

Policy in relation to Travellers and Illegal Encampments on Parish Land

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Introduction

The policy will outline a procedure to enable Hunts Grove Parish Council (HGPC) to protect its land and assets for the continued use and enjoyment of the community.

The aim of this policy is to ensure that any action taken by HGPC as regards to Travellers is fair and in line with an approved protocol for dealing with unauthorised sites. The protocol includes a procedure to ensure that as an ethnic minority group the rights and interests of the Gypsies/Travellers are properly taken into consideration as well as the settled community, when making any decisions as to how best to proceed. The protocol is designed to ensure that the Council is acting in accordance with the requirements of the Human Rights Act and Government guidance.

Travellers on Parish Council Land

The Clerk to inform the following people;

- Hunts Grove Parish Council
- Stroud District Council's Environmental Health Officer
- Gloucestershire County Council's Traveller Services Officer
- The Police
- Neighbourhood Warden
- County Councillor
- District Councillor

Crest Nicholson and their partners are currently responsible for the majority of land at Hunts Grove but the Parish Council will work in conjunction to take any action to evict an illegal encampment from their land. This should be done by instigating proceedings under Section 50 Civil Procedures Rule as outlined in the legislation in appendix 2.

The Clerk to act on behalf of the Council to instigate the proceedings under Delegated Powers (*include Minutes number of when powers delegated*) along with Crest.

The following to be undertaken

- Engage the Council Legal Advisor to act.
- Risk Assess the continued use of the land taking advice from the Police and councils' legal advisor. Advise users accordingly.
- Organise a parish council meeting to update the council on all action and invite Crest to attend.

Making Contact with the Travellers

The Clerk/Councillors and Crest should request the Police or Gloucestershire County Council's Travellers Service Officer to accompany them to speak to the Travellers.

If the incident occurs on a weekend or an evening and if one of the above Officers not available the Clerk and a councillor should undertake this visit. It is important that this is done as soon as possible.

The following should be established:

- The Travellers should be informed that this is Crest Nicholsons land and they do not have permission to set up a camp.
- Follow the questions in the attached the County and District Protocol Appendix 1
- Establish a time when the Travellers will leave
- Ask them to keep the site clean

Action to evict the Travellers

If the Travellers have not left the site as discussed in 1.2 above the Clerk under Delegated Powers alongside Crest Nicholson should take the following action;

- Instigate a Possession Order as per section 50 of Civil Proceedings Act to evict the Travellers from the site.
- Keep a statement of all conversations and matters relating to the Traveller Encampment.
- Liaise with the Police and act on their advice.

This action to be started immediately and may run alongside action undertaken by the Police under the Criminal Justice Act.

Request for Police Action Criminal Justice and Public Order Act (CJPOA) section 61c

The Clerk to consider the following and if applicable make an immediate request for action under the Criminal Justice and Public Order Act (CJPOA) section 61c

If the Travellers fail to leave by the time agreed by the proceedings outlined in section 1.2 above and any of the following 3 things have taken place;

- the unauthorised campers have caused damage to the land or property on the land;
- they have used threatening, abusive or insulting words or behaviour to the occupier, a member of his family or his employee or agent;
- there are six or more vehicles on the land.

The police can use Section 61 of the CJPOA to direct unauthorised campers to leave the site. They can do this without reference to the courts. The initial step is for the landowner to make a formal request to the police that they use their powers under the CJPOA.

A senior police officer then considers whether it is appropriate to use the power, based on various factors:

- whether there are there other activities on the encampment, such as serious breaches of the peace, disorder, criminal activity or anti-social behaviour which would necessitate police involvement under their wider powers;
- given the impact of the unauthorised encampment on the environment and the local settled community, is it reasonable and proportionate to use police powers;
- is action by the police legally sustainable;
- are sufficient resources available.

The decision to take this action falls to the Police. The Clerk, council and Crest can request it but the Police may not take this action. It is important due to this fact that civil proceedings are taken immediate so as no delay in eviction takes place.

