

# Communities and Neighbourhoods

## Traveller Eviction Process: (Fast track approach)

<b>1.0</b>	<p><b>Background</b></p> <p>Due to the cost and the time delay in going through the Courts in order to evict travellers from Stevenage Borough Council (SBC) property, a fast-track approach has been adopted making use of Common Law rights.</p> <p>This document briefly summarises the process that the Community Safety Team will use to deal with travellers on amenities or highways land within the borough of Stevenage.</p>
<b>2.0</b>	<p><b>Key Elements of Process</b></p> <p>As soon as Stevenage Borough Council (SBC) receives a report of an encampment, officers will visit the site and take note of the number of vehicles and caravans present.</p> <p>SBC will need to verify that the encampment is on public land. If the land is private, effort will be made to contact the land owner and offer appropriate advice.</p> <p>SBC will contact the Herts County Council Traveller section and provide them details of the encampment.</p> <p>The council will contact Herts Constabulary, (the Police), and provide details of the encampment to them. SBC will always seek to work closely with the Police in order to secure a swift removal of caravans, vehicles and trespassers from public land.</p> <p>SBC and the Police will jointly decide who will lead on the eviction. If SBC leads, it will use its Fast Track eviction process. If the Police lead they will enact powers at their disposal for the removal of the trespassers and their vehicles/caravans.</p> <p>The Lead Officer will insure that the Customer Service Centre and Communications team are kept up-to-date with events. Appropriate information should be placed on stevenage.gov in a bid to minimise calls from concerned residents.</p>
<b>2.1</b>	<p><b>Role of the Police</b></p> <p>The Police can choose to use Section 61 powers under the Criminal Justice and Public Order Act 1994 to remove an unauthorised encampment if (see Appendix 2)</p> <ol style="list-style-type: none"> <li>1. there are more than 6 caravans \ vehicles on the site (e.g. 2 caravans and 5 vehicles would mean the Police could choose to use section 61)</li> <li>2. criminal damage has occurred on the land</li> <li>3. threatening, abusive or insulting words or behaviour has been used</li> </ol>

	<p>4. the landowner has given clear instructions to the travellers that they are trespassing and need to move off the site</p> <p>The Police can use their powers for encampments both on public and private land.</p> <p>In the event of travellers setting up camp on public land, SBC and the Police will make a decision as to who will lead on the eviction process. If the Police are to lead, then they will use their Section 61 powers to serve Notice. If SBC is to lead, then it will invoke its fast-track process.</p>
2.2	<p><b>Options Available to SBC</b></p> <p>Legal has the option not to use Common Law and opt instead to deal with the issues through Court proceedings. <b>Section 77 of the Criminal Justice and Public Order Act 1994</b> gives powers to a local authority to issue a letter directing the travellers to move off the property and if they don't the authority can use section <b>78 of the Act</b> to go to Court and seek an order for the removal of persons and their vehicles unlawfully on SBC land.</p>
2.3	<p><b>Fast-Track Process</b></p> <p>The Community Safety Manager/Senior Community Safety and Partnerships Officer will lead on the eviction process should the fast-track approach be used.</p> <p>SBC can, using "Common Law Eviction," (see Appendix 1), serve Notice giving the travellers 24 hours to move from the site. (See Appendix 3). The Notice requests the travellers to leave the land together with their vehicles and caravans by a specific time or face them being removed from the property by SBC's bailiffs.</p> <p>Before SBC can take action to remove trespassers, it must ensure the welfare of travellers is considered. The attending SBC officer or the Bailiff will make enquiries relating to the health and well-being of persons allegedly trespassing. There is a template to complete to ensure that all appropriate enquiries are made. Health and well-being issues raised may need to be investigated:</p> <p>SBC cannot move trespassers on if a person:</p> <ul style="list-style-type: none"> <li>- cannot be moved for health reasons</li> <li>- is due to give birth</li> <li>- has any major ill-health issue</li> </ul> <p>Education issues also need to be considered if children are on the land for more than a week. The lead officer should liaise with Herts County Council on this issue.</p>
	<p><b>Example of Template:</b></p>

