

Appendix A

Ashfield District Council Draft Unauthorised Encampment Protocol (Sept 2018)

1. About this Protocol

This draft Protocol sets out Ashfield District Council's approach to dealing with any illegal unauthorised encampments. That is, any persons who trespass on land owned by someone else (public or private) with an intention to reside, either on a temporary or permanent basis.

An unauthorised encampment occurs where any person camps (in vans, trailers or any other moveable accommodation) or moves on to land that they do not own and where they do not have permission to reside. This includes, but is not limited to traveller sites, protest camps and squatter sites with the exception of tents.

2. Principles

The Council has adopted a coordinated partnership approach to managing unauthorised encampments which is based on the following:

- The protocol is commenced immediately when an unauthorised encampment is identified/reported and this is co-ordinated by Private Sector Enforcement Team and Legal Services.
- All illegal unauthorised encampments will be treated fairly and openly in accordance with our duties and protocol procedures regardless of who the groups or individuals illegally encamping are.
- From the powers available to us, we will work with the Police to determine and utilise the quickest and most appropriate method of dealing with any illegal unauthorised encampments. This will be determined by the nature and conditions of each case.
- The Council will always liaise with the Police who do have more immediate powers available if circumstances are exceptional and where they choose to exercise them.
- The Council is duty bound to undertake a welfare check, this will be undertaken as part of a site visit assessment.

- The Council will continually engage with the encampment to negotiate their move on, this will continue alongside legal action to recover possession.
- This protocol will be carried out in accordance/compliance with the public authority duties and legal requirements set out in the Human Rights Act 1998 and Equality Act 2010.
- The legal process is outside the Council's control and is dependent on the availability of Bailiffs and Court dates.
- The Council will consider other potential sites that the travellers may move to or be directed to, any security/property concerns, plans for future clean up and security of the site once travellers have left.
- Communication will take place with key officers/partner agencies/residents/Councillors/the media etc.
- Gypsies and Travellers are protected by the law from unlawful discrimination.
- The District accepts that the Gypsies and Travellers community have their own needs; however it will adopt a robust approach to managing unauthorised encampments.
- For clarity the default position of Ashfield District Council is to pursue the criminal justice route; this being the most expedient means of vacation if the encampment is on ADC land and unauthorised.

3. The Protocol Process

There are a number of legislative powers available to local authorities and the Police to tackle unauthorised encampments, these are detailed in the Government publication 'Dealing with illegal and unauthorised encampments'.

The remainder of this section will detail the default procedure for the Council. That said, each encampment will be considered on a case by case basis and changes to the procedure will be considered as appropriate. Changes to the default procedure will be agreed and approved by the Director of Housing & Assets.

- **Establish the ownership of the land**

New encampments will be reported to the Private Sector Enforcement (PSE) Team who will work with Legal Services to determine the ownership of the land.

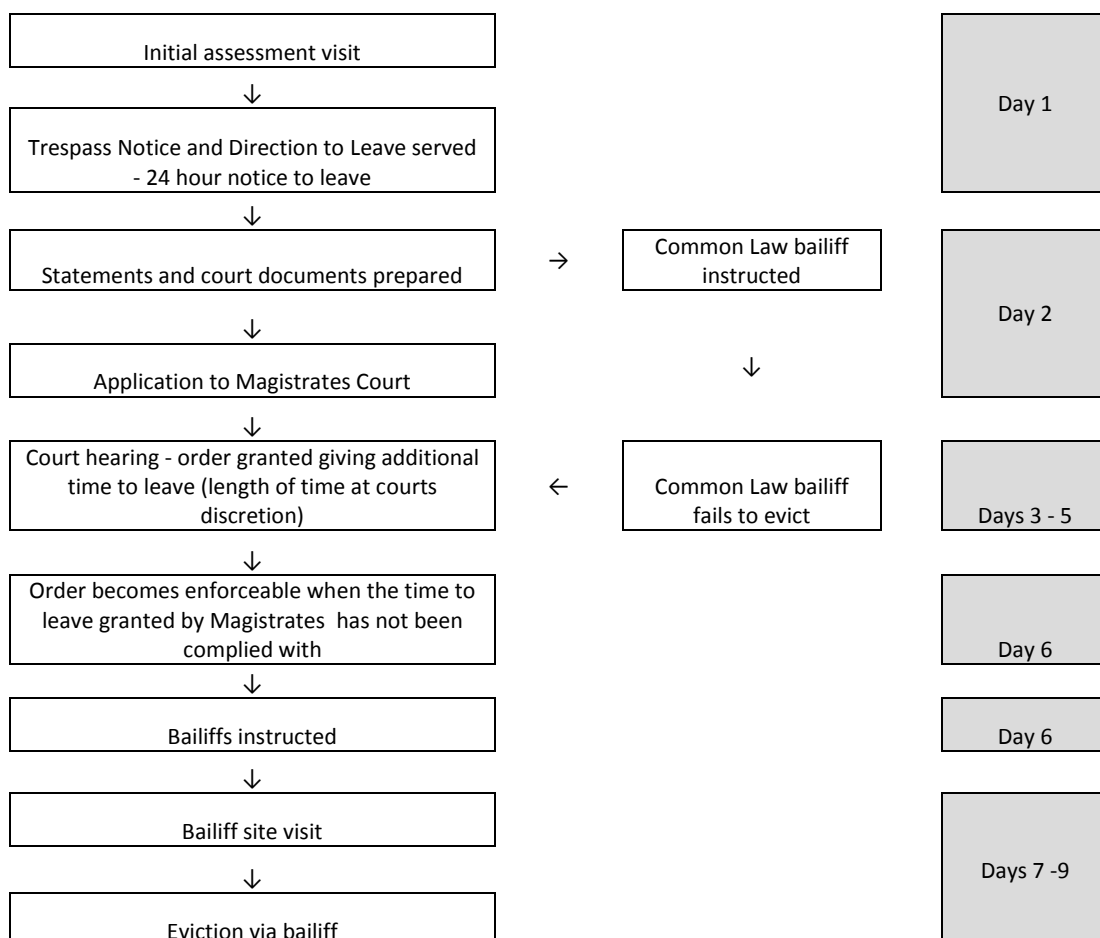
- **Unauthorised encampment on private land**

