



The Warwickshire Protocol

Firm but Fair

Managing Unauthorised Encampments

The Warwickshire Way



Warwickshire Gypsy and Traveller Special Interest Panel

January 2009

The Warwickshire Protocol For The Consideration Of Unauthorised Encampments

Firm but fair: Managing Unauthorised Encampments – the Warwickshire Way.

Introduction

In 2007, the Warwickshire Gypsy and Traveller Special Interest Panel was set up to promote a greater understanding and acceptance of different lifestyles and to develop a co-ordinated approach to the management of all traveller groups in a peaceful, lawful and understanding way as they live in or pass through different parts of the county. The Panel is a forum of professionals working with Gypsies and Travellers in Warwickshire comprising officers from the councils, the Police, Health PCT, Traveller Education and Welfare Services and the Warwickshire Race Equality Partnership. The Panel's remit includes the development of a countywide approach to managing Unauthorised Encampments.

This document sets out the Warwickshire Protocol on managing Unauthorised Encampments. It is intended that once a Protocol has been agreed, it will ensure a positive and informed approach to enforcement taking account of the Human Rights Act 1998, Race Relations (Amendment Act) 2000 and all relevant regulations and guidance.

The main document (Pages 1-6) provides definitions and sets out the practical approach to managing encampments. The Appendices include

- contact names for delivery of the Protocol at page 7
- examples of the forms to be used to enable the capture of the consistent information required to give fair consideration of each encampment

What is an Unauthorised Encampment?

A site where Gypsies and Travellers, or other unauthorised campers, camp on land they do not own and do not have permission to use.

Who are Gypsies and Travellers?

Of the groups likely to be involved in unauthorised encampments there are three main types: traditional English (Romany) Gypsies, traditional Irish Travellers, and New Travellers. The first two groupings are recognised in law as ethnic minorities for the purpose of race relations legislation. There are smaller numbers of Welsh Gypsies and Scottish Travellers. The different groupings have diverse economic, social, cultural and lifestyle characteristics. For the purposes of this document, groups and individuals belonging to any of these groupings will be referred to as 'Gypsies, Travellers or other unauthorised campers'.

Why do we need a Warwickshire Way?

In recent years, various areas of the county have experienced regular unauthorised encampments, which have caused disruption and conflict locally. Addressing the issues arising from such encampments is time-consuming and can impose a significant burden on the workload of individual officers of the local authorities and the police.

Local Authorities have a responsibility to improve relationships between communities, and by adopting a consistent approach across the county we will help to ensure that the local communities and the travelling communities are treated fairly. Gypsies, Travellers and other unauthorised campers have, historically, been subject to different experiences, both positive and negative, in their movements across Warwickshire and so by adopting the same framework for handling unauthorised encampments we will help Gypsies, Travellers, and other unauthorised campers to understand the expectations and approach wherever they locate to in the county and enable officers to use their skills county-wide; working more effectively to support colleagues.

The Local Authorities and Police working in partnership can bring the right mix of skills together to ensure an efficient and effective approach. An aspiration is to extend a similar approach to the sub-region and neighbouring Police Authorities.

The Warwickshire Way is a consistent, positive and informed approach to enforcement: firm but fair

The first report of an Encampment.

The first report of an unauthorised encampment may be from a variety of sources. Whether that report is made to the Website, comes through one of the local authority customer service centres, to the Police or a Councillor, we need to obtain certain basic information (*see the Notification Checklist at Appendix 1b*). If the initial report is from a member of the public it is likely to be a superficial assessment of the site as a passer-by.

The Notification should be passed immediately if there is an immediate danger, or within the first working day to the Lead Authority.

Who is the Lead Authority?

- The **County Council** when the encampment is on the highway or on County Council owned land.
- The **District Council** when it is on common land and District Council owned land, and when it is on privately owned land with the express permission of the landowner.
- In some cases the lead authority will not be identified easily, for example where an encampment is on both public and private land. In such cases the decision as to whom will be lead authority should be based on the extent to which the encampment is on the highway or private land. If the majority of the land occupied is County Council or Highways owned the County Council will lead; if the majority is district owned or private land the District Council will usually take the lead.

