London Borough of Ealing

Unauthorised Encampment Protocol

1. Introduction

This protocol has been drafted in response to an increased number of unauthorised encampments. The aim of the protocol is to address the need for an effective approach to the management of unauthorised encampments on London Borough of Ealing land, whilst ensuring that the rights of London Borough of Ealing's local settled community and the gypsy and traveller communities are balanced.

This document serves as a protocol and not a strategy, and as such can be used to provide information to other local agencies particularly the Police, health and community sector organisation as well as to our own Councillors and their constituents, on how we will manage an unauthorised encampment on our land.

The final aim is to achieve, where possible, a locally negotiated and agreed end to the unauthorised encampment that avoids a formal eviction process. However this protocol sets out what the formal process for the eviction may be and the responsible officers from across the council.

Strong powers are available to the police, local authorities and other landowners to deal with unauthorised encampments. This document provides a step-by-step practical guide to the use of these powers in order to ensure any unauthorised encampment is handled in the most appropriate manner for all stakeholders. This document also sets out advice on how communications regarding unauthorised encampments and prevent further instances of unauthorised camping.

The use of joint protocols between the local authority, the police and any other relevant agencies is also highly effective in establishing how individual cases will be dealt with, and making sure that all parties are clear about their responsibilities and how they will work together.
The council's wider approach to the gypsy and traveller community, their population and needs within Ealing, and how this sector of the community is accommodated is set out within the council's Traveller and Gypsy Policy document.

2. Ealing Council Unauthorised Encampment Policy Statement

The council accepts that individuals and communities have the right to choose a nomadic lifestyle and that it is not part of the local authority's role to discourage it. However, this does not exempt people following this lifestyle from considerations of nuisance or harm to others which can follow from unauthorised encampments on public land and in particular on greens spaces.

In the borough an existing traveller site is provided at Bashley Road. There are no plans to extend provision and the council will review requirements through the strategic planning process at the appropriate times.

All communities and individuals have rights and responsibilities to comply with the law. The council will work with other agencies as necessary to enforce the law and ensure the protection of public land for the enjoyment of all.

If the council decides that eviction is the appropriate course of action this will be undertaken expeditiously within the law and with respect to the rights and needs of the travellers.

3. Defining the Issue

3.1 Who are our Traveller communities?

The term Travellers if often used to describe groups of people who have a nomadic lifestyle or who come from a tradition of heritage and nomadism.

Romany Gypsies, Irish and Scottish Travellers are recognised in law as ethnic groups and are identified as having a shared culture, language and beliefs. Romany Gypsies have been in England for over 600 years and Irish Travellers have a long history of travelling and living in this country. 'English Travellers' has many meanings and can cover English Gypsies of Roma Origin, Irish Travellers born or living England and New Travellers.

The term 'Travellers' also covers some groups not recognised as ethnic groups including 'New Travellers' who are non-traditional Travellers and Travelling show-people.

A number of definitions exist for Gypsy and Traveller communities, and associated unauthorised encampments.

The CLG Planning Policy for Traveller site March 2012 defines Gypsy and Travellers as:
"Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show-people or circus people travelling together as such.

And for "travelling show-people" means:
"Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined above."

For the purposes of Ealing Council's approach to appropriately engaging with this community group and, where relevant, enforcing against unauthorised encampments, the CLG definition has been adopted, due to the inclusive description of potential affected individuals and/or groups.

3.2 What is an unauthorised encampment?

Unauthorised encampments are defined by the Government as "encampments of caravans and/or other vehicles on land without the landowner or occupier's consent and constituting trespass".

Unauthorised encampments fall into 2 main categories; these on land owned by the local authority (public highway, public parks/open spaces, schools, council housing land etc) and those on privately owned land.

If an unauthorised encampment occurs on land owned by the local authority, the council has a **power**, not a **duty**, to move them on.

3.3 Unauthorised Encampments Context

During 2016, Ealing recorded 28 separate unauthorised traveller incursions, at 14 locations on council owned public land (Norwood Green, Ealing Common, Warren Farm, Southall Park, Costons Playing fields, Hilary Road, Hunt Road, Acton Park, Warwick Road, Acton Park and Greenford High School). In addition, approximately 10 incursions were reported to the council on private land throughout the borough; however this figure does not necessarily represent all incursions on private land as some may not have been reported to the council.

These incursions resulted in pressures on the settled communities as evidence by the significantly increased volume of complaints about anti-social behaviour, inability to the use facilities in parks.