The PSE Team will make contact with the landowner as soon as ownership is established, this will normally be on day 1. Advice and support will be provided to assist the landowner recover possession of their land. It is the responsibility of the landowner to take appropriate action and to determine the timescale for recovery.

The PSE Team will conduct a site visit to undertake welfare checks (see section x). If welfare or safeguarding issues are identified appropriate support and assistance will be provided. The landowner will be advised if there is a need to delay possession action whilst welfare issues are dealt with. (If the land is owned by Nottinghamshire County Council they will undertake the checks themselves)

- **Unauthorised encampment on Council land**

- A summary of the steps that will be taken to recover possession of the land and approximate working day timescales associated with this is provided below.



An initial assessment visit will be conducted as soon as possible on the first working day. The purpose of this will be to;

- Establish a positive working relationship with the encampment
- Understand their plans and negotiate their move-on
- Conduct mandatory welfare checks of all occupiers (see sec x)
- Advise about standards expected whilst resident on Council owned land
- Take vehicle and registration number details
- Advise occupants of the process the council intends to follow to recover possession of the land.

A Direction to Leave Notice and Trespass Notice will be served. The Direction to Leave Notice requires vehicles identified in the Direction to Leave Notice to vacate the land. If it is not complied with a complaint may be made to the Magistrates Court under s77/78 of the Criminal Justice and Public Disorder Act 1994. This will be at the Courts earliest convenience, taking into account the need to serve summons and give notice of the hearing (at least half a day). This usually takes 2 – 3 days in total. The magistrates Court will consider the complaint and may make an order requiring the identified vehicles to vacate the land within a specified time period. If the land is not vacated in the specified time a criminal offence is committed by the Owner of the Vehicles. The Council is also authorised to remove the vehicles. The Council will instruct private bailiffs to evict the vehicles. The bailiff will conduct an initial site assessment visit before returning to evict the vehicles.

A Trespass Notice advises unauthorised occupiers of Land belonging to the Council that they are trespassing and should vacate the land within a specified period (usually 24 hours). The Civil Procedure Rules Part 55 permits the Council to commence proceedings in the County Court to recover possession of its land.

Both notices will usually give the occupants 24 hours to leave.

The purpose of serving two notices is so that the Council can change its approach to enforcement if the circumstances of the encampment change.

Running in parallel with the service of the Direction to leave Notice the Council will instruct common law bailiffs to attend site and utilise common law remedies to

recover the land. This common law action is available to the Council as the landowner. Bailiffs are entitled to use reasonable force to evict unlawful occupants.

Alongside legal action the PSE Team will continue to negotiate with the occupiers. Experience has shown that most encampments do move before being evicted.

Welfare needs

The Council is obliged to conduct welfare checks on all occupants.

As part of the checks we must consider pregnancy, ill health, educational needs, child and adult protection and animal welfare. The PSE Team will conduct the checks and will co-ordinate any referrals, signposting or appointments needed.