- The **Police** may take the lead when there is an immediate danger to the community, gypsies, travellers or other unauthorised campers, as a result of the encampment, or may take over the lead following a case conference decision, where there is clear evidence of crime, anti social behaviour, environmental damage, or significant community unrest as a result of the encampment.

Gathering the required Information

The Lead Authority will be responsible for identifying who in their organisation will lead the process and seek to gather information on the reason for the travellers being on the land, how long they intended being there, any welfare needs, detail of numbers of people and vehicles. (see the *Social and Caring Checklist at Appendix 1b*).

Officers (two usually for health and safety purposes) representing the lead authority will visit the site at the first opportunity (normally within two working days, usually 24 hours with an urban encampment) to consider the acceptability of the encampment. Experience has shown that members of travelling groups may mistrust the intentions of the authorities in investigating possible unauthorised encampments. It is therefore most important that officers adopt a friendly manner and seek to build a rapport with the particular group of travellers. The officer will have regard to the lone working practices of their respective authorities and may choose to request a joint visit with a Police, Education or Health officer or where appropriate an officer from another council. The officer will offer, where appropriate, basic facilities such as refuse collection and may offer toilets but will make the occupants aware they may be charged for facilities and waste services. (Payment should usually be made in advance of the provision of the services)

The Lead Authority will give attention to any complaints received or other issues that may arise from the encampment and location.

Following the site visit, the authorities concerned will consult and decide upon the most appropriate course of action, best practice would be by the means of convening a case conference.

Holding a Case Conference

The Lead Authority will normally arrange and host the Case Conference, circulating the known information about the encampment. The Case Conference will include representatives from the County Council, the relevant District Council and the Police.

Traveller Education, Housing/Homelessness services, and Health Services will be consulted where an involvement is clear and may be invited to attend. Members or representatives of both settled and travelling communities may be invited to attend at the lead authority's discretion. Adult and Children Social Care Services, Warwickshire Race Equality Partnership and other agencies may also be asked to attend.

The Chair will ensure that the encampment is considered fairly according to agreed criteria contained in the Case Conference Checklist (**Appendix 1c**). This includes its siting, any health, welfare and educational needs, criminal or antisocial behaviour, environmental impact and Human Rights considerations. Following the completion of the

Checklist a decision will be made as to whether the encampment should be allowed to remain for an agreed period and whether to take legal action.

Managing the unauthorised site

The Lead Authority will advise the Gypsies, Travellers or other unauthorised campers that they must vacate the land within a short period, generally less than 7 days.

The policy for Warwickshire needs to demonstrate to the settled communities a robust approach to unauthorised encampments where there are environmental, or crime and disorder issues present, or a history of such with that particular group of travellers. The approach should also illustrate a more considerate/inclusive approach when these factors are not present in accordance with Human rights legislation. The Lead Authority may also allow a short stay at an unauthorised site, for example because of serious illness (supported by medical evidence), mechanical breakdown or other emergency or exceptional circumstances.

This will not normally be permitted where:

- the Code of Site Practice (*as set out in **Appendix 1d***) has not been complied with;
- the occupants are known to have previously disregarded the site rules within the county
- the encampment is creating a hazard to road safety;
- there is a danger to public or personal safety or the environment
- the encampment is creating an intolerable impact on the employment, use or habitation of adjoining or nearby property;
- the encampment is too large for its location;
- the land is needed for use by the Lead Authority or the general public
- there has been advice from the Police which suggests that alleged criminal activity is taking place.

The lead authority will ensure so far as is reasonably practicable that any waste is removed both during the encampment and immediately upon its vacation, except when an encampment is on private land, when clearance costs are the responsibility of the landowner. Normally the lead authority will provide basic facilities and site clearance, although in some cases it will be appropriate to apportion the costs between the County and District Council concerned. People living on unauthorised encampments will be made aware they may be charged for facilities and waste services.