The impact of these incursions has been widespread, including, but not limited to, the following:

- Approximately 152 days where parks and green public spaces have been occupied, reducing the availability to residents.
- Cancellation of one high profile annual community event (namely the Norwood Green Village Day).
- Approximately 200 additional tonnes of waste, clearance of which has cost an estimated £160,000 in clearance costs and £23,200 in disposal.
- Approximately £20,000 of damage to council property, including damage to gates, bollards, fencing etc.
- Over 800 complaints to the council.
- Legal and enforcement costs totalling approximately £106,000.
- Additionally, a conservative assessment of costs associated with officer time to respond to these report of £84,000.

4. Procedure

As soon as the council becomes aware of an unauthorised encampment, details will be provided to and circulated amongst the '**Traveller Working Group'**, which is defined as a group of Officers comprised from the council's Safer Communities, Parks, Envirocrime (Street Services) and Legal department.

The location of the encampment will determine which department will lead on the overall management of the unauthorised encampment and potential eviction. An officer in the lead department will become lead officer. The default lead officer in Safer Communities, Parks and Street Services will be the Safer Communities Operations Manager, Parks Technical Officer and Engagement and Enforcement Manager respectively.

A number of flow charts summarising the key actions associated with the management and potential eviction of an unauthorised encampment are provided in the protocol, and the table below indicates the responsibility each council department and other associated agencies with the process.

ACTIONS	**COUNCIL DEPARTMENT / PARTNER**				
	Safer Communities	**Street Services**	**Legal**	**Parks / Parkguard**	**Police**
Initial Report					
Verification of encampment				LEAD	Support
Assessments / Enquiries	LEAD				Support
Decision to evict/tolerate	Lead Director (if landowner	Lead Director (if landowner)	Advisory	Lead Director (if landowner)	N/A
Issue of Code of Conduct	Lead (if landowner	Lead (if landowner)	Support	Lead (if landowner)	N/A
Site Monitoring	Lead(Parkguard)	Support (Kingdom)		Lead(Parkguard)	Support (through S/C)
Serving of Legal Notices	Lead (if landowner)	Lead (if landowner)		Lead (if landowner)	Support (through S/C)
Eviction	Lead (if landowner)	Lead (if landowner)		Lead (if landowner)	Support (through S/C)
Post-eviction clear up		Lead (if landowner) Support with data collation		Lead (if landowner) Support with data collation	N/A
Post-eviction security	Support (CCTV)	NA		Lead (Parkguard support)	Support (through S/C)
Debrief	Lead (if landowner	Lead (if landowner)		Lead (if landowner)	Support
Data Collation	LEAD				

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Council receives notification of an unauthorised encampment

Verification of unauthorised encampment by the **Parks Team** – steps taken to confirm land ownership:

- Council land – to include public highway, parks/open spaces, education land and housing land
- Private land – land not owned/maintained by Ealing Council

Private Land

Council Land

Safer Communities to lead on liaison with land owners and local policing team

Briefing circulated to ward councillors and lead member providing update on encampment and action being taken

Lead officer from land owning service to arrange officers to attend site and carry out:

- Welfare assessments
- Site impact assessment
- Community impact assessment

Safer Communities to advise landowners on appropriate steps for eviction, and circulate updates amongst traveller working party

Code of conduct to be issued to inhabitants of unauthorised encampment

Safer Communities to lead on reviewing impact of encampment, and advise Envirocrime department if intervention required regarding land clearance

Lead officer to consolidate all information relating to encampment and draft Decision Report – Legal to review and advise on most appropriate course of action

Review meeting held

Envirocrime to serve notice on landowners to clear land and/or notify the Environment Agency if required

Decision Report drafted and Decision made on eviction by Lead Director

Updated briefing circulated to ward councillors and lead member

4.1 Local Authority versus Private Land

Landowners have rights under the Common Law and Civil Procedure Rules. Part 55 of Civil Procedure Rules allows any landowner to regain possession of his/her land.

There is often an assumption that the local authority and/or the Police will intervene and evict Gypsies or Travellers from private land – this is not usually the case.

Where unauthorised encampments occur on privately owned land, the landowner is responsible for managing the encampment and any evictions. The council can act in an advisory capacity at the request of the landowner, led by the council's Safer Communities Team.

The Metropolitan Police will not generally assist in any eviction by private companies or individuals. However it may attend an encampment site or an eviction by civil enforcement officers to deal with health, welfare and educational issues, or to ascertain if any criminal offences have been committed and by whom. Police may also attend to ensure that no further offences are committed, as well as to prevent a breach of the peace as defined in common law.

