



**GYPSY/TRAVELLER UNAUTHORISED
ENCAMPMENTS**

Force Procedure

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INDEX

1. Introduction
2. Scope
3. Unauthorised Encampments
4. Legislation
5. Procedure
6. Media Queries
7. Other Considerations and Conclusion
8. Monitoring and Review

Appendix 'A' - Unauthorised Gypsy/Traveller Encampment Flowchart

Appendix 'B' - Unauthorised Gypsy/Traveller Encampment - Process Flowchart

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1. Introduction

- 1.1. Following guidance from the Scottish Government in 2004, Gypsy/Travellers are recognised as a minority ethnic group with distinct characteristics and will be regarded as such for the purposes of this guidance. This applies to Romany Gypsies and Irish, English, Welsh and Scottish Travellers, but not New Age Travellers or Show/Fairground or Circus people.
- 1.2. As a Public Authority, we have a positive obligation to promote good relations between all communities and ethnic groups. Therefore, when dealing with unauthorised encampments, we have a legal responsibility to work with Local Authorities and other partners to ensure Gypsy/Travellers do not suffer discrimination because of their way of life.
- 1.3. The role of the Police Service is to deal effectively with any criminal matters arising, to ensure that public order and wider community safety issues are addressed and, at the same time, to work in partnership with Local Authorities and other partners to meet the needs of all communities.

2. Scope

- 2.1. This guidance clarifies the role of Grampian Police in the management of unauthorised encampments established in our Force area.
- 2.2. The document has been prepared taking full cognisance of the ACPOS 'Operational Guidance for the Management of Gypsy/Traveller Encampments', the Scottish Government 'Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland' and the Lord Advocate's Guidelines regarding prosecution in respect of unauthorised encampment offences.

3. Unauthorised Encampments

- 3.1. In general, it is the responsibility of the landowner to take steps to secure, protect and reclaim their own property, be that public or private land.
- 3.2. The management of unauthorised Gypsy/Traveller encampments is a matter for the Local Authority in whose area the encampment is established, including any consideration of civil eviction if the encampment is situated on public land. In doing so, they are obliged to consider the welfare needs of residents of the encampment. The relevant Local Authority Liaison Officer should also regularly visit the encampment and identify any issues, such as a build up of waste.
- 3.3. If the encampment is on private land, the Local Authority retain responsibility for the management of the encampment, including consideration of the welfare needs of the residents, but any eviction proceedings or provision of facilities are at the discretion of the landowner. The landowner should be encouraged to make contact with the Local Authority to discuss the matter and explore options available to them.

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- 3.4. Enquiries regarding non-criminal matters should generally be referred to the relevant Local Authority.
- 3.5. A letter template has been prepared to assist in explaining the Police position to private landowners (**hyperlink to be added**). This is designed both to provide relevant information and to minimise the scope for misunderstanding between the Police and the landowner.

4. Legislation

- 4.1. There is no specific legislation currently in place with regard to the management of unauthorised encampments established by Gypsy/Travellers, albeit various other pieces of legislation can be relevant. Two possible considerations are the Trespass (Scotland) Act 1865 and the Roads (Scotland) Act 1984.
- 4.2. Other than in certain specific circumstances, the Police have no authority to clear sites or to direct Gypsy/Travellers on to any land.
- 4.3. Although unauthorised encampment is a criminal offence, in accordance with guidance issued by the Lord Advocate for Scotland, there is a general presumption against prosecution of Gypsy/Travellers for setting up unauthorised encampments. Prosecution will only be considered when:
 - (a) A suitable alternative stopping place has been identified and the Gypsy/Travellers have refused to re-locate within a reasonable time. (It is the responsibility of the Local Authority to identify the stopping place. The Police have no power to do this) or;
 - (b) Where the use of a particular site by Gypsy/Travellers, or the excessive size of the encampment, causes a severe road safety or public health hazard or;
 - (c) Where the same Gypsy/Travellers have been repeatedly evicted from a site by the Local Authority and return after a short time.
- 4.4. Failure by a Local Authority to assess or make provision for the needs of Gypsy/Travellers will serve to reinforce the presumption against prosecution. However, the presumption may be overridden by other public interests arguing in favour of prosecution. This may include serious disruption to businesses and/or members of the public as a result of offensive or criminal behaviour by Gypsies/ Travellers.
- 4.5. In practice, this means that the Police will only move unauthorised Gypsy/ Traveller encampments in very specific circumstances, and other than in exceptional cases, this will only occur when a suitable alternative site is provided by the Local Authority.