Legal Action – who has what powers

- Sections 77-78 Criminal Justice and Public Order Act 1994 – Power to local authorities to direct individuals to remove their vehicles and belongings and to leave highway land, or any land occupied without the consent of the landowner, whether owned by the local authority itself or by any other public or private landowner. Magistrates Court.
- Sections 61-62 Criminal Justice and Public Order Act 1994 - Power to Police to direct unauthorised campers to leave land, if prescribed conditions are met, without references to the Courts.
- Section 62A –E, Criminal Justice and Public Order Act 1994 – Power to Police to direct trespassers to remove themselves and their vehicles and property from land where a suitable pitch on a relevant caravan site is available within the county.
- Section 33, Environmental Protection Act 1990 – Power to Officers of the Environment Agency or the relevant local authority to stop (with police support) any vehicle believed to be carrying “controlled waste”. Drivers of vehicles used without relevant documentation may be subject to being reported to the Court and their vehicle seized.

Taking Action

Following the case conference, if a decision is taken to evict an unauthorised encampment the aim should be to:

- Act quickly and efficiently
- Use powers most appropriate to the circumstances in accordance with the appropriate Human Rights legislation
- Reduce scope for challenge through the courts by ensuring that policies and procedures are properly followed.

The Lead Authority will serve the Notice, with Police support if required to prevent a breach of the peace. The Lead Authority will prepare papers for Court and make arrangements for moving the travellers on. Other partners in the Protocol may be asked for support where this will secure the required outcome from the case conference.

If caravans are seized the Travellers may become homeless and in this event the social services should be involved or at least notified reference any children issues.

Involving the media – responsible reporting

Contact with the media is the responsibility of the lead authority, to which all enquiries should be referred. We are partners in the responsibility for reducing crime and fear of crime. To provide a balanced view to the community a proactive press release should be considered and where time allows it, the Police and other relevant local authorities should be asked for their comments. Copies of press releases should be distributed to all

relevant parties. A press release should refer to the Protocol process jointly undertaken by the agencies and give the context under which any decision has been reached. The press release will be published on the Warwickshire County Council web site with a link to the Gypsy and Traveller WebPages where necessary.

The Lead Authority will take responsibility for keeping local politicians informed.

Monitoring and Review

- **Learning from the experience.** A Debrief session may be held when an Unauthorised Encampment has moved on to discuss the way the process has worked and to consider improvements to the process and any individual development needs.
- **Routine intelligence gathering** should not take place on any group without good and proper reason. This applies equally to members of whichever group from the travelling communities who may be engaged in unauthorised camping. However, the gathering of such intelligence will be legitimate:
 - to enable police and partner agencies to properly consider welfare needs to those individuals on the encampment
 - to make informed operational assessments regarding unauthorised encampments
 - in response to reported criminal and anti-social activities, by either the travellers or people engaged in criminal activity against the encampment occupiers, and
 - where known criminals are at a particular encampment.

The Police will maintain the relevant data through the Crime and Disorder Reduction Partnership.

- **Key data** giving an overview of each encampment will be recorded by the County Council with the appropriate detail to contribute to the development of Housing Needs assessments and Welfare needs analysis.

Annual review

- The Protocol will be reviewed 12 months after adoption in the light of the work of the Special Interest Panel and every three years thereafter, or sooner if changes in legislation or government guidance occur. The review will take account of feedback from all parties involved. The first Annual Review will be **April 2008**.

Parties to this Protocol:

Signed: On Behalf of Warwickshire County Council Dated:

Signed: Dated:
On Behalf of N.Warwickshire Borough Council

Signed: Dated:
On Behalf of Nuneaton and Bedworth Borough Council

Signed: Dated:
On Behalf of Rugby Borough Council

Signed: Dated:
On Behalf of Stratford on Avon District Council

Signed: Dated:
On Behalf of Warwick District Council

Signed: Dated:
On Behalf of Warwickshire Police

Appendix 1a: Contact Details

Authority/ Service	Contact, Job Title and Address	Phone No(s)	E-mail
Warwickshire County Council	Rob Leahy, Gypsy & Traveller Services Officer, PO Box 43 Shire Hall Warwick CV34 4SX	(Direct Dial) 01926 418033	robertleahy@warwickshire.gov.uk
	Graham Miles, Warwick Area Office, County Highways Operations	01926 410410	grahammiles@warwickshire.gov.uk
Stratford District Council lead officer	Steve Haresnape, Environmental Protection Manager, Elizabeth House, Church Street, Stratford Upon Avon CV37 6HX	(Direct Dial) 01789 260884	steve.haresnape@stratford.gov.uk
Rugby Borough Council			
Traveller Education Service	North Warwickshire and /Nuneaton and Bedworth		@ wmcestc.biblio.net
	Rugby		pdenley@ wmcestc.biblio.net
	Stratford and Warwick		rdewhirst@wmcestc.biblio.net
Police – 24 hours			
Area Policy issues	Chief Inspector Mike Wilde	01926 415110	Mike.wilde@warwickshire .pnn.police.uk
Operational issues on Area basis as follows:			
Warwickshire Area Health			
Warwickshire County Association of Parish and Town Councils			
Authorised Site Contact Details	Alvecote		
	Griff		
	Pathlow		

Appendix 1b: Notification to Authorities of an Unauthorised Encampment

Date of Arrival of Travellers:	
Address and Location of Encampment: e.g. On the roadside, a play area, car park, etc	
No. of Units and Vehicles: (state approx. figure if unsure)	
Land Ownership:	
Other Details i.e. animals or children:	
Details of any problems/issues:	
Contact details:	

These details should be forwarded to the likely Lead Authority as soon as possible, who will confirm land ownership.

Appendix 1c: Criminal Justice & Public Order Act 1994: Social Caring Information Checklist

Encampment Site/Location:

Respondents' Names and Mobile Home Identity:

Officer

Date

1. Are there vacant pitches available on the Council's official gypsy sites at Alvecote, Griff, or Pathlow?

2. What is the occupation of the travellers? Is this likely to give rise to nuisance? Is there a nuisance at present?

3. How long have they been on the land?

4. What is the reason for the travellers being on the land and for how long do the travellers intend to remain there?

5. Are any of the travellers receiving medical treatment from a GP or local hospital?

YES NO

 - a) Name and address of GP / consultant

 - b) Any other information

6. Are there any children receiving education?

7. Are any of those responsible for children actively looking for education for their children?

- a) Address of school:
 - b) Name of teacher attending site:
 - c) Any other information including apparent visible welfare issues not disclosed by the Gypsies and Travellers
 - d) Is the County Council's Adult Health and Community Services and Children / Young People and Families Duty Officer aware of the presence of travellers, and do they intend to take any action? (tel. 07718 210824)
8. Are any of the travellers receiving support from the County Council's Adult Health and Community Services and Children / Young People and Families Directorate for any other reasons than education?
9. How long do the travellers intend to stay on site?
10. Are the travellers known to the Council?
11. Are there any special circumstances which may mean they should remain on site?
12. How many vehicles are on the land?
- (a) What are their registration numbers, models and colours?
 - (b) Do they appear to be in a roadworthy condition?

Appendix 1d Case Conference: Assessment Checklist

The lead Authority needs to establish who is living at the unauthorised encampment, the likely period of occupation, and its impact on the local community. This Checklist is intended to provide sufficient background information to enable balanced and informed decisions to be made concerning its tolerance or otherwise.

Those taking part in the case conference should be reminded that the Race Relations Act 1976 makes it an offence to discriminate against someone because of race, colour, nationality or citizenship, or ethnic or national background. Furthermore, the Race Relations Amendment Act of 2000 also places a duty on public bodies to promote good relations between people of different ethnic groups.

As Gypsies have been recognised as an ethnic group since 1989 and Irish Travellers since 2000 both groups are protected under the Race Relations legislation. Those participating in a case conference should be mindful of the legislation and use language and behaviour that is appropriate and respectful.

Data Protection Act 1998

The Data Protection Act regulates the holding and processing of personal data, that is information relating to living individuals, which is held either on computer or in manual form. The Act gives enforceable rights to individuals (data subjects) and places obligations on those legal persons (data controllers) who control the manner and the purpose of the processing of personal data.

It will be the responsibility of the signatories to this Protocol to ensure that information supplied to them under this Protocol will be used solely for the purpose for which it was obtained. They should also ensure that such information is not disclosed to unauthorised personnel and keep all relevant data confidential and comply with the Data Protection Act and all other relevant legislation and guidance.

