



## **Barnsley Community Safety Partnership**

# **Joint Protocol on the Management of Unauthorised Encampments**

**Date Created: March 2017**

## 1. Aims of the Protocol

This protocol outlines the partnership approach of the Barnsley Community Safety Partnership (CSP) and in particular its key agencies Barnsley Council and South Yorkshire Police (SYP) in dealing with unauthorised and illegal encampments throughout the Borough.

The protocol outlines the agreed joint approach and process adopted to respond effectively to unauthorised and illegal encampments, outlining the roles, responsibilities and powers that are available to all organisations. The protocol will ensure consistent, proportionate and appropriate decisions are made when responding to unauthorised and illegal encampments.

Unauthorised encampments can have a significant impact on the local community and on the environment. Unauthorised and illegal encampments are often as a result of gypsy and traveller families settling without the landowner or occupiers consent. This protocol outlines a holistic approach to all unauthorised and illegal encampments and is not specific to the gypsy and traveller community.

The protocol aims to promote inclusivity creating a balance of rights and responsibilities towards all members and sections of society including the settled, travelling and business community.

## 2. Objectives of the Protocol

In pursuance of the aim of the joint protocol, the following objectives have been agreed by the Barnsley CSP:

- To provide a clear framework for all partners to understand expectations in order to achieve a consistent, proportionate and legitimate response to unauthorised and/or illegal encampments;
- To ensure people forming part of the unauthorised and/or illegal encampment are provided with support and advice pertaining to their individual needs;
- To coordinate multi-agency activity in relation to issues raised by unauthorised and/or illegal encampments;
- To ensure appropriate and effective action is taken to address crime and anti-social behaviour that is directed towards or from the unauthorised and/or illegal encampment;
- To enhance confidence and satisfaction in our communities through the application of agreed principles;
- To reduce community tensions and assess risk through appropriate and effective communication.

## 3. Protocol Principles

The development of an inter-agency protocol is recognised as being good practice by the Department for Communities and Local Government (DCLG). A coordinated partnership approach has been adopted locally to manage unauthorised and illegal encampments. The approach is underpinned by the following key principles:

- A consistent inter-agency approach will be taken to the management of unauthorised and illegal encampments;
- All unauthorised and illegal encampments will be dealt with proportionately and fairly in accordance the relevant legislation and good practice guidance;
- The rights of and impact on the local community and business community will be taken into account when considering the necessary enforcement action to be taken;
- The council is responsible for dealing with unauthorised and/or illegal encampments on land owned by the council but will provide advice and guidance to private landowners on unauthorised and/or illegal encampments on private land. The council does have the discretion to use powers to remove vehicles and any occupants from private land. This will only be used where there is a strong public interest to do so and where the land owner provides sufficient evidence of the action they have undertaken to remove the unauthorised encampment along with a justifiable business case as to why they are unable to resolve the matters themselves.
- Except where exceptional circumstances arise and where encampments are established on special designated sites as detailed at Section 8, decisions on enforcement action in relation to unauthorised and/or illegal encampments on land owned by the council will not be taken before the necessary welfare checks have been undertaken. This will include assessing all relevant welfare, health and/or educational needs with the engagement of all relevant agencies;
- From the powers available, a collaborative and robust approach will be adopted to identify the most appropriate ways of dealing with any unauthorised and illegal encampments. This will be determined by the circumstances of each individual case;
- The council will consider moving occupants of unauthorised and/or illegal encampments in partnership with SYP and other key agencies to the emergency stopping point where this is relevant and appropriate to do so;
- The council will ensure clean-ups are carried out on council-owned land and the security of the site is reviewed once the site is vacated to minimise any further detrimental impact to the local and business community.

In dealing with unauthorised and illegal encampments, all partner agencies will have due regard to the legal requirements as set out in the Human Rights Act 1998 and the Equality Act 2010. The Barnsley CSP is committed to promoting equality and diversity and ensuring that everyone is treated fairly taking into account their individual needs and circumstances.

Agencies will take all reasonable steps to ensure they do not unlawfully discriminate and will treat everyone with the same level of courtesy, dignity and respect regardless of:

- disability;
- age;
- gender reassignment;
- marriage and civil partnership;
- pregnancy, maternity, breastfeeding;
- race;
- religion and belief;
- sex;
- sexual orientation.

## 5. What is an Unauthorised Encampment?

An encampment can be deemed to be unauthorised in either or both of the following cases:

- If the owner of the land concerned does not give permission;
- If planning permission is required and has not been granted.

## 6. Authorised Encampments

There are a number of authorised private and council run caravan sites in the Borough. The council has a well-established site at Smithies Lane, which provides permanent pitches for gypsies and travellers who meet the eligibility criteria. In addition to this, the council also provides an emergency stopping place on Grange Lane, Stairfoot, Barnsley.

### Smithies Lane Site

Berneslai Homes manage Barnsley Council's gypsy and traveller site at Smithies Lane, Smithies, Barnsley, S71 1NL. The site has recently undergone a full redevelopment and refurbishment and has 30 permanent pitches, which are all fully serviced with water, drainage and electricity.