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- 4.6. These restrictions on Police action only apply to the establishment of the unauthorised encampment. Officers will respond to and investigate other reported crimes or offences in the normal way, regardless of who it is alleged was responsible.
- 4.7. Fly-tipping, is a criminal offence which, dependent on the circumstances, can be covered by several pieces of legislation. This is one of the key grievances raised by the settled community in respect of Gypsy/Traveller unauthorised encampments. Fly-tipping should not be regarded as a 'normal' feature of an unauthorised encampment, nor should it be subject to the presumption of non-prosecution. This matter can be dealt with either individually or jointly by the Police or the Local Authority.
- 4.8. In exceptional circumstances, Sections 61 and 62 of the Criminal Justice and Public Order Act 1994, can also be used to remove encampments and take possession of vehicles. However, ACPOS guidance clearly states that these powers can only be used '... in exceptional circumstances, not routinely'. Generally, these powers would only be considered where the encampment was causing severe road safety concerns, a public health hazard or significant disruption. The Procurator Fiscal will normally be consulted before this legislation is used and it should be regarded as a last resort, after all other negotiation and civil means had been exhausted. Even in these exceptional circumstances, consideration would have to be given by the Local Authority to where the encampment would be moved to.

5. Procedure

- 5.1. When an unauthorised encampment is reported to, or discovered by Grampian Police, Officers will visit the site to establish the number of vehicles and residents and engage with the Gypsy/Travellers in an effort to clarify their intentions.
- 5.2. Following the first visit, the Officers will complete the Grampian Police Encampment Form for unauthorised encampments on the day the encampment is visited. This will then be sent to the 'Gypsy -Traveller Encampments' inbox on Outlook prior to the Officer completing duty on the day of attendance.
- 5.3. A STORM incident will be promptly raised and the relevant Local Authority and the Community Engagement Inspector, Community Support will be made aware of the encampment. Thereafter, Officers will give periodic attention to the encampment to ensure any changes in the circumstances are notified to the Local Authority and determine whether further Police action may be necessary. These visits must be recorded on the relevant STORM incident and any significant changes advised to the Community Engagement Inspector.
- 5.4. Further STORM incidents should be created to record individual incidents or

criminal complaints relating to the presence of the encampment. General community concerns should not be recorded on STORM, but should be captured via the Community Engagement Database, along with a record of the action taken in respect of the concern raised. Where the information relates to intelligence about crime, this should be captured on the Scottish Intelligence Database (SID).