4.2 Assessment Enquiries

Local authorities have obligations to all people within their boundaries. These obligations include duties towards children, to provide healthcare and other welfare support and to assist homeless people and also apply to travelling communities.

Following notification of an unauthorised encampment, the lead officer will arrange for the following enquiries to be made; individual welfare assessment(s) on as many of the Travellers within the encampment, site assessment(s) on the area being encamped and community impact assessment on the local environment. Given that local authorities may have obligations towards unauthorised campers under other legislation it is necessary that some form of effective welfare enquiry is undertaken to identify whether needs exist which might trigger these duties and, possibly, necessitate the involvement of other sectors to help resolve the issues. The outcome of these enquiries will form the basis of the Decision report. In addition, a Code of Conduct giving notice of unauthorised occupation will be presented to each vehicle on site (Appendix **X**).

The purpose of these enquiries is to gain information to assist with decision making as to whether to move towards eviction, and in particular whether there are humanitarian, welfare or legal reasons why the travellers should not be evicted. Should the assessments reveal any issues, the lead officer must ensure appropriate referrals are made.

The number of officers attending will be kept to a minimum, to reduce the potential for antagonism. Officers on site will ensure a consistent approach is taken with regards to the collection of information and undertaking of necessary assessments.

The council will maintain contact with the Police Service and/or Parkguard (the council's parks security contractors) to co-ordinate intelligence and arrange for Police support if necessary.

4.3 Review

A review meeting should be held within 48 hours of the first report of an unauthorised encampment. The purpose of the review meeting is:
1. To exchange information between officers;
2. To confirm that procedures have been followed;
3. Assuming the correct procedures have been followed and there are no reasons to delay the decision, then to consolidate all information in order to produce the necessary Decision report for consideration and decision of the Responsible Officer
4. Review necessary measures to mitigate nuisance on the land.

The lead officer will liaise with the council's Legal department as soon as the presence of unauthorised encampment is confirmed. Legal officers will be responsible for providing advice, requirements for further investigation and the preparation of court papers and reports if required.

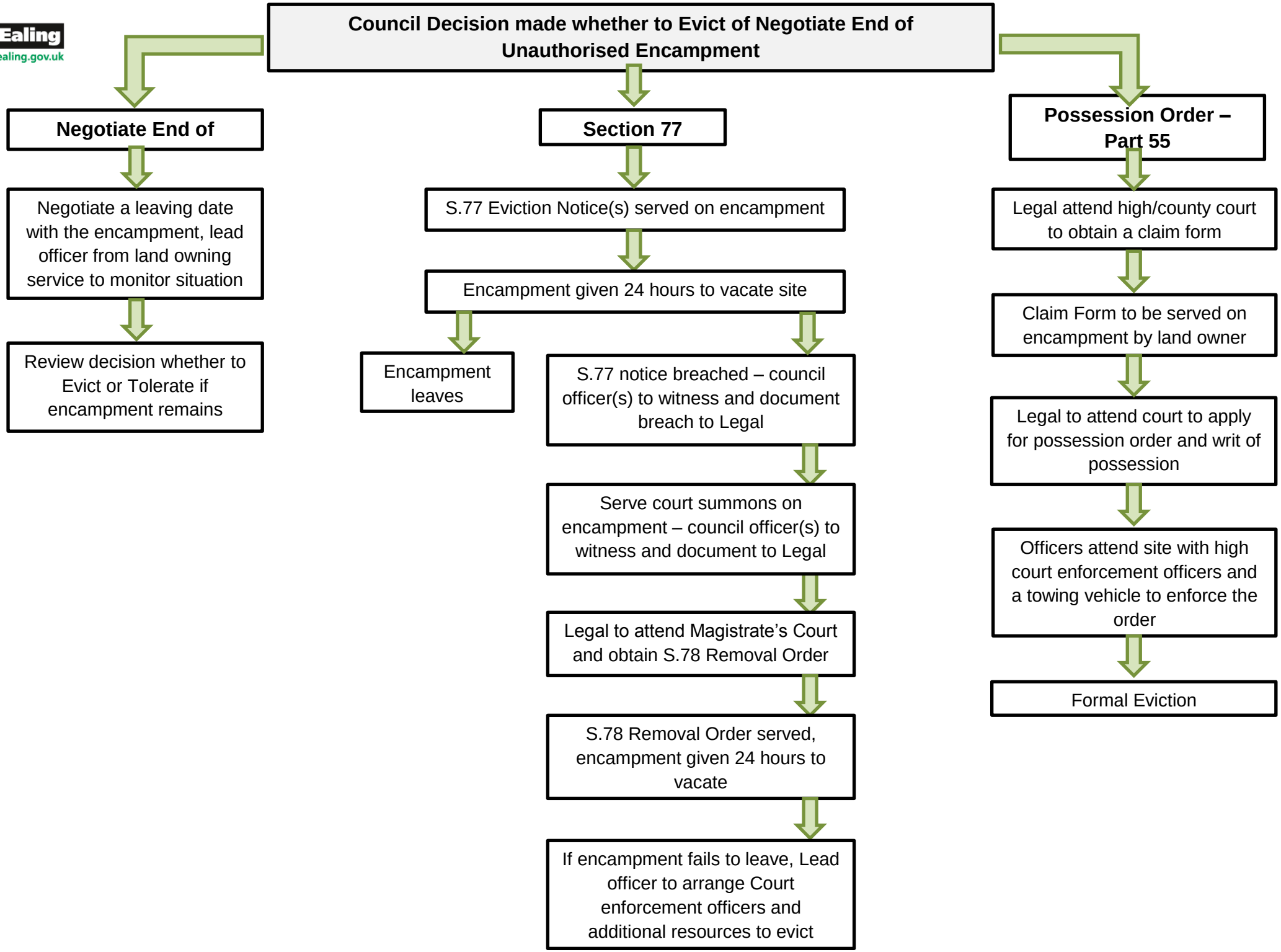
4.4 Making the Decision to Evict or Negotiate End of Encampment

