

BEDFORD BOROUGH COUNCIL

Unauthorised Encampments

INFORMATION AND ANSWERS TO YOUR FREQUENTLY ASKED QUESTIONS

about Gypsies and Travellers and the Council's Responsibilities in Such Matters

August 2008

1	Travellers are protected from discrimination by the Race Relations Act 1976 (as amended) and the Human Rights Act 1998, together with all ethnic groups who have a particular culture, language or values.
2	The aim of this information is to set out how the Council and other official agencies will work together to try to balance the rights of all those involved.
3	Why do Travellers pursue a travelling lifestyle? Their way of life means that they travel from place to place staying for various periods of time in different locations. Very often this is to earn a living but also like the rest of society it is because Travellers wish to attend family events such as weddings and funerals and to visit relatives in hospital.
4	Does the Council have a duty to move Gypsies/Travellers when they are camped without the landowner's permission? If Travellers are camped on Council owned or occupied land, the Council does not have a duty to move them on but has the power, in other words it has a discretion, to move them on, provided all statutory and advisory requirements have been met. However, if they are on private land, it is the individual landowner's or occupier's responsibility to move them on. The Government's current advice to Local Authorities is that where Travellers are not causing problems, an encampment may be tolerated for a short period. The Council adopted a revised Policy on Unauthorised Encampments on Council owned or occupied land on 19

	March 2008. See Appendix 1 and 2.
5	<p>If Travellers camp on private land, what can the landowner or occupier do?</p> <p>The private landowner or occupier can:</p> <ul style="list-style-type: none"> • Talk to the Travellers to see if they can agree a date and time to leave the site. • Seek an Order for Possession from the County Court. There is a not insubstantial fee for this and it is a more complicated and time consuming procedure than the one the Council can use in the Magistrates' Court. It involves a Court Hearing and the obtaining of an Order if granted by the Court. • Remove the Travellers, forcibly if necessary, using the right of all private landowners to evict trespassers from their land. The landowner or occupier can, at their own cost, employ a firm of bailiffs to do this on their behalf. This form of eviction is not open to the Council as regards Travellers because it is a Public Authority and there is relevant legislation relating to the matter.
6	<p>What if the landowner decides to let them stay on the land temporarily?</p> <p>Unless the landowner has already obtained planning permission for a provision of a caravan or a caravan site or is a farmer and the Travellers are helping with fruit picking, then the landowner or occupier could be in breach of the Planning Acts and other legislation dealing with caravans and the licensing of caravan sites.</p>
7	<p>If the landowner fails to take the appropriate action to remove the Travellers, what will the Council do?</p> <p>If the landowner is in breach of any planning or licence requirements, then the Council may take planning or other enforcement proceedings against the landowner to remedy the breach and ultimately after the relevant statutory provision have been complied with, it may be the case that an eviction will be part of the enforcement proceedings.</p>
8	<p>I have seen Travellers camping on the side of the road and sometimes on parts of what appears to be Council-owned land; what can the Council do in these cases?</p> <p>If the land is Council owned or occupied and the Travellers are causing problems, they will be moved from the land as soon as is reasonable and legally possible. The Council must consider each encampment on its own merits.</p> <p>In all cases an encampment will be visited and every effort made to try</p>

	<p>and ensure that the Travellers keep the encampment tidy and do not cause Public Health problems. Refuse collection facilities can be made available to the Travellers.</p>
<p>9</p>	<p>Can the Council remove illegally encamped Travellers from the Council's land immediately?</p> <p>No, the Council must follow the formal provisions of the Criminal Justice and Public Order Act 1994 and guidelines provided by the Government and these require that the Council must:</p> <ul style="list-style-type: none"> • Be able to show that the Travellers are on the land without the Council's consent. • Make enquiries regarding the general health, welfare and children's education. • Ensure that the relevant Human Rights Act 1998 provisions have been complied with. • Be able to provide evidence to the Court: <ul style="list-style-type: none"> • That the travellers are on land without lawful authority. • That the Council owns and occupies the land in question. • That the health, welfare and children's education checks have been properly carried out and assessed. <p>If the Magistrates are satisfied they will grant an Order for removal of the Travellers.</p> <p>The main legislation relating to unauthorised camping by Gypsies/Travellers are Sections 61 and 77 of the Criminal Justice and Public Order Act 1994. There is also Guidance on Managing Unauthorised Camping from the Department for Communities and Local Government. Under these Guidelines there are 'considerations of common humanity' and the Councils are required to make proper inquiries about health, housing needs and welfare of travellers before approving evictions. All decisions by public bodies must be 'proportionate' and accord with the Human Rights Act.</p> <p><u>What is S77</u></p> <p>This is the power used by the Council where Gypsies/Travellers move on any occupied land with the purpose of residing there or land without the consent of the occupier.</p> <p>S77 gives powers to the Council to give the Notice of Direction to leave the land and remove the vehicle or vehicles and any other property they have with them on the land. Having made the requirement as above, under Section 77 and if the</p>