- 5.5. If the Police are not the initial attending agency, the relevant Local Authority Liaison Officer will visit the encampment and will conduct an assessment, which will be documented on the Multi Agency Reporting Form (MARF). This will be forwarded electronically to the Force via the 'Gypsy-Traveller Encampments' inbox on Outlook and will be captured by Community Support Department. Notification will then be sent to the Local Policing Team Inspector (or their deputy) for the area in which the encampment is situated. The Local Authority will be provided with a point of contact in the Local Policing Team.
- 5.6. The Local Policing Team Inspector will retain operational ownership of an unauthorised encampment established in their area. They are encouraged to communicate regularly with the relevant Local Authority Officer in relation to the encampment to identify any emerging issues at any early stage. This will allow for appropriate intervention or preventative measures to be considered. Where possible, contact relating to decisions made should be confirmed by email to provide an audit trail.
- 5.7. The Local Policing Team Inspector will ensure that their team are briefed as to their responsibilities in respect of the encampment.
- 5.8. The Local Policing Team Inspector will ensure that they maintain an accurate chronological record of issues arising from the presence of an encampment in their area. This will include details of crimes reported, community concerns raised and actions taken by local staff. This list is not definitive and any appropriate information will be recorded. Form *** will be used for this purpose and retained electronically.
- 5.9. Where a crime is suspected or reported, the investigation should progress in the normal way and relevant details should be recorded. In instances where a member of the Gypsy/Traveller community is an accused, suspect or complainer in a criminal investigation (though not when merely a witness), the Officer dealing must ensure that the relevant Gypsy/Traveller marker is added on the 'Administration' page of the CrimeFile record.
- 5.10. Officers should not routinely note the names of the residents on the encampment, or the registration numbers of their vehicles, unless there is a reason for this, such as intelligence linking the individuals concerned to criminality. This could include Fly Tipping offences at previous encampments. Relevant intelligence should also be recorded on SID.
- 5.11. Where appropriate, Officers will also support Local Authority colleagues by

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visiting encampments with them while they serve eviction notices, or similar. This is to ensure that no Breach of the Peace occurs. Police Officers will not play any active part in the eviction process itself, unless a crime is being committed.

- 5.12. Local Policing Team areas are encouraged to communicate with each other and with relevant Local Authority partners (bearing in mind the constraints placed on disclosure of information by the Data Protection Act 1988) with regard to the movement of encampments when they vacate a site. This is particularly important where an encampment has created difficulties at a previous location and knowledge of the previous circumstances may assist in informing decisions.
- 5.13. To assist with this, the Local Policing Team Inspector must complete Form *** and send notification of the end of the encampment to the 'Gypsy-Traveller Encampments' inbox. They must also ensure that they contact the Local Policing Team Inspector for the area in which the new encampment is situated, to ensure they are aware of any issues arising from the initial encampment.
- 5.14. Community Support staff will use the information captured on the spreadsheet to maintain a Force-level overview of unauthorised encampment activity.

6. **Media Queries**

- 6.1. Any media query received with regard to Grampian Police policy and strategy with regard to the management of unauthorised encampments should be referred to the Community Engagement Inspector, Community Support Department.
- 6.2. Should the media query be with regard to the conduct of a specific encampment, it should be dealt with in accordance with local procedures by the relevant Local Policing Team Inspector or deputy.

7. **Other Considerations and Conclusion**

- 7.1. Further guidance and a comprehensive list of Frequently Asked Questions relating to the management of unauthorised encampments are available on the Community Support page of the Intranet. The Community Engagement Inspector, Community Support can also provide advice and assistance with regard to policy queries.
- 7.2. New Age Travellers are defined by the Equality and Human Rights Commission as 'People who comprise social groupings that advocate alternative life-styles, frequently for political or issue based reasons'. Generally, the aforementioned procedures should be adopted in the first instance.

