

## **Staffordshire Management of Unauthorised Encampments**

### **Briefing note**

The Countywide protocol on managing Illegal Trespass and Unauthorised Encampments ensures that the Police and Local Authority Partners, manage the issue in a consistent manner, ensuring that matters are dealt with proportionately with legal actions based around the impact of the encampment on the local area and the needs of the travellers themselves, which should be balanced alongside the needs of the wider community.

After consultation with partners, the existing Staffordshire protocol is being revised, to reflect changes in the legislation and recent NPCC/Home Office Statutory Guidance.

### **Residing on Land Without Consent in or with a Vehicle**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### **Civil Legal options**

#### **Private land owners have two civil legal options to recover land.**

- Under Common law using certified bailiffs. No court process is required and this process involves a notice to vacate being served and subsequent eviction after 24 hours on none compliance. This power does not provide any sanctions meaning the land can be again occupied once cleared.
- Using Part 55 Civil Procedures rule through the County Court. This process can take several days dependant on court availability but legally secures the land for 3 months.

### **Local Authorities have two options to recover land including the Highway.**

- Using Part 55 Civil Procedures rule through the County Court. This process can take several days dependant on court availability but legally secures the land for 3 months.
- Under Sec 77/78 CJPO Act through the Magistrates Court. This process will normally take around four working days and carries a 3 month sanction preventing the return of the identified occupants within that time frame.

### **Police powers**

Where the impact on private or local authority land is such that more immediate Police interventions are required one of the two available powers can be considered.

### **Sec 61 Criminal Justice and Public Order Act 1994**

In order for the Police to consider using this power, the below condition must have been met:-

- Two or more people are trespassing on land with the purpose of residing there.
- The occupier has taken reasonable steps to ask them to leave and any of the following has occurred:-
  - a. Any of the trespassers has caused, damage, disruption, or distress or
  - b. The trespassers have between them six or more vehicles on the land.

#### **Note**

**There is no longer the requirement to meet the significant threshold for this power.**

A decision to use Sec 61 will also be based on various additional factors:-

- The impact of the encampment on the environment and the local settled community
- Any evidenced welfare issues identified.
- Is it reasonable and proportionate to use Police Powers over other available methods.
- The availability of sufficient resources

#### **Note**

**From 28th June 2022 Sec 60C CJPO Act 1994 as amended under the PCSC Act 2022 comes into effect so it is important for decision makers to have a working knowledge of the below legislation.**

### **Sec 60 (C) Criminal Justice and Public Order Act 1994**

**Residing on land without consent in or with a vehicle**

Primary conditions of **this new criminal offence are contained in Sec 60C (1) CJPO Act as amended by the PCSC Act 2022. The offence applies where:-**

- a. A person is aged 18 or over
- b. A person is residing, or intending to reside, on land without the consent of the occupier of the land.
- c. A person has or intends to have at least one vehicle with them on the land.
- d. One or more conditions in subsection 60C(4) of the CJPOA are met. (See below)
- e. The person is requested to leave and/or remove their property by the landowner, a representative of the landowner or police.

Sec 60C (2) goes on to say that a criminal offence is committed when a person meets all conditions in Sec 60C (1) as above and also meets one of the following:-

- a. A person fails to comply with the request to leave as soon as reasonably practicable; or
- b. A person re-enters or enters the land with an intention of residing there without consent and has, or intends to have a vehicle with them, within 12 months of the request being made.

**Specific conditions related to harm – Sec 60C (4) SIGNIFICANT**

**The conditions are:-**

- a. In a case where a person is residing on the land, significant damage or significant disruption has been caused or is likely to be caused as a result of their residence.
  - b. In a case where a person is not yet residing on the land, it is likely that significant damage or significant disruption would be caused as a result of their residence if they were to reside on the land.
  - c. That significant damage or significant disruption has been caused or is likely to be caused as a result of conduct carried on, or likely to be carried on, by that person whilst on the land.
  - d. That significant distress has been caused or is likely to be caused as a result of offensive conduct carried on, or likely to be carried on, by that person whilst on the land.
-