The pitches are rented by gypsies and travellers with their own caravan units. Very few vacancies often arise on the Smithies Lane gypsy and traveller site however; Berneslai Homes do hold a waiting list for gypsies and travellers wanting to rent a pitch.

### **Grange Lane –Emergency Stopping Place**

The emergency stopping place is located on Grange Lane, Stairfoot, Barnsley, S71 5QQ. This provides a temporary, emergency stopping site for up to 11 pitches. The maximum authorised length of stay is 14 days (this can be extended in exceptional circumstances e.g. health reasons) with no return within 3 months.

## **7. Legislative Framework**

### **Powers Available to the Police**

#### **Power to direct unauthorised campers to leave land**

Section 61 of the Criminal Justice and Public Order Act 1994 gives the police **discretionary** powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer reasonably believes that two or more people are trespassing on land (not including the highway) with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following:

- a) that any of the trespassers have caused damage to land or property;
- b) that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or
- c) that the trespassers have between them six or more vehicles on the land.

Failure to comply with the direction by leaving the land within the given time period is an offence. Similarly it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.

#### **Power to direct trespassers to an alternative site**

Police have powers under sections 62 A-E of Criminal Justice and Public Order Act 1994 to direct trespassers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.

An emergency stopping site is available in Barnsley and where appropriate this power will be utilised by SYP to support the council to move occupants of unauthorised encampments to this site where it is available and deemed appropriate to do so.

## **Powers Available to the Council**

### **Power to direct unauthorised campers to leave land**

The Criminal Justice and Public Order Act 1994 s77 gives local authorities the power to serve persons residing in vehicles including caravans on land with a direction to leave the land. The power applies only to land forming part of a highway, any other unoccupied land or occupied land on which persons are residing without the consent of the occupier. It is an offence to fail to comply with such a direction. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring removal of vehicles and any occupants from the land under section 78 of the Act. Responsibility for eviction lies with the council and their officers or agents may use reasonable force to evict. It is recommended that the police attend such evictions in order to prevent a breach of the peace. People returning to the same land of which they were given a direction to leave within a three month period can be prosecuted.

### **Injunctions to protect land from unauthorised encampments**

If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities can consider applying to the courts under section 187B of the Town and Country Planning Act 1990 for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area.

### **Possession Orders**

Both the council and private landowners can obtain a possession order under Part 55 of the Civil Procedures Rules where removal of trespassers from property including land is required. A possession order may be secured quickly against trespassers however there has to be a minimum of two days' notice before a hearing can take place if the property is non-residential, or 5 days for residential property. This action is not supported by criminal sanctions.

### **Local Byelaws**

Section 235 of the Local Government Act 1972 enables the council to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in public etc. Section 150 of the Police Reform and Social Responsibility Act 2011 enables the council to attach powers of seizure and retention of any property in connection with any breach of a byelaw made under section 235 and enables the courts to order forfeiture of any such property on conviction for contravention of any byelaw.

## **Planning Contraventions**

Under various sections of the Town and Country Planning Act 1990, the council can take action against private land owners where there may have been a breach of planning control. Actions can include:

- Issuing of a planning contravention notice under section 171C. Penalty for non-compliance is a maximum of £1,000 on summary conviction. A second conviction for continuing non-compliance can be penalised by a daily fine. A false or misleading response to a planning contravention notice is subject to a maximum fine of £5,000.
- Issuing of an enforcement notice, requiring steps to be taken to remedy the breach of planning control within a given period. The penalty for failure to comply is a fine up to £20,000 on summary conviction or an unlimited fine on indictment.
- Issuing of a stop notice. A stop notice may only be serviced with or after an enforcement notice relating to the same activity. Penalty for non-compliance is a fine up to £20,000 on summary conviction or an unlimited fine on indictment.
- Issuing of a breach of condition notice where there is a failure to comply with any condition or limitation imposed on a grant of planning permission. Penalty for non-compliance is a fine of up to £2,500 on summary conviction.
- Powers of entry for authorised officers for them to obtain information required for enforcement purposes. Willful obstruction of an authorised person is an offence and the penalty is a fine of up to £1,000 on summary conviction.

## **Off Street Parking Orders.**

The Road Traffic Regulation Act 1984 and Part 6 of the Traffic Management Act 2004 provides the council with the authority to apply for and declare certain areas to be governed by an Off Street Parking Order. This is used to regulate the use of car parks in resident parking areas and public pay and display car parks.

Any such order prohibits any vehicles from causing an obstruction, staying over 24 hours and using the parking area for sleeping or camping purposes. There are various other prohibitions attached to the order.

The same order provides the council with the power to remove the vehicle from the car park.