The council will take into account only relevant matters and the decision whether to evict an unauthorised encampment will be made with regard to humanitarian considerations.

The relevant matters when dealing with unauthorised encampments are: the nuisance being caused, the steps the council can take to minimise the nuisance and the needs to recover the land and the needs of the members of unauthorised encampment. The decision to evict will be made by the Responsible Officer (relevant Director) in the light of all the information obtained by officer(s) carrying out welfare enquiries, advice given by the council's Legal department, investigating officers, social care workers (if applicable), health care workers (if applicable, education officers (if applicable) and the police (if applicable). The Lead Officer will make the final decision based on this advice. Where there is a disagreement the decision will be referred to the relevant Executive Director to make the decision.

The decision will be clearly recorded in a Decision report.

Following the decision a further position statement will be circulated both internally and to Members. At this stage the Police and Parkguard will also be informed of the decision.


Council Decision made whether to Evict of Negotiate End of Unauthorised Encampment
Negotiate End of
Negotiate a leaving date with the encampment, lead officer from land owning service to monitor situation
Review decision whether to Evict or Tolerate if encampment remains
Section 77
S.77 Eviction Notice(s) served on encampment
Encampment given 24 hours to vacate site
Encampment leaves
S.77 notice breached – council officer(s) to witness and document breach to Legal
Serve court summons on encampment – council officer(s) to witness and document to Legal
Legal to attend Magistrate's Court and obtain S.78 Removal Order
S.78 Removal Order served, encampment given 24 hours to vacate
If encampment fails to leave, Lead officer to arrange Court enforcement officers and additional resources to evict
Possession Order – Part 55
Legal attend high/county court to obtain a claim form
Claim Form to be served on encampment by land owner
Legal to attend court to apply for possession order and writ of possession
Officers attend site with high court enforcement officers and a towing vehicle to enforce the order
Formal Eviction

5. Legal Process

This section of the Protocol is a guide to the avenues available to the council to gain possession of occupied land. It is not considered as being exhaustive and the council's Legal department will be consulted for further advice in relation to any particular unauthorised encampment, depending on the particulars of each encampment.

Assuming that a decision is made to evict the travellers, the circumstances will sometimes dictate which legal procedure is more expedient. For the purpose of the protocol, the powers can be broadly defined as being the council's common law power as a landowner or statutory power under section 77 of the Criminal Justice and Public Order Act 1994 (CJPOA).

The former powers exist only in relation to land that the council has an interest in, either as the freeholder, or under a lease and licence, providing that the council is itself in possession of the land or entitled to immediate possession of the land. This means that if the council has leased the land to another occupier then the council is unable to seek a possession order as a landowner.

