to leave this land immediately, together with any vehicles or other property you have with you.

I have reason to believe that you are one of two or more persons trespassing on this land, present with the common purpose of residing there, and that reasonable steps have been taken by or on behalf of the occupier to ask you to leave and:

1. That any of those persons has caused damage to the land or to property on the land\*

**or**

2. That any of those persons has used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his\*

**or**

3. That those persons have between them six or more vehicles on the land\*

**If you fail to leave this land as soon as reasonably practicable or, having left, again enter the land as a trespasser within the period of three months beginning with the day on which this direction was given, you commit an offence for which you may be arrested.**

**If you fail to recover any vehicle which appears to a constable to belong to you or to be under your control, it may be seized and removed. Charges may be made for the cost of removal and storage of any such vehicle.**

Signed

.....  
.....  
(Senior Police Officer present at scene)

Date  
.....  
.....

Name

.....  
.....  
(Block letters)

Rank  
.....  
.....

**APPENDIX E**

**Encampment on Private Land**

On receipt of report from Police, public, or others, it is often possible to verify, in office, whether unlawful encampment is on the council's land. In cases of uncertainty site inspection should be carried out for verification. The Property Management & Review Section will be able verify council's ownership in most cases.

Where unauthorised encampment is on private land not owned or occupied by LBM the following need to be considered and actions taken as situations dictate:

- Contact Police GTLO to arrange, if possible, joint initial inspection, and endeavour to assist GTLO as requested.
- Obtain land owner contact details e.g. via Land Registry, if proving difficult to identify and locate.
- Contact land owner and inform of encampment, approximate number of vehicles/people, date of arrival, intended duration of encampment, any damage/fly tipping.
- Obtain land owners plans for length of stay.
- Subject to discretion and direction from Council's Directors, Heads of Service, or Property Management & Review Manager, offer assistance, such as where land owner can obtain legal advice, hire of council bins for duration of encampment.
- Property Management & Review Manager/Estates Surveyor or nominated case officer to maintain contact with land owner and relay updates to Council Officers, such as Merton Link Manager, Press Officer and others as appropriate.
- Dependent on characteristics of site, size of encampment and duration of stay, inform Ward Councillors and others indicated under the heading 'On Return to Office' on page 7 of this document.
- All encampments where there are children, the Traveller Education Service (TES) must be informed.
- Where the Council/Directors/Heads of Service/Property Management & Review Manager receive or issue instructions to offer assistance of acting on behalf of the land owner, then written authority must be received from land owner/agent confirming ownership and that LBM acts on their behalf.
- Where LBM acts on behalf of a private land owner this document describes the policies and operational response to be considered and followed; in this case, the encampment requires, subject to discretion of Police and the council's legal advice, the undertaking of welfare assessments.

APPENDIX F

London Borough Merton  
Unauthorised Encampment  
Common Assessment Report

Location of Encampment and Landowner details	Date & Time of arrival		Reported to:
	Police CAD		
Number of families	Number of vehicles (Includes caravans)		Are the families known to services in Merton?
<b>Family Detail: (Record details in family group order)</b>			
	Nominated contact for encampment:		
Family Name:(include maiden name)	First Name:	Date of Birth	Reported needs / issues
			Address where family have travelled from/where they intend to move to (Exact address if possible)

Details of vehicles and caravans at the site							
VRM	Make	Model	User Name				

<b>Police Assessment:</b>				
<b>Outcomes: (add date if different from above)</b>				
<b>Education Assessment:</b>				

<b>Date:</b>	<b>Report by:</b>	<b>Contact no:</b>
<b>Outcomes: (add date if different from above)</b>		
<b>Health Assessment:</b>		
<b>Date:</b>	<b>Report by:</b>	<b>Contact no:</b>
<b>Outcomes: (add date if different from above)</b>		
<b>Social Care</b>		



<b>Date:</b>	<b>Report by:</b>
<b>Contact no:</b>	
<b>Outcomes: (add date if different from above)</b>	
<b>Other</b> _____	
<b>Date:</b>	<b>Report by:</b>
<b>Contact no:</b>	
<b>Outcomes: (add date if different from above)</b>	

## **APPENDIX G**

### **Leniency Agreements/Acceptable Behaviour Codes**

#### **Introduction**

A leniency agreement will come into effect when a decision has been made to either:-

- Not to remove the encampment.
- Not use police powers to remove, but landowners or local authorities may be considering using alternative powers.
- Use police powers but there is a delay between the decision being made and removal.

Leniency agreements are essentially a question of partnership working, between police, trespassers, local authorities, in some cases landowners and the settled community. The lead agency for leniency agreements within the Borough of Merton will be the Property Management & Review section.

Leniency agreements are not a way of 'short circuiting' the planning process or a form of licensing of unauthorised encampments. All a leniency agreement promises, is that provided trespassers observe some mutually agreed rules, police powers to remove will not be used.

