



Dealing with unauthorised Traveller and Gypsy encampments within the Carlisle District

Frequently Asked Questions

What is an unauthorised encampment?

Unauthorised encampments are almost always, by definition, unlawful. Each encampment location must be considered against health and safety considerations for the unauthorised campers, traffic hazards, public health risks, serious environmental damage and genuine nuisance to neighbours.

There are locations where encampments will not normally be acceptable under any circumstances. This includes on an urban park, recreational ground, public playing fields, a village green or other open space within a residential area.

What action can be taken?

Wherever possible, we need to discourage Gypsies and Travellers from setting up an encampment in an unacceptable location. If this happens and the unauthorised campers refuse to move, eviction processes (including appropriate welfare enquiries) will start in line with our joint working protocol. A copy is available at [**www.carlisle.gov.uk**](http://www.carlisle.gov.uk)

To be effective, this approach needs a very quick response from all relevant parties. So, initial contact is made within 48 hours of the encampment being reported.

How can I report an unauthorised encampment?

All reports for unauthorised encampments should be made to the Environmental Health Officer in Community Engagement, by calling **01228 817341** or emailing [**housing@carlisle.gov.uk**](mailto:housing@carlisle.gov.uk)

During out of office hours, unauthorised encampments should be reported to Cumbria Constabulary on **0845 33 00 247**.

What happens when an unauthorised encampment is reported?

We will make sure all the relevant agencies are notified of the encampment. A site visit will be done as soon as possible.

We will make an assessment of the tidiness of the site, the level of disruption to local residents or businesses, whether there is an obstruction to the highway, as well as any activity the Police or others may have reported to them. A risk assessment must be done in line with the joint working protocol. After this, an assessment will be made to decide the most appropriate course of action and the correct person to carry it out.

As a legal requirement, any humanitarian or welfare considerations are also taken into account. If the occupants are behaving in an acceptable manner and the site is being kept tidy, then if a mutually acceptable moving on date can be agreed, the unauthorised encampments may be tolerated for a short time. This is in line with Government advice.

The decision whether or not to “tolerate” an encampment is a balance between the needs and wishes of the Gypsies/Travellers and the settled community. Even if an unauthorised encampment is tolerated for a short time, then no facilities other than refuse sacks are provided.

If there is evidence of anti-social behaviour, there is a presumption towards eviction. Alongside the Police, we will take further action, to prevent nuisance, anti-social or criminal behaviour.

If the decision is taken to evict, there are powers that the Police and Local Authorities can use (see below). These are subject to Human Rights Act and Race Relations Act and can be challenged in Court.

It is our responsibility, working in association with the Cumbria Travellers programme and any other agency recruited locally, to carry out a detailed needs assessment should this be necessary.

What are the untolerated, encampment enforcement options for Local Authorities (Private Sector Housing function)?

In certain circumstances, we may use enforcement powers to move an unauthorised encampment. However, we must consider our duties to carry out welfare assessments of the unauthorised campers. We may need to involve local NHS partners, where health issues are apparent.

We may issue a direction to leave under Criminal Justice and Public Order Act (CJPO) s.77. We must give the owner and occupier 24 hours notice of our intention to enter any occupied land unless we are unable to, following reasonable enquiries, to find the names and addresses of the owner and occupier. Obstruction of the City Council exercising this power under the order is an offence and punishable by a fine of up to £1,000.

The Criminal Justice and Public Order Act s.78 allows us to apply to a magistrates’ court for an order, when a direction under s. 77 has not been complied with. This allows us to remove vehicles, property and people from the land. Responsibility for eviction lies with the local authority. Failure to move from the land, or returning to the land within a period of three months, is a criminal offence, punishable by a fine of up to £1,000.

What are the intolerated, encampment enforcement options for the Police?

The Police have the power to remove trespassers on land under the Criminal Justice and Public Order Act s.61. The Police may direct trespassers to leave any land, if two or more people are trespassing with intent to take up residence, and, if reasonable steps have been taken by the landowner to ask them to leave.

This is a discretionary power and any one of **three** further conditions must be met.

These are:

- if anyone has caused damage to the land or property on the land;
- if anyone has used threatening, abusive or insulting behaviour towards the occupier, a member of his family or an employee or agent; and
- if those persons have, between them, six or more vehicles.

The Criminal Justice and Public Order Act s.62 allows the Police to seize and remove vehicles.

This can only be done if:

- a direction under s.61 has not been complied with; or
- the trespassers have returned to that land, with a vehicle, within a period of three months from the date of the direction under section 6.1.

What happens if an unauthorised encampment is on the public highway?

It is anticipated that any encampments on the highway will be unauthorised or 'not allowed'. There are no powers to authorise them and they are technically an obstruction, although in most cases they pose little or no danger to vehicles, pedestrian or other traffic. **Each encampment will be considered on its own merits.**

To report an unauthorised encampment on the public highway, please contact Cumbria County Council on **0845 609 6609**.

What are the civil procedures to remove unauthorised encampments?

Where Gypsies and Travellers camp on land that they do not own, without the owner's permission, they are 'trespassers'. Many encampments can be dealt with through negotiation, but when this isn't possible, action can be taken to remove them from the land. Private landowners, local authorities and the Police all have powers to deal with unauthorised encampments.

What happens when an unauthorised encampment is on private land?

The Civil law of trespass provides that landowners can ask a trespasser to move and, if they refuse, may use reasonable force to remove them. Landowners may, for example, privately employ bailiffs to do this.

Alternatively, a landowner can regain possession of their land by pursuing a claim for possession through the County Courts under Civil Procedure Rules 55. County Court bailiffs can be used to remove trespassers from the land once a possession order has been granted.

How are unauthorised encampments managed on local authority land?

Once a report has been made, we will follow the same procedures as a private land owner.

What if the City Council had its own transit site?

At present Carlisle City Council does not own or manage a transit site for gypsy and travelers within its district. If the Council had its own site then we would be able to actively work with the Police to encourage trespassers to move to this site.

This power can be used where the following conditions are met:

- at least two people are trespassing;
- the trespassers have between them at least one vehicle on the land;
- the trespassers are on the land with the common purpose of residing there for any period; and
- the occupier of the land (the freehold owner or lessee), or a person acting on the occupier's behalf has asked the Police to remove the trespassers from the land.

If the unauthorised campers do not leave when directed to do so under **Section 62A**, or if they return to the district within three months after being directed, they are committing an offence. The Police may then use their powers under **Section 62B** of the CJPOA to arrest and detain them. If the campers are later convicted of an offence under the Act, they may then be subject to a custodial sentence of not more than three months, or a fine not exceeding level 4 on the standard scale (currently, a maximum of £2,500).