5.1 Civil Proceedings

These are commenced in either the County Court or High Court and relate to the rights of the council as a landowner. The council has to prove ownership of the land and that the travellers have not been granted permission to occupy the land.

Part 55 of Civil Procedure Rules allows any landowner to regain possession of his/her land.

Where the land is leased, the terms of the lease will determine who has this power – long-lessees and many short-lessees will be responsible for evictions, where they are "person entitled to occupation of the land". Someone with only the right, or permission, to use the land (i.e. who does not have a controlling interest in it, for instance someone with the right to graze livestock) would not generally be able to recover possession of the land in this way if it is trespassed upon.

Assuming that a lawful, reasonable, balanced and proportionate decision to evict has been made, the first step is for the landowner to ask the trespassers to leave the land. If they refuse to do so, or ask to be allowed to remain for what the landowner considers to be an unacceptable time period, the landowner can then begin action against the unauthorised enacmpment through the Court. A claim may be brought in the High Court where there is evidence of a substantial risk of harm to public property, namely land on which the encampment is situated, to the users of that land, to the general public and to public health.

The landowner must complete the relevant documentation, including any evidence in relation to the encampment (photographs, witness statements and so on) and presents this to the Court for issue of the claim form. A date for a hearing is then agreed. The Court then provides the landowner with the claim form to serve on the defendants (the papers can be issued to "persons unknown" if it is not possible to ascertain the identities of the unauthorised campers).

Service of the claim form can then be made by the landowner or his appointed representative either by handing the claim to the unauthorised campers directly or in the event of "persons unknown", by posting the claim in a prominent position on the land if this is not possible. The claim must be served allowing two clear working days' notice before the date of the hearing.

At the hearing, the facts of the case are set out before the judge. The landowner should provide documentation which satisfies the judge that the landowner has a legitimate interest in the land. The judge will be concerned to establish that the unauthorised campers have been dealt with appropriately before granting an eviction order but, thus satisfied, may grant the order immediately.

If the defendant fails to leave the land by the date of the hearing and the judge has agreed to grant possession to the landowner immediately ('a forthwith possession order'),an application may be made for a warrant to be issued immediately.

On the date of the eviction the landowner or his appointed representative will accompany the enforcement officer to witness the eviction.

The police should be alerted so that they can provide appropriate advice and be on hand to ensure that there are no breaches of the peace, and this will be coordinated by the lead officer and the council's Safer Communities Team.

After the eviction has taken place the land owner will then sign the warrant of possession to acknowledge that he has regained possession of the land (if court enforcement officers are not available to carry out the eviction, private enforcement officers may be employed in this capacity). It should be noted that, where the landowner is a local authority or other public body, the necessary welfare assessments should be carried out alongside the court procedures and should be completed before any eviction is carried out.

5.2 Criminal Justice and Public Order Act 1994

This act sets out a two stage procedure for securing the removal of travellers from land. The first stage is to serve a direction under section 77 of the Act. This direction requires persons residing in vehicles on land to leave the land and take their belongings with them. The Direction is served on the unauthorised campers by a local authority officer (the document must be given directly to one of the named unauthorised campers or affixed prominently to one of the vehicles).

Failure to leave the land as directed is a criminal offence as is returning to the land within three months of a direction being given, and the campers may be arrested by the police. The council may also theoretically decide to prosecute for such an offence. If a prosecution is successful they may then be given a custodial sentence of up to three months, or be liable to a fine of up to £1,000. Whether or not to do so would be considered on a case by case basis taking into account all necessary and relevant factors.

If the travellers fail to leave the land as directed, the council may apply to the magistrate's court for a Removal Order under Section 78 of the Act, allowing the xouncil to remove the travellers, and take such steps as necessary to secure their removal. Enforcement of the order is the responsibility of the council.

When deciding to initiate legal proceedings, whether by Part 55 of the civil procedure rules or s.77/78 of the CJPOA 1994, the council has to have regard to its duties under s.149 Equality Act 2010. Irish Travellers are an ethnic group which are protected by the Equalities Act. The council must be satisfied that the decision to initiate legal proceedings is in pursuit of a legitimate aim and is a necessary and proportionate action to take in the circumstances. If the council does decide to initiate legal proceedings then the options available include issuing section 77 notices to individual vehicles on the land or part 55 of civil procedure.