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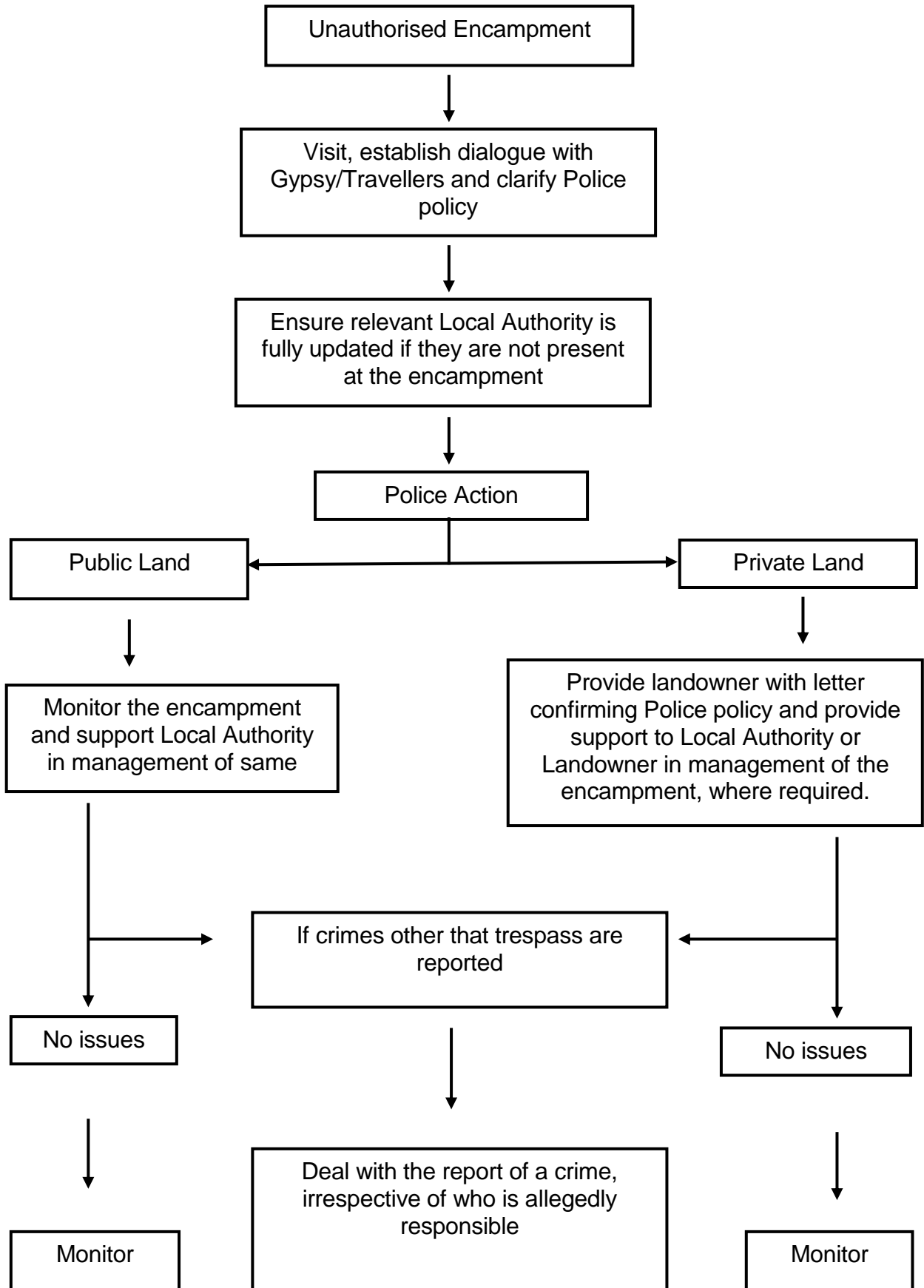
They are not, however, subject to the presumption of non-prosecution, as they are not Gypsy/ Travellers. For very large encampments of New Age Travellers, Section 14 of the Public Order Act 1986, may be considered, primarily if the encampment is causing serious disruption to the life of the community.

- 7.3. Depending on the nature of the unauthorised encampment, it may be appropriate to consider a Community Impact Assessment. Implementing such a tool should ensure that community tensions are monitored and that justifiable action is recorded.

8. Monitoring and Review

- 8.1. The effectiveness and ongoing relevance of this Policy will be subject to continuous review by the Community Engagement Inspector, Community Support.

UNAUTHORISED GYPSY/TRAVELLER ENCAMPMENT FLOWCHART



UNAUTHORISED GYPSY/TRAVELLER ENCAMPMENT - PROCESS FLOWCHART