## **Environmental Crime**

The council has an environmental protection role and as defined in legislation has a range of responsibilities to deal with environment crime including littering, dog fouling and fly tipping. These responsibilities arise from a number of legislative acts including the Environmental Protection Act 1990, the Clean Neighbourhoods and Environment Act 2005 and more recently the ASB, Crime and Policing Act 2014. The council can take action to prosecute people committing environmental crime offences. The council will robustly enforce against any type of environmental crime however, this can only be achieved where there is evidence which can be presented to a criminal standard. Prosecutions tend to be against individuals and sufficient evidence must exist to be able to prove beyond reasonable doubt that an individual is responsible for a specific offence.

## **8. Managing Unauthorised and Illegal Encampments**

Managing unauthorised and illegal encampments must involve a balance between the rights of the landowner, the rights of and the impact on the local community and the rights and welfare needs of the people who form part of the unauthorised encampment. The protocol provides a consistent approach to managing unauthorised and/or illegal encampments which ensures that the local community, business community and people forming part of the unauthorised encampment are treated with respect, dignity and equity.

When people are camped on land that they do not own, without the permission of the owner, they are trespassing. If a negotiated solution is not possible, then the council, the Police and private landowners all have enforcement powers which are defined at Section 7.

### **Initial Reports - Partnership Response**

The council and SYP will respond to every report of an unauthorised and illegal encampment on a case-by-case basis with an approach that is firm, fair and proportionate. Unauthorised encampments fall into 2 categories; those on land owned



by the local authorities and those on privately owned land. Where the unauthorised and illegal encampment is on Local Authority land; the council is responsible.

Where the unauthorised and illegal encampment is on private land, the landowner is primarily responsible however; the council will provide guidance regarding the effective management of unauthorised and/or illegal encampments. In all cases, the Police are responsible for crime and disorder related issues.

Notification relating to the arrival of an unauthorised and illegal encampment can be received from a variety of sources and can be made to several partner agencies. It is essential that communication is timely in order to ensure a consistent approach is taken to effectively manage unauthorised and/or illegal encampments.

### **Police Receipt of an Unauthorised Encampment:**

Following reports of an unauthorised and/or illegal encampment, SYP will create a ProCAD incident and the Neighbourhood Inspector or in their absence the Response Inspector will be informed.

An assessment of the incident will be made by the Neighbourhoods Inspector or in their absence, the Response Inspector following consultation with Local Policing Team (LPT) staff and partner agencies available at the time of report. Depending on the severity of the incident reported, the Neighbourhood Inspector or the Response Inspector may deploy resources to the scene however; this decision will be taken and prioritised in the context of all other demand.

An immediate assessment will be made by the Inspector following the National Decision Making Model (NDMM) and decisions documented. This will take into account the land occupied and any reports of criminality, disorder and ASB or issues affecting the quality of life of settled and business communities.

If the immediate use of police powers is necessary under s61 of the Criminal Justice and Public Order Act 1994 then it is the responsibility of the Neighbourhood Inspector to organise the police response and take appropriate action after following the NDMM. The Inspector can take advice from a Public Order Tactical Adviser and specialist advice from a Silver Public Order Commander or duty Critical Incident Manager. Resourcing advice can be sought through the Force Incident Manager and the Operational Planning Unit.

In all cases, the Neighbourhoods Inspector or in their absence the Response Inspector will ensure that the council's Community Safety and Enforcement team is notified via the Single Point of Contact (SPOC) about the unauthorised and illegal encampment. The

SPOC for the councils Community Safety and Enforcement service is the Community Safety and Investigations Manager. The council will create a Civica APP incident and maintain a casefile detailing the chronology and any action taken.

### **Council Receipt of an Unauthorised Encampment:**

The council should be notified of all unauthorised and illegal encampments in order that land ownership can be ascertained. Notifications can be made by either e-mailing [saferbarnsley@barnsley.gov.uk](mailto:saferbarnsley@barnsley.gov.uk) or by telephoning 772468.

Reports of unauthorised and illegal encampments will in the majority of cases be received by the council's Customer Services Team. Some reports may be received direct by the council's Community Safety and Enforcement Team but in either case, a Civica APP incident will be created and a casefile detailing the chronology and any action taken will be maintained by the operational service.

In all cases, the council's Community Safety and Investigations Manager will notify the SYP Neighbourhoods Inspector or in their absence the Response Inspector of the unauthorised and/or illegal encampment.

The councils' Community Safety and Enforcement Service will determine whether the land is owned privately or by the council. The approach taken by the council will depend on land ownership as defined below.

### **Managing unauthorised and illegal encampments on land owned by the council**

The council has the responsibility for the management of unauthorised and illegal encampments on land owned by the council. This includes any relevant action necessary to remove the trespassers from council-owned land. The councils' Community Safety and Enforcement Service is responsible for dealing with unauthorised and illegal encampments on council-owned land.

Barnsley has two designated special sites being Penny Pie Park at Dodworth, Barnsley and the Keresforth/Broadway playing fields, Barnsley.

