

CHARD TOWN COUNCIL



Unauthorised Encampment Policy and Procedure

POLICY/DOCUMENT UPDATE TIMELINE

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Unauthorised Encampment Policy and Procedure

1. Introduction

The purpose of this document is to provide a policy to guide Officers and Councillors in deciding how to deal with unauthorised encampments. This policy is also intended to explain to other interested parties the Council's position in relation to unauthorised encampments.

In the event of an unauthorised encampment on Town Council land this Policy will ensure that the Town Council deals with unauthorised encampments in a fair, proportionate, and consistent manner and follows a set legal process.

When trespassers move onto a piece of land they do not own, without the permission of the landowner, this is called an illegal/unauthorised encampment. Illegal encampments can be unsightly, unhygienic and potentially cost the Council large sums of money to evict and clean up after the trespassers leave.

This is a civil matter of trespass between the landowner and the trespassers, and it is the responsibility of the landowner to deal with the encampment. If the land is leased, in most cases it is the person leasing the area that is responsible for dealing with the encampment dependent on the agreement with the landlord.

If the land is privately owned by a company or individual, advice can be taken from a solicitor about obtaining a Possession Order through the County Court. However, a faster and more common way is to evict trespassers using common law by calling in a bailiff. Sometimes trespassers behaviour can cause a nuisance or fear and intimidation to people living near to an encampment. Incidents of this nature should be reported to the Police.

For an unauthorised encampment on private land, it is exceedingly difficult for the Town Council to intervene if the encampment is on land not owned by them. The Town Council does not have the legal power to instruct bailiffs or apply for a Possession Order through the County Court when they are not the landowner.

In the event of an unauthorised encampments on private land, the following procedure should be initiated:

- Town Councillors and Council Staff should not approach the encampment.
- The Town Council should inform the landowner (if known) that they have an encampment and inform the Police and Local Authority.
- Ask the landowner to keep the Town Council informed of progress.
- Securing any Town Council property/land that may be used as alternative sites in preparation for the encampment being moved.

2. The Law

2.1 The Human Rights Act 1998

This Act is described as "An Act to give further effect to rights and freedoms guaranteed under the European Convention on Human Rights." Wherever the Human Rights Act 1998 (which in essence requires any public body to carry out its functions so as to accord with the Convention) applies to a situation which involves an unauthorised encampment, the relevant public authority when dealing with the encampment must comply with the Act.

In considering action to recover land, local authorities may need to take a balanced approach and also ensure that they have given consideration to the health, education, and housing needs of the trespassers. Proportionality will be considered to ensure that there is a balance between the needs of the settled community and the trespassers

2.2 The Race Relations Act 1975 and the Race Relations (Amendment) Act 2000

Under the Race Relations Act, it is unlawful to discriminate against anyone on the grounds of race, colour, nationality (including citizenship), or ethnic or national origin. All racial groups, including gypsies and travellers, are protected from discrimination. The Race Relations (Amendment) Act 2000 placed both a general and specific duty on public authorities bound by the Act.

Under the general duty the requirement is to:

- Eliminate unlawful racial discrimination.
- Promote equality of opportunity.
- Promote good relations between persons of different racial groups.

2.3 Other Equalities Legislation

More recently, legislation has come into force covering age, gender, disability, religious belief, and sexual orientation. Many public authorities are producing a corporate equality plan outlining what they plan to do to ensure equality, diversity and equity in employment and service delivery.

2.4 Statutory Responsibilities

Local authorities have statutory duties in so far as provision of education, housing and social services is concerned. Gypsies and travelers, like the settled community, have a right to access health provision.

Health Services have a Duty of Care towards gypsies and travellers. The priorities when visiting an encampment are to assess the health needs of gypsies and travellers and to provide access to such services as are appropriate and are required.

2.5 Confidentiality

In dealing with unauthorised encampments, all personal information will be treated as confidential between agencies, in line with normal working practices and procedures. However, it must be remembered that occasionally the public interest and the statutory duties of agencies can override the duty of confidentiality.

In the operation of this guidance, information may be shared between responsible authorities. In addition, information communicated to public authorities may be disclosed to the public under the Freedom of Information Act 2000.

At no time should agencies, employees or members of the gypsy and traveller community be offered anonymity for information they wish to share with the agency, where this cannot be provided in law.

