

GUIDE FOR PARISH COUNCIL'S

MANAGEMENT OF UNAUTHORISED ENCAMPMENTS ON PARISH LAND

PREVENT – Guardians of community facilities should always be aware of possible entry points for public areas and where possible prevent entry during non-operational use to deter unauthorised encampments.

If you experience an unauthorised encampment

1. Observe the number of units.
2. Assess whether the encampment will interfere with use of facility.
3. It is not recommended that you approach the encampment as this increases the possibility of antagonising a volatile situation.
4. According to your assessment you may:-
 - First you should call the police and detail the findings of your assessment, i.e. number of vans, vehicles, adults, children and pets.
 - During working hours call the District Council. Delegated officers will arrange, possibly with Police, a visit and initiate welfare assessments where relevant. The officers will also provide guidance and options on legal procedures for you to consider. Contact information is on the guidance document below.
 - **Police** have additional powers to remove the encampment, however, a threshold of community impact and anti-social behaviour or loss of amenities need to be met. Further information on this are further down this document.
5. You have the right to initiate Common Law procedures - [see guidance document below](#).
6. Upon conversation with the District Authority, the Option of use of Section 77 of Criminal Justice and Public Order Act 1994 may be initiated, [see guidance document below for explanation](#). Follow up costs for court and bailiffs to remove the encampment will remain the responsibility of the Parish.
7. Remain business like. You may need to postpone events or see if access to events can be adjusted (whilst maintaining fire routes). The priority should be to reduce the likelihood of a negative interface between the encampment and the local community.
8. It is likely that your land is a community asset and has been selected by the encampment for this reason. Minimising contact will deny the encampment a platform.

Email: Broadland District council – hstandards.bdc@southnorfolkandbroadland.gov.uk Tel: 01603 431133

Email: South Norfolk District Council - hstandards.snc@southnorfolkandbroadland.gov.uk Tel: 01508 533701 / Freephone: 0800 3896109

INFORMATION SHEET – POWERS TO CONSIDER

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7837/143582.pdf

Process	Common Law	S77/S78 Criminal Justice Public Order Act 1994
Legal position	It is established in law that landowners have the right to the peaceful possession of their land and may take reasonable steps to remove trespassers.	Officers with delegated powers at District Councils can issue and serve s77 notices to leave land. Solicitors will need to be employed to apply to magistrates for a s78 order to vacate if the trespassers refuse to leave. The s78 magistrates court order gives officers and bailiffs powers to use reasonable force to remove trespassers and their property.
Basis of process	No need for a solicitor or the booking of a court. Private bailiffs often offer this service. It is not recommended that land owners complete the notice and eviction process themselves, bailiffs are equipped to handle the entire process.	There is a protocol procedure to adhere to if a s77 notice is to be served, this will be discussed in a formal meeting and documented for evidence if a court order is then required to remove trespassers
Application of process (abridged) and guides on timescales.	This process is not dependent upon court availability and there are no fixed notice periods. Private bailiffs may be found online and instructed to handle the entire process on behalf of the land owner. In many cases this may lead to eviction with 24-48 hours.	The Protocol procedure has been adhered to and the Authority has agreed to undertake service of the s77 notice, 24-48 hours during council opening hours. If the trespassers have still refused to vacate the land as directed on the notice, District Authority and solicitors will apply to attend magistrates court to obtain a s78 court order, 1-5 working days depending on court and solicitor availability. Landowner will be responsible for solicitor and court fees at this stage. If the order is granted and served on the trespassers, they are usually given 24-48 hours to vacate, in which case if they refuse, bailiffs can remove trespassers using the powers of the order. Bailiff costs are the responsibility of the landowner.

Subsequent to possession.	Post eviction there is no ongoing protection of the land. An encampment may return immediately forcing the process to repeat. If adopting this approach it is strongly recommended that land owners have arrangements in place for strongly defending the land from trespassers as soon as possession is gained.	There is some afforded protection with a s77 notice, allowing the District Authority to return to magistrates court within 3 months of service to obtain s78 order to vacate the land. Providing the notice was served correctly, it can be used multiple times with the same trespassers on the same land within this 3 month period.
Costs borne by the land owner.	<ul style="list-style-type: none"> • Service of common law notice by private bailiffs. This can be avoided by service by the land owner but this isn't recommended. • In the event that the encampment does not comply with the notice then the bailiffs costs which will vary upon the size of the encampment and whether towing vehicles need to be employed. 	<ul style="list-style-type: none"> • Employment of a solicitor if the trespassers refuse to vacate after s77 service. This will also incur a court cost for the hearing. • If the encampment does not comply with the s78 order to vacate, bailiffs will need to be employed by the landowner to enforce the notice.

Note on costs:- Costs are variable and will depend upon how far either process has to be followed. It can be seen that in the case of common law eviction the stages of the process attracting costs are limited and may result in lower costs in some instances.

Police Powers:

Police can use their own powers under s61 of the Criminal Justice and Public Order Act 1994 if certain conditions have been met, and it is discretionary on their part. New powers have been added to this Act amended in 2022 to make trespassing a criminal offence, however, this is also discretionary and the criteria to meet this consideration is quite significant.

An example of when it could be requested is when a large encampment arrives at a village hall field whereby the occupants have caused criminal damage on site and making significant threats to anyone trying to access the field or if a scheduled event for the field has to be postponed and there is a significant loss of use of the field or business.

[Unauthorised encampments: a summary of available powers \(accessible version\) - GOV.UK \(www.gov.uk\)](#)

Existing powers to remove trespassers on land as introduced in the CJPOA and amended by the 2022 Act

Power to remove trespassers with a common purpose of residing on land: [Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](#)

In cases where no significant harms have been committed by trespassers, police may decide to take other enforcement action using s61 of the Criminal Justice and Public Order Act 1994, providing the conditions for this are met.

[Criminal Justice and Public Order Act 1994 \(legislation.gov.uk\)](#)

s61 gives police the powers to direct trespassers on land who have the common purpose of residing there for any period.

This power applies where a senior officer reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following have occurred:

- a) any of the trespassers has caused damage, disruption, or distress or
- b) the trespassers have between them six or more vehicles on the land.

The conditions that can be caught by the power to direct under 61(1) (a) have been broadened under the 2022 Act. These replicate the damage, disruption and distress included in the new offence, but do not need to be 'significant'.

Failure to comply with the direction, by failing to leave the land as soon as reasonably practicable and without reasonable excuse, is an offence.

Speak to your local policing team about their powers if you think the criteria has been met, or speak to the housing standards team who will help with discussions and formulating a plan of action.