Where unauthorised and illegal encampments are established on these sites, enforcement action will be instigated immediately and the adherence to this protocol and standard procedure will be circumvented. In these circumstances the council will:

- Proceed immediately to the service of a notice under Section 77 of the Criminal Justice and Public Order Act 1994 giving the encampment a maximum of 8 hours to vacate the site;

- If the notice is not complied with, the council will seek support from SYP to affect immediate removal of an encampment in these locations under Section 61 of the Criminal Justice and Public Order Act 1994.

The council reserves the right to designate other locations as special sites according to locally defined needs.

In the majority of other circumstances, the standard process will be followed when dealing with unauthorised and/or illegal encampments. There may however be exceptional circumstances where the council (under the direction of the Director of Legal Services) may make a unilateral decision to pursue immediate enforcement action to remove the occupants of an unauthorised and illegal encampment from a particular site or location. This action will only be taken where there is a firm evidence base (beyond general public dissatisfaction) to warrant immediate action being commenced by the council.

### **Stage 1 – Initial Investigation**

Where the emergency stopping site is available and it is deemed appropriate, the councils' Community Safety and Enforcement SPOC will determine in collaboration with the SYP Neighbourhoods Inspector or in their absence the Response Inspector whether it is appropriate for SYP to invoke the use of s62 of the Criminal Justice and Public Order Act 1994 to move occupants of the unauthorised encampments to this site.

Where a decision is taken not to invoke s62, an authorised council officer will carry out a site investigation and initial welfare check within 1 working day of receiving notification of the encampment.

At the visit the authorised council officer will:

- Undertake the site investigation and initial welfare assessment and complete the relevant report (Appendix 1);
- Advise and liaise with individuals and families about ownership of land, and give them a copy of the code of practice (Appendix 2);
- Advise the occupants that the relevant partners will be informed and that they may also visit the site;
- Where appropriate, advise the occupants that a Unauthorised Encampment Case Conference will take place to consider the toleration and any potential enforcement action to be taken in relation to the unauthorised encampment;
- Take photographs of the site and the surrounding area for verification of any environmental impact and the change in numbers forming part of the settlement. Individuals forming part of the encampment should be notified of the reasons for

taking photographs. These should not contain images of individuals who could be identifiable and should not include children and young people without permission;

- Provide refuse sacks and detail the arrangements for the proper disposal of household waste.

Barnsley council will undertake a health and welfare assessment to be undertaken by a Health professional. The assessment will usually be undertaken within 2 working days of the request for a health assessment being received.

A health and welfare assessment visit form (see Appendix 3) will be completed by a Health professional and provided to the councils' Community Safety and Enforcement Team within 1 working day of the assessment being undertaken. This will detail the circumstances of the encampment occupants and any recommendations in relation to action to remove the encampment from council land.

## **Stage 2 – Communication with Local Communities**

The council will work proactively to provide information to the settled and business communities regarding the unauthorised and illegal encampment providing a brief overview of the agreed protocol and process for the management of unauthorised and illegal encampments.

The council will within 2 working days of receiving a notification regarding the unauthorised and/or illegal encampment, distribute a resident's letter and frequently asked questions overview (see Appendix 4) to residents in close vicinity of the encampment. This will provide details of a point of contact in the council as well as providing advice in relation to circumstances when the Police should be contacted.

Contact will be maintained with residents and elected members for the full duration of an encampment advising of any notable events and feeding back responses to concerns and contacts.

## **Stage 3 - Managing the Encampment**

For the duration of the encampment, the councils' Community Safety and Enforcement Service will visit the site on a daily basis to monitor the encampment and ensure compliance with the code of conduct. The councils' Community Safety and Enforcement Team will seek to enforce robustly compliance with the code of conduct specifically

around environmental and behavioural standards in line with the relevant legislation as set out at Section 7.

Site clearance will be undertaken by the councils Neighbourhood Services team on vacation of the land. Where any significant public health risks are present, interim clearances will be undertaken by the councils Neighbourhood Services team accompanied by representatives from the councils Community Safety and Enforcement Team or SYP where this is deemed appropriate.

#### **Stage 4 - Decision on Action to be taken**

A case conference will normally be convened within 5 working days where possible of the welfare checks being received to make a decision as to whether action will be taken to seek removal of the unauthorised and/or illegal encampment. The case conference will comprise of the following representatives:

- South Yorkshire Police
- BMBC Community Safety and Enforcement Service
- BMBC Legal Services
- BMBC Children's Services & Safeguarding
- BMBC Adults Assessment and Care Management (if applicable)
- BMBC Parks Services (if applicable)
- BMBC Highways
- BMBC Neighbourhood Services

Each case will be considered individually taking into account all information to enable a balanced and informed decision to be made concerning tolerance or action to be taken. The decision may well be to seek immediate possession of the land.

In reaching a decision as to the need to seek the removal of occupants from unauthorised and/or illegal encampments, the case conference will review the health and welfare assessment completed by the Health professional taking into consideration any recommendations based on the health needs of the occupants of the encampment.