5.3 Police Powers Under Section 61 of the CJPOA

The council does not have the powers to invoke the above powers only the Police have access to powers under **Section 61** of the CJPOA, and where applied can lead to eviction in a much shorter timescale than under sections 77-78. However, the council will work with the Police on all unauthorised encampments to reach a decision on the best course of action. In relation to a Section 61, after notification of an unauthorised encampment, the main task of any visiting police officers is to establish whether Section 61 can legally be applied. Full details of the Police Powers under Section 61 of the CJPOA are referenced in Appendix II.

5.4 Choosing the Most Appropriate Power

The powers set out above all have different characteristics, and accordingly will be appropriate for different circumstances. A number of key considerations detailed below may assist officers in determining the most appropriate power to use in different circumstance. In addition, it is important for the relevant enforcement provisions to be considered carefully in each situation and for each unauthorised encampment to be reviewed on a case by case basis, to ensure that all requirements can be met.

5.4.1 Speed of eviction

It is unlawful for Gypsies and Travellers to camp on land they do not own without the landowner's permission. There are locations where immediate action to remove them should be taken because the presence of the encampment is seriously disrupting the ability of the settled community to make use of facilities or to conduct their business, for instance:

- on school grounds during term time;
- on urban parks;
- on business or retail parks.

Similarly, swift action should be taken where the encampment is located on contaminated land or where the encampment is very close to a busy highway, potentially endangering the health and safety of the campers and others, or on land of a particularly sensitive nature, for example a Site of Special Scientific Interest (SSSI).

5.4.2 Anti-social behaviour or public disorder

In the circumstances where significant anti-social behaviour or public disorder is taking place or it is considered that there is a significant risk of this, the council may consider requesting that the police support the council's dealings with these issues directly using their wider powers, and for them to disperse the encampment using S61 or S62A. It is a police decision whether to use a S61 or S62A.

5.4.3 Evicting some but not all of the trespassers

If the anti-social behaviour is focused amongst particular individuals in the group, or if a member of the group is ill, it may be appropriate to take action to evict some of those persons encamped but not others. In these circumstances, whether to use Section 61 to tackle part of the group will be a decision made by the Police. It may be considered most appropriate to use the powers under sections 77-78, which focus on named individuals or vehicles.

5.4.4 Different vehicles and or campers on site

Where the occupants of an unauthorised encampment change frequently, it may be more effective to use Civil Procedures Rules Part 55, which relate to the land itself, rather than the powers under the CJPOA, which require the individuals or vehicles on the encampment to be identified. Where these change, a new direction will have to be drawn up.

5.5 Welfare issues

Local authority officers should conduct thorough welfare enquiries as required by Government Guidance on Managing Unauthorised Encampments when a new encampment of arrives in the area. A sample welfare assessment form is attached as part of Appendix I. Where pressing needs for particular services are identified as part of the council's enquires, relevant departments or external agencies should be contacted in order to meet these needs as appropriate (health services, social services, housing departments and so on).

If necessary, removal of the encampment may be delayed while urgent welfare needs are addressed. Further, it may be possible to negotiate a date for the encampment to leave if the Gypsies and Travellers are able to demonstrate that they have camped in the vicinity for a specific purpose, for example in order to attend an outpatient's appointment at a local hospital.

5.6 Repeated unauthorised encampments

Where groups of travellers repeatedly return to a specific location, sections 61-62 and 77-78 can be used to prevent them returning to that location for a period of three months. It may also be appropriate to explore further options such as injunctions or Anti-Social Behaviour Orders to ban individuals from entering specific areas of the borough or from engaging in certain activities.

5.7 Avoiding legal challenge

Considerable delays can occur if the unauthorised campers mount a legal challenge to the eviction. In some cases, this may be as part of a court process. However, a challenge can also be mounted to any public body via judicial review on the grounds that its decision making was flawed. This risk however can be minimised by ensuring that, Ealing council acts in accordance with their wider obligations, and to ensure that the council comply with Human Rights legislation, proper welfare enquiries are carried out to determine whether there are pressing needs presented by the unauthorised campers and that, where necessary, the appropriate agencies are involved as soon as possible.

The council should also ensure that the proper procedures in dealing with an unauthorised encampment are followed, that all actions are fully documented and that the decision made is lawful, reasonable, balanced and proportionate. Additionally the council needs to ensure that should also prepare carefully for court appearances, making sure that evidence/court papers etc are in order, and that all legal requirements (such as serving notices) have been met.

6. Eviction Process

The steps involved in evicting any unauthorised encampment are detailed in the flow chart (page 10 of this Protocol).