Protocol Name/Reference:		
Date/Time of Conference:		
Venue:		
Lead Authority:		
In attendance		
Name	Job Title/Organisation/Email address	

A. General Information:

1. Address / Location / Grid Reference:	
2. Ownership of land (if known):	
3. Date of Arrival of Travellers:	
4. No. of Living Units:	
5. No. of Other Vehicles:	
6. Site Information (details of any health and safety/hard standing/general description):	
7. Previous Location of Group (if known):	
8. Length of time group has indicated they wish to stay:	

B. Specific Information relating to Group

Name	Date of Birth	Relationship	Details inc. reg. of any vehicles

Details of health concerns, pregnancy, children at risk, details of doctor or hospital appointments:	
Name	Health Issue

Please give details of children attending an educational establishment:

Name	Details

C. Details of the Encampment

Location	
<ul style="list-style-type: none"> ➤ Is the encampment at or near to a Nature Reserve, SSSI or other environmentally sensitive area? Give details. ➤ Could significant damage occur as a result of the encampment? 	
<ul style="list-style-type: none"> ➤ Is the encampment near a residential area? ➤ If so, what impact is it likely to have on the surrounding area? 	
<ul style="list-style-type: none"> ➤ Is the encampment on public land? ➤ If so will it obstruct the operational use of that land to a significant effect? 	
<ul style="list-style-type: none"> ➤ Does the site contain or is it likely to contain substances which may be toxic or hazardous to health? 	
<ul style="list-style-type: none"> ➤ Has the site been occupied by Gypsies or Travellers in the preceding year? 	
<ul style="list-style-type: none"> ➤ Does the encampment block any accesses? ➤ Is there a significant nuisance to adjacent landowners/occupants because of this? 	
<ul style="list-style-type: none"> ➤ Are there safety implications for the group or others due to the encampment? 	
<ul style="list-style-type: none"> ➤ Is there a significant adverse affect on the amenity of the area? ➤ If so, what is the length of time this could be tolerated? 	
<ul style="list-style-type: none"> ➤ Does the land have planning 	

<p>permission by-law restrictions or other legal restrictions?</p> <p>➤ What is the planning position with regard to short stays by Gypsies and Travellers?</p>	
<p>➤ Are there other sites, formal or informal within the vicinity that would be more suitable?</p> <p>➤ Are there vacancies on any authorised sites within the area?</p>	
<p>The Encampment</p>	<p><i>Items shown in italics are those that broadly comprise the Code of Practice/Respect under which an encampment is expected to operate.</i></p>
<p>➤ Is the group known historically to the lead authority?</p> <p>➤ If so, has it complied with the Code of Practice/Respect on previous occasions?</p>	
<p>➤ How long is the group likely to stay?</p> <p>➤ <i>If another suitable location cannot be identified when are the group likely to move anyway?</i></p>	
<p>➤ Has the Code of Practice/Respect been issued and explained to the group?</p>	
<p>➤ Is the size of the encampment a legitimate concern for the local settled community?</p> <p>➤ <i>Smaller numbers will be more acceptable.</i></p>	
<p>➤ Are the groups/units reasonably spaced?</p> <p>➤ <i>Reasonably spaced groups are more acceptable than where caravans/vehicles are close together</i></p>	
<p>➤ Are open fires being lit?</p> <p>➤ If so, are they kept well under control?</p> <p>➤ Are noxious substances being burned?</p> <p>➤ <i>It is not acceptable for open fires to cause a nuisance to adjacent landowners/occupants or be a fire risk or for industrial waste/noxious substances to be burnt.</i></p>	
<p>➤ Has there been damage to property, fences or trees at the location or on adjacent land?</p> <p>➤ <i>It is not acceptable for damage such as this to occur.</i></p>	
<p>➤ Are all animals kept under control so as not to cause fear or potential hazard to Highway</p>	