The following criteria will also be taken into consideration before reaching a decision on eviction of unauthorised encampments on council owned land:

- Public health and safety including highway safety, obstruction or danger to road users as well as environmental and other dangers;
- Any unacceptable conduct causing nuisance to nearby residents and businesses;
- Whether the presence seriously interferes with or prevents the use of that land for its normal use or an imminent change of use;
- Reports of criminality, disorder or anti-social behaviour directed to or from the encampment;

- Environmental impact and whether the code of conduct has been complied with.

Decisions taken by the case conference to delay proceedings to evict occupants of an unauthorised and illegal encampment will usually relate to the acute health or welfare needs of encampment occupants. Where a decision to tolerate is taken, a timescale will be agreed by the Case Conference and a further health and welfare check will be carried out by a designated Health professional prior to the review date.

Whilst these health or welfare needs are being met, the site will continue to be proactively managed by the councils' Community Safety and Enforcement Service.

In certain circumstances, it may be appropriate to pursue action to evict the occupants from the land but to exclude the person with immediate health or welfare needs along with a small number of occupants who can provide them with support. This will be handled sensitively to ensure that an individual is not left isolated or unsupported potentially leading to greater need.

All decisions taken by the case conference will be full recorded and documented.

### **Stage 5 – Eviction Process**

Where the council has, either at Case Conference or via the direction of the Director of Legal Services, determined that immediate possession is required, the council will act swiftly to use the powers most appropriate to the circumstances.

The council will typically take action under Section 77 of the Criminal Justice and Public Order Act 1994. The direction to leave will be drawn up and authorised by the councils Legal Team within 1 working day of the decision to take the action.

The councils Community Safety and Enforcement service will serve the Section 77 notice on the occupants of every caravan or motorhome forming part of the unauthorised and/or illegal encampment within 1 working day of receiving the documentation from the council's Legal team.

The notice will direct the persons and any others with them to leave the land and remove the vehicle or vehicles and any other property they have with them on the land. The notice will provide a timescale deemed as "reasonable" for the occupants to comply. Timescales for compliance will depend when the notice is issued but typically a request for vacation of the site will normally be within 24 hours.

If the encampment fails to comply with the terms of the Section 77 notice, the councils Community Safety and Investigations Manager will liaise with with the SYP LPT Inspector to decipher whether it is appropriate for SYP to invoke the use of s61 of the

Criminal Justice and Public Order Act 1994 to direct trespassers to leave and remove their property and vehicles from the land.

Where s61 is deemed appropriate, SYP and the council will work collaboratively and expediently to direct trespassers to leave and remove their property and vehicles from the land.

Where s61 powers are invoked, a police officer will visit the encampment and advise the occupants that they are required to leave by a given date and time, providing them with a copy of the Direction to Leave Land form, ensuring this is understood. Failure to comply with the direction or return to the site within a 3 month period is a criminal offence and will be dealt with by SYP accordingly.

Where s61 is deemed inappropriate, the council's Legal Services will apply to the court for a section 78 order to remove the occupants of the unauthorised and/or illegal encampment from council land. The application to the court will be made within 1 working day of non-compliance with the section 77 notice however; how quickly this can be heard by the court depends upon availability of court dates.

Once a court date is secured, a Court summons will be formulated by Legal Services and served on the encampment by Community Safety and Enforcement service at least the day prior to the Court hearing date.

The court will make a decision on the day of the hearing as to whether a section 78 order will be granted.

Section 78 is a binding court order which if not complied with, gives the council the power to remove the encampment. The councils Community Safety and Enforcement service will serve the Section 78 order on the occupants of every caravan or motorhome forming part of the unauthorised and/or illegal encampment within 1 working day of receiving the documentation from the court.

Once the Section 78 order is served, the occupants must be given 24 hours to comply with the Order. The councils Community Safety and Enforcement team will alert relevant parties including SYP to the potential for an eviction from site.

Where compliance with Section 78 is not achieved, after 24 hours of serving the Court Order, the councils Community Safety and Enforcement team will enforce removal, which may be supported by bailiffs. The councils Community safety and Enforcement service will attend the eviction along with SYP whose role will be to ensure public order is maintained.

## **Stage 6 – Following vacation of land/eviction**

The councils' Community Safety and Enforcement Team will notify the councils' Neighbourhood Services on the same working day following the vacation or removal of the unauthorised and/or illegal encampment from council land. The councils' Neighbourhood Services team will seek to clear the site of any refuse or waste subject to resource availability within 1 working day of the site being vacated.

On vacation of the site, an exit survey will be issued to the surrounding settled and business community in order to ensure community feedback is gathered to establish the extent (or otherwise) of any local disruption. Community feedback will be taken into account when considering further preventative measures.

Once a site is vacated and depending upon the circumstances, the council will seek to secure the site within the available resources in order to prevent or deter further infractions.

Data relating to the encampment will be used by the council to help inform any relevant policies and strategies including cohesion and housing needs in addition to planning and shared with relevant partners as appropriate in line with relevant legislation and information sharing agreements.