In relation to all evictions, the Lead officer will ensure that:

- There has been liaison with local police and Parkguard regarding the date and time of eviction;
- Other land owning departments are aware of the need to increase security;
- Key stakeholders are advised of the date and time of eviction;
- Tow vehicles (with tow bars) have been arranged;
- Enforcement officers (if necessary) have been arranged
- Arrangements have been made for the storage of any vehicles or caravans which have to be removed from the site;
- Necessary works are arranged to repair any damage that has been caused to the land or that would allow further access, and additional security measures are identified and if possible implemented;
- Clean up operation has been arranged to take place as soon as possible after the eviction;
- Photographs, if not already taken, are taken to show the condition of the site at the time of the eviction

7. Communications

As soon as the council becomes aware of an unauthorised encampment, the lead officer will liaise with the council's Marketing and Communications team for reactive responses to enquires. The Lead Officer will ensure ward councillors are briefed and arrangements are made to inform local residents and key stakeholders as far as practical, of the actions the council will be or has taken by website updates, social media and email notifications
Residents adjacent to an unauthorised encampment are likely to have considerable concerns. Actions to reassure local residents and stakeholders may include the drafting and circulation of letters letting them know that the council has the situation under review and to increase the number of uniformed patrols by the police or borough security officers.

8. Post Eviction

8.1 Preventing Further Unauthorised Camping

The council regularly review security arrangements at key sites in an attempt to deter unauthorised vehicle access. Site protection measures are continually reviewed in location which are particularly vulnerable to unauthorised camping, for instance by creating earth bunds.

Ealing has over 975 hectares of public open space. Public areas must continue to give access to residents and visitors and also to emergency and maintenance vehicles. They must also give easy access for disabled people, so no site can be fully secure. Furthermore, Ealing has a prosperous funfair, circus and event heritage and it is imperative that the access required for these operators to access a number of the parks and open spaces is maintained.

In extreme circumstances the council will review as required whether any wider prevention would be beneficial to the local community and physical landscape of the park or open space to deter future unauthorised traveller encampments. Any review will need to take into account the ongoing cost and practicality of any solution offered in light of the ongoing access required for emergency, maintenance and event vehicles.

Previous experience has demonstrated that the majority of unauthorised encampments on parks and open spaces in Ealing are located on common land. With regard to increasing protection on common land the council would require consent from the Planning Inspectorate on behalf of the Secretary of State to carry out any works that would prevent or impede access to common land. These works could include:

- putting up new fences
- making ditches or banks
- resurfacing the land

Furthermore; previous unauthorised encampments in Ealing throughout 2016 caused considerable damage to preventative measures that were already in place including but not limited to breaking of locks, damage to gates/height restrictors and damage/removal of bollards. Therefore, any decision to make physical changes to common land or invest in additional preventative measures should not be undertaken lightly.

8.2 Protecting other sites during an unauthorised encampment

When eviction notices are served on unauthorised encampments, the campers often depart any time within 1 or 2 days. Protecting all vulnerable sites during such periods would require the provision of 24 hour security and temporary barriers for up to 2 days at more than 100 open spaces. Access by legitimate users and maintenance and emergency vehicles would also be severely curtailed. Providing a ‘lock-down’ on all open spaces during this time is therefore impractical and unaffordable. Managing unauthorised encampments as and when they occur and taking necessary legal proceedings to evict campers is a more effective and cost-efficient solution.

During an unauthorised encampment, the council works closely with all local partners including the Police and neighbouring local authorities. It is imperative that this communication is maintained; so that available resources can be deployed effectively in order to monitor and protect council sites as much as practicable.

8.3 Post Eviction Actions

As soon as the council becomes aware of an unauthorised encampment, the council's contractor Amey should be notified, to clear waste and litter.

In each case, the lead officer should arrange for any required clear up to be carried out as soon as practicable after an encampment has vacated by issuing the necessary clearance instructions to Amey, and arrange for any internal recharged to be made.

Amey operatives will, where possible, document any waste associated with the encampment, including photographing the site following eviction, reporting on the volume of waste cleared and the associated costs involved with clearance. The information will be recorded and support the council's data collation on unauthorised encampments, which may support further enforcement actions as and when required. In addition, council enforcement officers will attend the site where possible, to ascertain whether any evidence can be obtained from any fly-tipped waste associated with the encampment, and the necessary follow up enforcement action taken.

8.4 Following up on enforcement action

Where a particular group of Gypsies and Travellers repeatedly camp in a specific location, and the police or the local authority have used their powers to remove them, it is important that the criminal sanctions set out in the legislation are pursued if the unauthorised campers return within three months of being directed to leave.