Appendix 1 Gloucestershire County Council and Stroud District Councils have signed up to the following Code

Protocol for Dealing with Unauthorised Traveller Encampments

The Council has signed up to a countywide protocol for dealing with unauthorised sites. The protocol includes a procedure to ensure that as an ethnic minority group the rights and interests of the Gypsies/Travellers are properly taken into consideration as well as the settled community, when making any decisions as to how best to proceed. The protocol is designed to ensure that the Council is acting in accordance with the requirements of the Human Rights Act and Government guidance.

If Gypsies/Travellers camp on private land, what can the landowner do?

Talk to them to see if a leaving date can be agreed and/or take proceedings in the County Court under the Civil Procedure Rules 1998 to obtain a Court Order for their eviction.

What if the landowner decides to let them stay on the land?

Unless the landowner has already obtained planning permission for a caravan site or is a farmer and the Gypsies/Travellers are helping with fruit picking etc., then the landowner could be in breach of the Planning Acts and the Acts dealing with the licensing of caravan sites if land is occupied for more than 28 days in any 12 month period.

If the landowner fails to take the appropriate action to remove the Gypsies/Travellers, what will the Council do?

The Council will monitor all unauthorised sites and take steps to identify and then liaise with the landowner. If the landowner is in breach of any planning or caravan site license requirements, then the Council could consider taking proceedings against him/her.

Does the Council have a duty to move Gypsies/Travellers when they are camped without the landowner's permission?

The Council has the power under the Criminal Justice & Public Order Act 1994, but does not have a duty to move them. The Council would normally expect the landowner to take that responsibility.

I have seen Gypsies/Travellers camping on the side of the road and sometimes on parks or other Council-owned land, what can the Council do?

The District Council is only responsible for land it owns, the County Council are responsible for dealing with any encampments on land they own which will include roadside verges.

The Councils will consider each case on its merits, in accordance with the agreed protocol. If the Gypsies/Travellers are causing problems they will be moved on as soon as is reasonably possible.

In all cases the site will be monitored and every effort made to make sure that the Gypsies/Travellers keep the site tidy and do not cause public health problems. This sometimes means that refuse collection facilities may be provided for this purpose.

Can the Council remove Gypsies/Travellers from their land immediately?

No, like all other landowners the Council must apply to the County Courts for an eviction order and must first;

- Make enquiries regarding the general health, welfare and children's education;
- Ensure that the Human Rights Acts 1998 has been fully complied with;
- Show that the Gypsies/Travellers are on the land without consent;
- Follow a set procedure in terms of proving ownership of land and details of the illegal encampment.

How long will it take for the Gypsies/Travellers to be removed?

This will depend upon the circumstances of each individual case. The Council will need to take account of the issues outlined above. If the site is to be allowed to remain, it will be reviewed periodically.

Can the Court refuse to grant the Council an Order to move the Gypsies/Travellers on?

Yes. If there is a reason for the Gypsies/Travellers to stay on the site or if the Court believes that the Council have failed to make adequate enquiries regarding the general health and welfare of the Gypsies/Travellers and there is nowhere else suitable for them to go.

What can the Police do?

In certain circumstances (for example, where the Gypsies/Travellers have with them six or more vehicles), Police Officers may use powers under Section 61 of the Criminal Justice and Public Order Act 1994.

These powers will only be used in situations of serious criminality or public disorder not capable of being addressed by normal criminal legislation and in which the trespassers occupation of the land is a relevant factor. The Police will investigate all criminal and Public Order offences.

The Police are bound by the Human Rights Act and may be constrained to avoid using section 61 in circumstances where it would preclude welfare considerations from being applied by the civil courts.

The duty of the Police is to preserve the peace and prevent crime. Trespass on land by itself is not a criminal offence. Prevention of Trespass and the removal of trespassers are the responsibilities of the landowner and not the Police