### **Managing unauthorised and illegal encampments on privately-owned land**

It is the responsibility of private landowners to determine the appropriate action and seek to remove trespassers where appropriate. In line with Government guidance, the council will provide information and advice to private landowners of how to effectively manage unauthorised and illegal encampments and the related powers available to recover possession of the land however, any action will be responsibility of the private landowner. Private landowners are also responsible for the management and clearance of any environment damage and/or waste occurring as a result of the unauthorised and illegal encampment on private land.

Private landowners can also seek advice and assistance from the Police. Police have the power to assist private landowners to remove trespassers under s61 CJPOA 1994, as they do the local authority.

Private landowners must consider if they choose not to take any action whether they are in breach of any relevant legislation such as the Town and Country Planning Act 1990 or the Environmental Protection Act 1990.



Where the legislation is breached, failure by private landowners to take action may result in enforcement and/or legal action being taken against them by the council if the owners have condoned the occupation else invited the occupants onto their land. The council will seek to recover all costs incurred from the private landowner as a result of taking any necessary enforcement and/or legal action.

The council will not normally intervene with unauthorised and illegal encampments on private land. The council does however have the discretion to use powers under Section 77 and 78 of the Criminal Justice and Public Order Act 1994 to remove vehicles and any occupants from private land. This will only be used where there is a strong public interest to do so and where the land owner provides sufficient evidence of the action they have undertaken to remove the unauthorised encampment along with a justifiable business case as to why they are unable to resolve the matter themselves.

The following protocol will be followed once the council receives a notification that an unauthorised and illegal encampment has been established on private land:

- The councils' Community Safety and Enforcement Service is responsible for dealing with unauthorised and illegal encampments;
- The council will take all reasonable steps to identify who owns the land upon which the unauthorised and illegal encampment has been set up including consulting with land registry and the councils' highway department;
- The council will contact the landowner or agent who will be advised of their responsibilities to determine and implement the most appropriate course of action;
- Where there are multiple land owners, the council will inform all land owners however, the responsibility for the coordination of actions will be with the land owners and not the council;
- The council will provide information and advice to private land owners but will not intervene unless there is a strong public interest to do so and private land owners have demonstrated a business case to necessitate this action;
- In exceptional circumstances where the council does choose to intervene, the process for removing illegal encampments on public land will be followed and a site visit and welfare assessment will be undertaken prior to any enforcement action being taken. The council reserves the right to recover any costs incurred from private land owners.

## **9. Data Protection and Information Sharing**

All data and information recorded by agencies in the management of unauthorised and illegal encampments will be processed under the Data Protection Act 1998.

The council sets out how it uses and protects the personal information of its customers in its corporate privacy notice and Data Protection Policy which can be viewed on the council's website. The council's Confidentiality and Information Security and Computer Usage Policies set out further controls as part of the council's overall information management and security environment.

Where appropriate, information will be shared between key partners such as the council, Police and Health professionals in order to prevent and detect crime and to ensure a coordinated approach is taken to effectively managing unauthorised and/or illegal encampment. In these circumstances, information will be shared securely in line with data protection laws, other relevant legislation including the Crime and Disorder Act 1998, the Inter-Agency Information Sharing Protocol and information sharing agreements in place with key partner agencies.

## 10. Protocol Review

The protocol will be reviewed every three years, or earlier, in line with Government guidance, best practice and legislative changes. As part of the review, consultations will be undertaken with the Barnsley CSP, residents and other stakeholders regarding the contents and effectiveness of the protocol.

## 11. Authorisation

The following signatories hereby agree to:

- Subscribe and work to the principles contained within the Protocol, and;
- ensure that the Protocol is fully implemented within the organisation/authority and all relevant staff are trained in the principles and legal requirements.

Name	Signature	Position	Organisation	Date

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***Date Approved:***

***Review Date:***

**Appendix 1**



## Safer Communities

### Initial Welfare Check, Site Investigation and Community Impact Assessment

#### Part A - Site Details

<b>1) Name of Officer Completing Site Investigation:</b>	
<b>2) Date &amp; Time of Visit:</b>	
<b>3) Date of Encampment Arrival:</b>	
<b>4) Site Location:</b>	
<b>5) Type of Land:</b>	School <input type="checkbox"/> Park <input type="checkbox"/> Highway Verge <input type="checkbox"/> Business/Industrial Estate - Used <input type="checkbox"/> Business/Industrial Estate – Disused <input type="checkbox"/> Other (please specify) <input type="checkbox"/>
<b>6) Land Owner:</b>	
<b>7) Number of adults forming part of the encampment:</b>	
<b>8) Number of children forming part of the encampment:</b>	
<b>9) Are all the encampment occupants travelling together?</b>	

#### Details of the Encampment Occupants

Surname	First Name(s)	D.O.B / Age	M/F	First Language	Child seen Yes/No
Surname	First Name(s)	D.O.B / Age	M/F	First Language	Child seen Yes/No


<b>10) Has this group previously been subject to eviction? if so, please give details of when and under which power i.e. (s77/s78, s61/62)</b>	
<b>11) Number of Vehicles:</b>	