Other legal remedies such as injunctions and Criminal Behaviour Orders (CBOs) may be used to prevent campers from returning to an area where they have caused problems in the past. Local authorities may be able to obtain these remedies at the same time as taking court action for possession or eviction.

If injunctions or CBOs are obtained to prevent unauthorised camping by particular groups, it is important that breaches are followed up with the appropriate legal sanctions, such as fines or imprisonment.

APPENDIX I – ASSESSMENT FORMS

APPENDIX II – POLICE PROCESS

Often the expectation of the local community and key stakeholders is that the Police will perform the eviction using Section 61 powers, however the mere presence of an encampment without any aggravating factors will not mean that the Police will use these eviction powers. In these cases, then simple trespass powers are more appropriate to be used by the landowner or Section 77 powers by the local authority.

Section 61 is not a mandatory power. The police may use it where two or more people have entered the land (**land does not include highways**) as trespassers with the common purpose to reside on the land. If this is the case one or more of the following conditions must be in place before the Police will exercise their powers under Section 61:

- Damage has been caused to land or property, **or**
- Threats, abusive, words or behaviour have been directed at the landowner, their agent or family, **or**
- There are six or more vehicles (vehicles includes motor vehicles and caravans) on the land at the time the senior officer attends to serve the notice

And

- One or more of the following aggravating factors apply:

1. **Local amenities are deprived to communities**
   This could include, for example, forming an encampment on any part of a recreation ground, public park, school field etc.
2. **There is local disruption to the economy**
   This could include forming an encampment on a shopping centre car park or in an industrial estate, if this results in the loss of use of the land for its normal purpose
3. **There is other significant disruption to the local community**
   This could include other behaviour that is directly related to those present at an encampment is so significant that a prompt eviction by police becomes necessary
4. **There is a need to take preventative action**
   This could include where a group of trespassers have persistently displayed anti-social behaviour at previous sites and it is reasonably believed that such behaviour will displayed at this newly established site

Ealing
www.ealing.gov.uk

Police Powers only - Unauthorised Encampments Guide used by Police Officers - S.61 - Power to evict trespassers - Flowchart

IF you believe that 2 or more people have entered land as trespassers, and that there is a common purpose of residing on that land

- Who is the landowner?
- Are there more than 2 people?
- Have they entered the land as trespassers?
- Are caravans or other "living" vehicles present?

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And **IF** reasonable steps have been taken by or on behalf of the person entitled to possession of the land to ask the people to leave

What reasonable steps has the landowner taken to ask the trespassers to leave? E.g.

- Verbal request supported by written statement
- Are there witnesses to the request?
- Have notices been served requesting them to leave who served them and how? Were they prominently displayed?
- Do the police have a copy of any notice served?

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And that you further believe that:

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One or more of the people has caused damage to the land or property on the land

Damage can be ANY damage e.g.

- Padlock to gate
- Digging away earth mounding
- Litter in worst cases or engine oil contamination etc

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OR one or more of the people has used threatening, abusive or insulting words or behaviour towards the occupier, a member of his/her family or an employee or agent of his/hers.

- Equivalent to Section 5 Public Order Act
- Only applies to occupier, member of family or an employee or agent - NO T all members of the public
- Will the victim provide a written statement?

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OR: They have between them 6 or more

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When considering invoking S61 Police should have regard to the following **gravity factors** the existence of which would make the use of this power more proportionate and justifiable:

- Is the location wholly inappropriate?
- Has the Encampment caused ASB, criminality or disorder?
- Does the Chief Inspector believe that a tipping point has been reached which makes it necessary to use eviction powers?

YES →

THEN S61 MAY BE APPLIED. This decision must be taken by an Insp or above at the scene (rationale in IML where s61 invoked). If it is,

- S61 Notices must be served and copies kept
- Details of people and vehicles must be recorded on Crimint /CAD
- A reasonable time must be given for them to leave land
- Trespassers welfare issues must be taken into account

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FAILURE TO COMPLY

- Power to arrest - any person who fails to comply without reasonable excuse to leave the land

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NO

Ensure the decision not to invoke police powers at this time is subject to continual review. Liaise with LA and landowner to explain decisions and discuss their intentions to seek potential removal through Court order. There may be a need for police to be present for any such eviction to prevent a Breach of the Peace.

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If not already completed ensure a notice of good conduct has been issued by the LA/landowner or where appropriate the Police.