	<p>Gypsies/Travellers fail to comply with the direction to leave, the Council will issue a summons for a removal order subject to the previously mentioned requirements being fully complied with.</p>
10	<p>How long will it take for the Travellers to be removed?</p> <p>This depends upon the circumstances relating to each encampment. The Council must take account of the issues outlined above and also how quickly they can obtain a Court hearing date.</p>
11	<p>Can the Court refuse to grant the Council an order to move Travellers on?</p> <p>Even though the Council's power is a discretionary one, case law indicates that the Court must grant the Order unless there has been some non-compliance with requirements of the legislation and/or guidance. However, the Council can decide to delay when the Order can be actioned. This is usually with the Agreement of the Council.</p>
12	<p>What can the Police do?</p> <p>The Police will usually visit all sites reported to them. In certain circumstances (for example, where Travellers have with them six or more vehicles), officers have discretion to use powers under Section 61 of the Criminal Justice and Public Order Act 1994.</p> <p>These powers will be used only in situations of serious criminality or public disorder not capable of being addressed by normal criminal legislation and in which trespass on the land is a relevant factor.</p> <p>The Police are also bound by the Human Rights Act and thus may not be able to use their section 61 powers without welfare considerations being applied by the civil courts.</p> <p>The duty of the Police is to preserve the peace, maintain public order and prevent crime. Trespass on land by itself is a civil "wrong" actionable only in the County Court and is not a criminal offence. Prevention of trespass and the removal of trespassers are therefore the responsibility of the landowner and not the Police. However, the Police will investigate all criminal and Public Order offences.</p>

Policy on Unauthorised Encampment

- 1 Unauthorised Gypsy and Traveller encampments can have a significant impact on the environment and on local communities and the Council will use the powers at its disposal to protect its landholdings, subject to the following:
 - (a) In determining the most appropriate course of action associated with this Policy, the Council will consider the welfare needs of the travelling community and their way of life and balance these against any impact caused to members of the settled community and/or the environment.
 - (b) The response to any unauthorised encampments on Council land will be a proportionate one determined on a case by case basis on its own merits and following regard to the Government's current guidance which presently is "Guidance on Managing Unauthorised Camping".
- 2 Any group of Travellers who establish an unauthorised encampment on Council land will be visited at the first available opportunity by the Council's appointed agents who will attempt to gather information from them and a variety of other sources and pass this to the Council to enable it to assess the situation including:
 - (i) Any adverse impact from the encampment on the welfare of persons other than the Travellers and the local environment and how (if at all) this could be mitigated.
 - (ii) The Travellers' wishes and intention as to further travel and the availability of lawful alternative campsites in the area.
 - (iii) Any special health, social care or educational welfare needs of the Travellers or others.
 - (iv) The protection of any Council land and/or its other assets.
 - (v) Having regard to the land occupied and its suitability for occupation, whether occupation should be tolerated.
- 3 In the event of an immediate threat to the health or wellbeing of any person, designated Officers of the Council may, at any stage, take such protective steps as are allowed by law and are reasonably considered to be needed to mitigate or remove that threat.

BEDFORD BOROUGH COUNCIL
INTERNAL PROCEDURE FOR THE REMOVAL
OF UNAUTHORISED ENCAMPMENTS ON COUNCIL LAND