<p>safety?</p> <ul style="list-style-type: none"> ➤ <i>Animals should be kept under control at all times.</i> 	
<ul style="list-style-type: none"> ➤ Is the encampment a danger to public health due to the dumping of household, human or trade waste? ➤ If so, have the Environment Agency been informed and what is their response? ➤ <i>It is recognised that Gypsies and Travellers have a lifestyle often different to the local community and this will be taken into account. The local authorities may consider providing (where appropriate) temporary toilets, waste collection and, where economical, a water supply.</i> 	
<p>Other Considerations</p>	
<ul style="list-style-type: none"> ➤ How recently has the group been moved on? 	
<ul style="list-style-type: none"> ➤ Are there medical concerns with group members that would prevent the group moving on or would create a risk to health? ➤ <i>Health and medical conditions will be considered a factor as will any other immediate emergency experienced the group.</i> 	
<ul style="list-style-type: none"> ➤ Are there any vulnerable, elderly or infirm members of the group? ➤ If so, have the welfare agencies been consulted and what is their view? 	
<ul style="list-style-type: none"> ➤ Has the Travellers Education Service assessed the educational needs of the group? 	
<ul style="list-style-type: none"> ➤ Are the vehicles on site able to be driven? ➤ Are members of the group able to drive the vehicles? 	
<ul style="list-style-type: none"> ➤ Has any criminal or anti-social behaviour been witnessed or reported? ➤ Have the police been informed of such incidents? ➤ <i>There should be no intimidation on the part of Gypsies and Travellers, including violent or abusive or insulting language. Equally, threatening or abusive language or behaviour by anyone from the settled community will not be tolerated.</i> 	
<ul style="list-style-type: none"> ➤ What are the views and proposed 	

actions of the Police?	
<ul style="list-style-type: none"> ➤ If there is evidence of criminal or anti-social behaviour? ➤ If so, do the Police intend to use Section 61 or 62A Powers of Eviction? 	
<ul style="list-style-type: none"> ➤ Have there been complaints to the lead or other authority? ➤ Are they verifiable? ➤ Are they reasonable? 	
<ul style="list-style-type: none"> ➤ With regard to the group's rights, would eviction contravene the Human Rights Act 1998? ➤ With regard to the settled community's rights, would non-eviction contravene the Act? 	
<ul style="list-style-type: none"> ➤ Are there any other issues that need to be considered? 	

Assessment Checklist Completed on behalf of Lead Authority by:

Name/Organisation	Signature

Following completion of the above checklist the meeting will be closed to participants other than officers for the decision-making process. A record of all decisions reached and referrals made should be recorded in the form overleaf and signed by the representative of the lead authority and those in attendance.

Decision or Recommendation of the Case Conference:

(Only for use when Police do not use Section 61 powers)

After completion of the above checklist and taking into account educational, health, environmental, social, safety, Human Rights and any other considerations, the lead authority together with the relevant authorities will decide how to manage the unauthorised encampment.

After taking into account the information contained in the checklist above, is there a pressing social need to evict?

After taking into account the information contained in the checklist above, would eviction be proportionate?

Please give details of your recommendations for dealing with the unauthorised encampment, including a record of any referrals made to other agencies.

Proposed timescale for action.

Recommendation agreed by:

Name/Organisation	Signature

Date:

Appendix 1e Code of Site Practice

The stay on the land depends upon you showing respect for the site and complying with the following standard practice:

- Hygiene – there must be no fouling on or in the vicinity of the site.
- Rubbish – no domestic or trade refuse to be dumped or burnt on or in the vicinity of the site. Place your tied plastic refuse sacks in a pile at the roadside. These will be collected weekly on _____
- Behaviour – intimidatory or noisy behaviour, if substantiated will not be tolerated.
- Animals – dogs and horses must be kept under control and must not cause a nuisance or danger.
- Damage – no damage to property or environment will be tolerated.
- Highways/Footpaths – vehicles should be parked safely and reported or suspected complaints will be passed to the appropriate authority.
- Criminal Activity – all allegations of crime will be reported to the Police who will advise about eviction.
- Land Use – Encampments will not be tolerated where land is designated for specific public use such as playing fields, car parks or other sensitive site.

Failure to adhere to these guidelines will result in consideration being given to eviction. Failure to leave on the date you are advised of will result in an immediate order for eviction.

Summary flowchart for Managing Unauthorised Encampments

The Lead Authority will consider each encampment on an individual basis. Set out below is the procedural guide to be followed on notification of an unauthorised encampment.