Leniency agreements ensure that:

- The campsite causes the minimum disruption to the communities that surround it, whilst it is present.
- Unauthorised encampments are properly and effectively managed.
- Rubbish and other waste is kept to minimum and disposed of in a safe and appropriate way.
- Both the trespassers and the settled community feel safe and are aware of each other's commitments and responsibilities.

An integral part of any such agreement is consensus on who should lead on any issues surrounding the encampment and be responsible for the monitoring of it. Property Management Dept will undertake these duties within Merton Borough.

#### **Leniency agreement details**

A local standard leniency agreement should be reached with local partners. This will ensure that trespassers are treated consistently across the Borough. It is vitally important that Gypsies and Travellers and/or their representative groups as well as members of the local community and local authorities are involved in any group formed to develop these agreements. The agreement should address the following issues, although the list is not exhaustive:

- Provision of services/amenities to collect rubbish, whether on payment or otherwise.
- Provision of services to dispose of human waste.

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- Access to water.
- Responsibility for monitoring the site and dealing with any issues that the trespassers or settled community may have.
- A timetable for visiting the sites and monitoring compliance with the leniency agreement. It is however important that these visits should not be so frequent so as to suggest harassment
- A communications strategy
- A media strategy
- A crime prevention strategy where the trespassers are either victims or the suspects.
- Circumstances that will give rise to a reconsideration of police powers to remove, such as direct evidence of anti social-behaviour or direct evidence of the involvement of individuals in crime.

Whilst a standard format for leniency agreements within a borough is acceptable, a blanket time period for those agreements is not. Each individual case and the circumstances that have given rise to it should be considered on its merits. For example a leniency period of 48 hours may be entirely adequate for a group attending a funeral but would be inadequate for a family with a member who is seriously ill or about to give birth.

The behaviour of one family or individual might not reflect the behaviour of a whole encampment, but may give rise to a reconsideration of the use of police powers. It is important that only those responsible for the behaviour are considered for immediate removal. Blanket decisions that affect all on an encampment, but are based on the behaviour of specific individuals, should not be made.

Once a leniency period and its conditions have been agreed the details should be communicated to the trespassers, whether or not they have representatives at the meeting that set those conditions. The details should be recorded in the incident management log together with the names of those present when they were set.

A written record of the conditions should ideally be given to everyone on the encampment to whom they apply. Where this proves impossible they should be given to those who are willing to take responsibility for each caravan present. It is impossible to be prescriptive to the form this record should take as each unauthorised encampment and its occupiers has its own individual circumstances and needs. However the same conditions, set out in the initial notice of expectation to Travellers (appendix C), may prove suitable.

As levels of literacy amongst Gypsies and Travellers can be low, a verbal explanation should also be given. A contact number for a named individual who is able to answer questions about the agreement should also be supplied to the Travellers. It is suggested that this is the same person who is responsible for monitoring compliance with the agreement. (Usually GTLO)

It should be made clear to Travellers that there is no statutory obligation to comply with a leniency agreement nor does such an agreement mean that a landowner or local authority will not continue court action to remove trespassers. A refusal to engage with the process may however trigger a reconsideration of the use of police powers to remove.

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While this process is underway you should comply with the following conditions:

- Rubbish and waste should be stored safely and appropriately – please ask the local authority for refuse bags and sturdy bins for domestic waste and use them, and for the nearest sanitary waste disposal point:-
  
- No damage must be caused to the site, this includes depositing human waste.
  
- Vehicles should be driven with care and within any designated access routes and not be driven around the site unnecessarily
  
- No noise nuisance should be caused.
  
- Only park on land not required for another purpose.
  
- Keep groups small and no additional families should join the encampment.
  
- Do not behave in a manner likely to cause disruption to the surrounding community or use anti social behaviour. (To respect local residents and businesses). This includes animals.
  
- Bring any incidence of anti social behaviour or hate crime directed against you to the attention of the person named above or to your local police station. If the matter is urgent you should dial 999 if not urgent, 0300 1231212.

**APPENDIX H**

**Police use of powers under S.62A CJPOA 1994 at the request of a landowner**

Sections 67 to 71 of the Anti Social Behaviour Bill 2003 inserted sections 62A – E into the CJPOA 1994. This legislation provides a power to direct trespassers to leave a piece of land and to remove vehicles or any other property from the land. This only applies where there is a suitable pitch available on a caravan site elsewhere in the local authority area.

Like S.61 powers, the use of police powers under S.62A CJPOA should be as a position of last resort to be considered when removal is urgent. Any decision to use of S.62A powers will be made by the same consultative group that is convened to consider whether or not to use S.61 powers and the same decision making process will apply.

Where the decision has been made to use S.62A powers the considerations are the same as those for removals under S.61 save that the service of form.3190 is not required. The direction to leave under this legislation will again be given by an officer not below the rank of Inspector to everyone to whom it applies. Video recording of this requirement is seen as good practice.

S.62A legislation carries with it a power of arrest for non-compliance. This power of arrest is far more wide-ranging than that under S.61. Therefore details of the whole process that led to the use of S.62A powers must be fully and accurately documented in the incident management log.

**Protocol Flow Chart - A Guide**

**APPENDIX I**