3. Policy and Procedure

Responsibility for making and implementing decisions in respect of unauthorised encampments is delegated to the Town Clerk in consultation with the Mayor of the Town Council. In the event of either of these not being contactable advise the Operations Manager and/or the Deputy Mayor of the Council. If in turn they are not contactable advise other Councillors until three can be found to authorise further action

The Council will, in dealing with unauthorised encampments, act, at all times, in a fair and humane fashion with regard government guidelines for dealing with trespassers. The Council will consider the balance between the rights and needs of the trespassers in deciding whether or not unauthorised encampments can be tolerated for a period of time and when and how to instigate procedures to evict.

Instigating procedures to evict will be taken if the Town Clerk feels that this course of action is necessary. Individual consideration will be taken on each case and special circumstances will also be taken into account. Any decision will balance the needs of trespassers with the impact on Council services and undue nuisance to neighbours and members of the public, including damage to land and property.

Such circumstances being taken into account will also include the Human Rights Act 1998 and any other good practice guidance from Central Government such as the 'Guide to effective use of enforcement powers'

published by the Department for Communities and Local Government (DCLG).

Formal repossession procedures will normally be undertaken where encampments occupy land owned by the Council and the Town Clerk is of the opinion that the encampment cannot continue because of one or more of the following factors:

- It creates a hazard in health and safety terms for other users;
- It creates an intolerable nuisance to the general public;
- It creates an intolerable impact on the enjoyment, use or habitation of adjoining or nearby property or interferes with the effective management of that property;
- It causes damage or likely to cause damage to the land/property or prejudices the use by the Council's members, officers, staff, tenants, occupants, or the general public; and/or
- It is too large for the location and is causing an unacceptable impact on the immediate environment.
- Consideration will also be given to the likely cost the council may incur in dealing with returning groups using their previous history on other Town Council owned sites.

3.1 Chard Town Council has implemented the following procedures:

- Reports of an unauthorised encampment should be acted on as quickly as possible, and information should be passed on for consultation as rapidly as possible.
- Identify who the owner of the land is and gain evidence of ownership. Then arrange for a visit to the site to be undertaken to establish the exact location and number of occupants on the land. Establish if the land is owned by Chard Town Council and gain proof e.g. a map showing the area and the deeds.
- If the owners of the land are the Unitary Council, then report it immediately, with details of the location and the number of occupants.
- Initial details of the encampment need to be reported to the Unitary Council, Police, NHS, and Environment Agency.
- Report the encampment to the Police immediately and request they ask the occupiers to leave in the first instance. It is possible that the Police could move the trespassers on immediately under Section 61 of the Criminal Justice and Public Order Act 1994 if the trespassers are using threatening behaviour, causing damage or have 6 or more vehicles. If the

Police take no action or cannot move the trespassers, then the Council will take immediate action to evict the trespassers as soon as possible.

- A representative of the Council either the Clerk, Deputy Clerk or Operations Manager, or if these are unavailable at least one of three Councillors in agreement, will contact a legal representative (bailiff) and place instructions for notice to be served for immediate eviction.
- The legal representative (bailiff) will require details of the number of vehicles/persons, location, and contact details for an authorising representative of the Council, via whom they can maintain contact and monitor the situation.
- The Council will ask the legal representative (bailiff) for a blanket notice to cover all Council owned land in Chard. This will save time and costs if they move from one piece of Council land to another, as the legal process will have already started for the eviction.
- It is likely the legal representative (bailiff) will e-mail their Terms and Conditions to the authorising representative. This document needs to be completed and emailed back by return without delay for the process to continue.
- Following receipt of the signed Terms and Conditions, the legal representative (bailiff) will prepare Notices for Service on the trespassers, advising them of the deadline by which they should move and warning them that they will be evicted if they fail to do so. For a small number of caravans (less than 3) eviction will usually take place within 24 hours, for a larger number of caravans the eviction will usually take place within 48 hours.
- The Notices will be served on the trespassers by the legal representatives' (bailiff) staff on the day of the eviction or at an appropriate number of hours before the deadline.
- It is likely that the legal representative will require at least one Police officer to be present at the time of the Notice is being served and at the time of the eviction. Actual Police numbers required at the eviction will depend on the scale of the occupation. Liaison between the legal representative (bailiff), the Council and the Police is essential.
- Once the time of the eviction is known, the following should be considered:
 - Cleaning of the site.
 - Securing other Council property that may be used as alternative sites if a blanket order has not been given for all Council land.
 - Clerk, Councillors, in conjunction with the Police to notify local organisations or individuals of the eviction, in time to enable them to secure other likely target sites. This information can be added to the website and Facebook Page to get the message out quickly.