**Vehicle Details**

<u>Vehicle Registration</u>	<u>Vehicle Type &amp; Details</u>

<b>12) Number of Caravans:</b>	
<b>13) Caravan Description:</b>	

<b>14) What was the location of the group prior to this encampment?</b>	
<b>15) Are there any specific reasons for the encampment? i.e. wedding/funeral</b>	
<b>16) How long has the group indicated they wish to stay?</b>	
<b>17) Where does the group intend to travel to next?</b>	
<b>18) What services (if any) are available on site? (i.e. water, toilets etc.)</b>	
<b>19) Please provide an overview of any environmental impact (including fly tipping, refuse/waste, excrement etc.)</b>	

### **Part B – Community Impact Assessment**

<b>20) Are rights of way affected by the encampment and if so, in what way?</b>	
<b>21) Is access to or from nearby properties or amenities obstructed by the encampment?</b>	
<b>22) Is operational use of the land obstructed by the encampment and if so, in what way?</b>	
<b>23) Has the site been occupied by an unauthorised encampment in the previous 12 months?</b>	
<b>24) How far is the encampment from the nearest residence or business?</b>	
<b>25) Is the encampment</b>	

<b>separated from other properties by a road or a boundary?</b>	
<b>26) Has the encampment prevented members of the settled community from using amenities?</b>	
<b>27) Has the Code of Conduct been issued and been explained to the group?</b>	
<b>28) Has criminal and/or anti-social behaviour been witnessed against or by members of the encampment? If yes, please provide details.</b>	
<b>29) Please provide any further details of any community impact.</b>	

#### **Part D – Initial Welfare Enquiries**

<b>30) Are there any medical concerns with any members of the group? Please provide details</b>	
<b>31) Are there any vulnerable members of the group? i.e. elderly, infirm. Please provide details</b>	
<b>32) Are there any members of the group who are pregnant? Please provide details</b>	
<b>33) Are there any other areas of concern for members of the encampment?</b>	
<b>34) Are there any concerns for the welfare of any animals on the site?</b>	
<b>35) Is there anything affecting the occupants ability to travel? If yes, please provide details.</b>	
<b>36) Do occupants of the encampment have access to accommodation elsewhere? If yes, please</b>	

<b>provide details</b>	
<b>37) Are there places on authorised or the temporary stopping place available to the occupants of the encampment?</b>	
<b>38) Do occupants of the encampment wish to apply for places on the authorised sites?</b>	
<b>39) Do the occupants require any support with making a homelessness application in Barnsley?</b>	
<b>40) Does any occupant of the encampment require the services of an Education Officer? If yes, please provide details.</b>	
<b>41) Are any of the children living on the encampment attending school? Please provide details.</b>	

## Appendix 2



### CODE OF CONDUCT FOR UNAUTHORISED ENCAMPMENTS ON COUCIL LAND

You are occupying this location illegally. The council is considering what, if any, enforcement and legal action to pursue in line with its protocol on unauthorised and



illegal encampments. We expect you to treat the land you have occupied with respect, and to respect the rights of other people who also wish to use the area. Whilst you are on this location, the following behaviour is not acceptable:

1. Forcing entry to land, by causing damage to any fixtures, fittings or landscaping (including planted areas). This includes digging away of earthwork defences, which have been placed at a landowner's expense to prevent trespass.
2. Causing any other damage to the land itself, or property on it. Particular care should be taken not to cause damage to those features provided as a public amenity.
3. Driving vehicles along any footpath or other right of way not specifically designed for road vehicles. This practice is not only illegal but is also highly dangerous.
4. Parking vehicles or caravans on any road or footpath that causes an obstruction to other people wanting to pass by. This includes parking immediately next to footpaths.
5. Dumping or tipping rubbish, waste materials or trade waste such as tree cuttings, rubble, etc. You will be provided with plastic refuse bags that will be collected during or after your stay at the site. It is your responsibility to keep the site clean and tidy.
6. Council Liaison Officers can direct you to Civic Amenity Sites (Council tips) where you will be able to pay to dispose of trade waste.
7. Use of the area as a toilet. You must not deposit or leave human waste openly in public areas.
8. Abuse, intimidation or harassment of any person who is lawfully using the area.
9. Excessive noise or other forms of anti-social behaviour.
10. Animals that are not kept under control or that attack persons lawfully on the land, or nearby.
11. Interference with electrical, water or gas supplies. Any person(s) found abstracting electricity, or wasting quantities of water may be the subject of criminal proceedings.

These codes are the same standards of behaviour that are expected of the settled community. Barnsley Council is committed to ensuring that the rights and expectations of all parties are balanced and attended to in the most appropriate manner, however behaviour that is deemed unacceptable will not be tolerated. Any contravention of this code of conduct will be considered as part of the decision making process to determine possible enforcement and legal action.