The Council will not delay the serving of notices but enforcement action through the Court may be put on hold if there are urgent welfare issues that need to be addressed before occupants are moved on. Any delay will be kept to a minimum and will be discussed and agreed with the Director of Housing & Assets.

Management of the encampment (Council owned land)

Whilst action is ongoing to move the encampment on it is important that site is managed effectively.

The PSE Team will maintain regular daily visits in order to deal with issues that occur, to address welfare issues, to advise the occupants of our enforcement action and to continue to negotiate their move on.

The Waste and Environment Team will conduct twice daily site visits, providing refuse materials and removing waste and rubbish.

Police and Community Protection Teams will receive daily updates and will conduct regular patrols. The frequency and visibility of these will be determined and agreed on a case by case basis and will be based upon the number and nature of reported incidents, including anti-social behaviour (both by and against occupants) and alleged criminal activity.

A 'What we expect from you while you are here' leaflet (appendix 1) will be given to each household so they understand the expectations of the Council.

When the encampment moves the PSE team will ensure there is a coordinated response from officers and other relevant agencies so the site is tidied, secured and returned back to its normal use. Consideration will also be given to any additional measures that can be taken to secure the site against a future encampment.

Out of hours reporting

If the encampment arrives at the weekend or overnight the Council's out of hours' operative will take details and email the PSE Team inbox. They will also advise the on-call Community Protection Officer.

Monitoring will be conducted but the formal process to recover possession will not commence until the start of the working week.

Communications

Unauthorised encampments create a great deal of media interest. It is important that Councillors and residents are regularly informed of any actions / progress which are on-going.

Likewise, it is important that there is effective internal communication to ensure officers understand and are able to respond to the circumstances in a prompt manner.

The principles of the Protocol must be applied in relation to all communication with illegal site/land occupants. In particular, Gypsies and Travellers are protected by law from racial discrimination.

Day 1 – notification of unauthorised encampment

- The Leader will be advised by phone call and email, and an email also sent to Deputy(s) other Cabinet Members, Ward Member(s), the CEO and Director of Housing and Assets to notify them of the encampment.
- Email sent key officers/partner agencies (as per agreed list) to notify them of the encampment and to
- Email sent to Leader, Deputy and Ward Member post initial assessment visit.

- Message added to website (Unauthorised encampment pages) to advise residents we are aware of the encampment and we are taking appropriate steps to deal with it.

Day 2 onwards

- Daily email to Leader, Deputy(s) other Cabinet Members and Ward Member to advise them of any issues and action being taken
- Ad-hoc email to Leader and Deputy(s) to advise of any emerging information or intelligence.
- A letter (appendix 2) will be posted to properties in the immediate vicinity of the encampment to advise residents that the Council is aware of the encampment and that action is being taken to resolve the issue. The letter will encourage residents to contact the Council if they are experiencing any issues. the content of the letter will reflect if the land is Council owned and we are taking enforcement action or if is privately owned.

The Council will maintain a Question and Answer Section on its website relating to unauthorised encampments.

Appendix 1 – What we expect from you

Unauthorised Encampments WHAT WE EXPECT FROM YOU WHILE YOU ARE HERE

YOU MUST

- Put all rubbish in the black bags provided.
- Keep numbers of trailers and vehicles to a minimum.
- Use toilets if provided and advise us on the number listed below if they need emptying.
- Be cooperative with our staff and other agencies.
- Keep the site in the condition you found it.
- Keep your animals under control.

YOU MUST NOT

- Leave any waste on the site or break other rules about fly tipping.
- Make noise between 10pm and 7am.
- Damage any of the facilities provided.
- Be aggressive, rude or unhelpful to our staff or other agencies.
- Damage this site.

If you break any of these conditions you could be evicted immediately. You may also be liable to fines.

We may use monitoring methods to ensure that the land you have stopped on is clean and tidy and that you are not breaking any laws. If you have any information about anyone else bring waste onto this site or you have any trouble with people being rude or racist towards you please contact us on 01623 457xxx.

Appendix 2 – Letter to residents (Council land)



To all local residents

Contact: **insert**
Direct Line: **insert**
Email:
Our Ref:
Your Ref:

Date: **Insert date**

Dear Sir/Madam

Unauthorised Encampment – **INSERT LOCATION**

I write to advise you that the Council is aware of the unauthorised encampment on INSERT LOCATION and is taking appropriate action to move the occupants on as soon as possible.

This process is not instant, it can take a number of days to bring to a conclusion as there are legal steps we have to follow. For more information please visit our website www.ashfield.gov.uk/INSERT.

If you do experience problems relating to the encampment please report them to us on tel 01623 457345

Yours sincerely

Phil Warrington
Service Manager – Strategic Housing & Lettings