- In conjunction with the Police, consider traffic and pedestrian management in the surrounding area if necessary.
- There may be a need to close a road or control traffic movements during the eviction period. This will be in liaison with the Police and Somerset Council if necessary.
- Council Staff and Councillors should expect a lot of calls/emails from concerned residents during any unauthorised encampment in Chard. Councillors and Council Staff should stay calm and explain to the public the legal process that has been started and advise members of the public not to confront the trespassers.
- Officers should update the website and Facebook page with progress reports as appropriate.
- Members of the public should be advised to call the Police non-emergency 101 number to report any issues or 999 if it's an emergency issue. Contact will be maintained with the local Police.

4. Eviction Proceedings

The Town Council may liaise with the principal authority where it is deemed eviction proceedings are necessary. As Somerset Council is the principal authority it has responsibility for assessing:

- Housing circumstances;
- Health needs; and
- Education and general welfare.

Once a decision to evict an unauthorised encampment has been properly taken, the aims should be to:

- Act quickly and efficiently.
- Use the powers most appropriate to the circumstances.
- Reduce scope for challenge through the courts by ensuring that welfare considerations have been taken and considered.

5. Joint Working

The Council may liaise with the Principal Authority Enforcement Officer, the Police and other relevant public or voluntary agencies to facilitate better joint working and a better understanding of the problems and any issues related to trespassers generally and incurred expenses.

6. Necessary Expense

In dealing with the trespassers there are likely to be issues of health and safety (environmental, wellbeing or welfare). The Town Clerk is authorised to incur reasonable expense as per the Council Financial Regulations in

resolving any eviction of trespassers from Town Council property. Such expenses should be advised to Councillors at the earliest possibility and ratified at the first available meeting of the council following such actions.

Annexes

1. Trespasser Incursion Form
2. Dealing with Travellers Guide
3. Example Enforcement Notice
4. Welfare Needs Assessment
5. Bailiff Flow Chart

**Annexe 1
Trespasser Incursion Form**

Date and Time of Incursion	
Location of Incursion	
How entry was effected	
Number of trespassers	
Number of vehicles	
Number of children	
Number of animals	
Initial Costs Assessment	
Initial Welfare Assessment	
Police Informed	
Gypsy Liaison Informed	
Principal Authority Informed	
Councillors Informed	

Eviction Required (reason)

Immediate	
Agreed Time Frame	
Subject to Section	
Action Taken	
Powers Used (i.e. Sect 77, 61, Common Law)	
Lead Officer / Council / Authority	
Post Incursion	
Eviction Completed	
Total Cost	
Comments	

Annexe 2

Guide to effective use of enforcement powers
[Gypsy & Traveller \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/guide-to-effective-use-of-enforcement-powers-gypsy-and-traveller.pdf)

Annexe 3

Example Enforcement Notice
[Example enforcement notice – operational development \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/example-enforcement-notice-operational-development.pdf)

Annexe 4

Welfare Needs Assessment

Welfare Needs Assessment.

(The questions to be answered by an adult)

Exhibit No:

Sign:

Date:

Initials of Officers: _____

Site: _____

The Welfare check is to find out the welfare needs of the person (and their household) being interviewed before Chard Town Council takes any action. This is important, as there may be a need to involve other professionals from health or education services to complete a full assessment of their needs.

This form will be used as evidence in court that welfare checks have been carried out to the best of Chard Town Council ability and that any action, we take has taken account of the needs that have been identified.

Name or Family Name	M/F	Age	Advice/ Health Issues including follow up action (note if any advice leaflets given)	Tick
VEHICLE / TYPE		REGISTRATION		

Continue on separate sheet if needed

3	Do you have a permanent place of residence?	Yes/No	
4	Do you want housing in Chard?	Yes/No	
4	Ethnicity (if appropriate to ask) (Explain used to identify improvements to service and meeting their needs)		

Data Protection: We may need to share this information with other departments including health, education and other Council services and other local authorities.

Do you have any objection? No

I agree that the information provided here is correct, and that by signing this form, I agree that it may be shared with other council departments, other local authorities, and partners.

Name/Mark of Trespasser:

Date:

Name of Officer:

Date:

I have declined to provide Welfare information to the Chard Town Council representative

Name/Mark of Trespasser:

Date:

Name of Officer:

Date:

Any Comments: On previous meetings they have stated that they want housing in the local area and their children to have education.

Annexe 5 Bailiff Flow Chart