### **Appendix 3**

## Unauthorised Encampment Health Assessment Visit (No information which could lead to the identification of an individual with health needs may be given on this form)

<b>Date of Visit</b>	
<b>Location of encampment</b>	
<b>Size of encampment</b>	

<b>Adults</b>	
<b>Children (0-19)</b>	
<b>Immediate Health Concerns</b>	
<b>Details</b>	
<b>Comments</b>	

**Date:**

**Officer:**

**Title:**

**Signature:**

**Appendix 4**

Dear Resident,

As you may be aware there is an unauthorised encampment at -----.

There are certain guidelines all local authorities have to follow in terms of welfare checks and case conferences. If we fail to follow these steps then it is likely the courts would not grant orders for removal of encampments.

Welfare checks have to be carried out by specialist Community Nurses. After they have been carried out, a case conference is called where a decision is made about how soon

notices can be served requiring the occupants of the unauthorised encampment to quit the land.

If the occupants of unauthorised encampments do not comply with the direction to leave notice, Barnsley Councils Legal Team will apply to the courts for an eviction order which is also served on the occupants of the unauthorised encampment.

If the occupants of unauthorised encampments do not comply with this order, Barnsley MBC Community Safety and Enforcement Service will instruct bailiffs to remove the occupants of the unauthorised encampment from the land.

This process does take time and your patience in this matter is appreciated. Community Safety and Enforcement Officers will attend the site on a daily basis. They will take photographs and collect evidence for court purposes.

You can contact Community Safety and Enforcement Service, if you wish to report or pass any information to us, online using the following email address:

[safer@barnsley.gov.uk](mailto:safer@barnsley.gov.uk)

You can also contact our Customer Services Team on 772468.

Immediate issues around anti-social behaviour, threats intimidation or any other crime should be reported to the police using the 101 number or in the event of an emergency, please dial 999.

Yours Faithfully

Community Safety & Investigations Manager  
Community Safety and Enforcement Service  
Barnsley MBC

**Appendix 4**



**Unauthorised Encampments**

**Frequently Asked Questions**

**1) Can the council remove unauthorised encampments from their land immediately?**

No, the council must:

- Show that the occupants of the unauthorised encampment are on the land without consent;
- Make enquiries regarding the general health, welfare and children's education;
- Ensure that the Human Rights Act 1998 has been fully complied with;
- Follow a set protocol in terms of proving ownership of the land, providing details of the unauthorised encampment, service of notices and summonses that will enable the necessary authority to be sought through the courts to order the occupants of unauthorised encampments to leave the site.

**2) How long will it take unauthorised to remove unauthorised encampments from council land?**

This will depend upon the circumstances of each individual case. The council will need to take account of the issues outlined above as well as how soon a Court hearing date can be obtained.

**3) Can the court refuse to grant the council an order to move on the unauthorised encampment?**

Yes, the court can refuse to grant an order if:

- The council fails to make adequate enquiries regarding the health, welfare and education of the occupants of the unauthorised encampment;
- There is an unavoidable reason for the occupants of the unauthorised encampment to remain on the site.

It is important that the council takes the necessary time follow the correct protocol, to make all the relevant enquiries and collate the necessary evidence before making an application for a court order.

**4) Why doesn't the council recover its legal costs from the occupants of unauthorised encampments or prosecute for fly tipping or littering?**

Unfortunately there is very little any council can do to recover money from unauthorised encampments. As with any environmental crime, like fly tipping or littering, the council needs people to be willing to provide eyewitness information or for a council officer to witness or the evidence that links the incident to an individual. Without this the council can't issue a Fixed Penalty Notice, or successfully take the matter to court.

Once an encampment moves on, Barnsley Council will move quickly to clean up and where possible secure the area so that it can once again be enjoyed by local residents.

**5) What measures does the council take to prevent unauthorised encampments accessing council land?**

The council regularly reviews security arrangements at popular sites in an attempt to deter unauthorised vehicle access. All security measures are considered as applicable to individual sites including the installation of bollards, fencing, gates and landscaping.

**6) How can the council help if an authorised encampment moves on to private land?**

If the unauthorised encampment is on private land it is primarily the responsibility of the land owners to deal with the eviction. The council can provide information and advice to private land owners of how to effectively manage unauthorised and illegal encampments and the related powers available to recover possession of the land. Private land owners are also responsible for the management and clearance of any environment damage and/or waste occurring as a result of the unauthorised and illegal encampment on private land.

The council has the discretion to use powers under Section 77 and 78 of the Criminal Justice and Public Order Act 1994 to remove vehicles and any occupants from private land. This will only be used where there is a strong public interest to do so and where the land owners provides sufficient evidence of the action they have undertaken to remove the unauthorised encampment along with a justifiable reason as to why they are unable to resolve the matter themselves.

**7) What can the council do if the private land owner fails to take action to move the unauthorised encampment?**

Private land owners must consider if they choose not to take any action whether they are in breach of any relevant planning legislation and the Caravan Sites Act 1960. If planning permission has not been granted, failure to take action may result in enforcement and/or legal action being taken against them by the council. The council will seek to recover all costs incurred from the private landowner as a result of taking any necessary enforcement and/or legal action.