# WELFARE VISIT

Log number (if applicable):

Location:

<b>Names: (if provided)</b>	<b>Dates of Birth:</b>
Any vehicles? Number of vehicles	
Any animals?	
Are there any health needs? Registered with Doctors? Which?	
Are there any health and safety issues to consider? <b>e.g. potentially dangerous dogs, dangerous materials (asbestos)</b>	
Are there any educational needs? Schools attended and dates.	
Why are you here?	
Where have you come from?	
Where can you move on to?	

If issues are brought up regarding health and well-being then SBC will first seek Herts County Council's opinion as to whether to evict. Appendix 4 also shows other elements to consider to help in the decision making process. If it is felt there is a case for eviction then details will be forwarded to Legal, (Paul Froggatt) and the Strategic Director for Planning and Regeneration. The eviction process should not proceed until the Strategic Director, or in his absence the Head of Environmental Services, has given the go-ahead.

Action to evict may be deferred on the grounds of health and well-being or any of the elements outlined in Appendix 4. If this is the case the Lead Officer will inform all necessary parties and work with the HCC Travellers section to agree a future date when the travellers will be able to be moved.

It should also be brought to persons allegedly trespassing that they can approach HCC and apply to stay at official HCC sites. (Although there is a waiting list).

SBC will also liaise with the Herts County Council Traveller co-ordinator. They can offer advice but will also check whether there are any spaces at the Stevenage Traveller Transit Site. (**Herts County Council Traveller co-ordinator Tel 01707 897367**).

<b>2.3.1</b>	<b>Decision to Remove (Fast-track process)</b>
	<p>As soon as it has been agreed that there are no health and well-being issues, the Notice itself will need to be signed by either the Community Safety Manager or the Communities and Neighbourhoods Assistant Director</p> <p>The Community Safety Officers where necessary with the police are required to serve the Notice.</p> <p>SBC will make arrangements for towing the vehicles/caravans and storing them if required.</p> <p>SBC has the right to charge the owners of the property for storage.</p> <p>Police need to be on site to ensure at the point of eviction to prevent a breach of the peace.</p>
<b>3.0</b>	<b>Traveller's Entering Private Property:</b>
	<p>It is the responsibility of the land owner to lead on proceedings to remove the travellers if they so wish. Most land owners faced with this situation make use of the Common Law process.</p> <p>The Police can elect to use their Section 61 powers if they wish, subject to meeting the conditions outlined in section 2.1.</p> <p>SBC can provide a supporting role in terms of offering advice.</p>
Appendix 1	<b>What is a Common Law Eviction?</b>

	<p>Typical Eviction from land (private or commercial), car parks, commercial and industrial sites etc.</p> <p><b>Every landowner has a right to remove trespassers from their land or property, under their ancient rights of Common Law. This right can be delegated to an agent /representative.</b></p> <p>Using Common Law to evict trespassers from your land is a quick and cost effective method of solving the very difficult problem of trespass by itinerant travellers.</p>
<p>Appendix 2</p>	<p><b>Part V Public Order: Collective Trespass or Nuisance on Land</b></p> <p><b>Powers to remove trespassers on land</b></p> <p><b>Section 61: Power to remove trespassers on land</b></p> <p>(1) If the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and—</p> <p>(a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his, or</p> <p>(b) that those persons have between them six or more vehicles on the land,</p> <p>He may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.</p> <p>(2) Where the persons in question are reasonably believed by the senior police officer to be persons who were not originally trespassers but have become trespassers on the land, the officer must reasonably believe that the other conditions specified in subsection (1) are satisfied after those persons became trespassers before he can exercise the power conferred by that subsection.</p> <p>(3) A direction under subsection (1) above, if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.</p> <p>(4) If a person knowing that a direction under subsection (1) above has been given which applies to him—</p> <p>(a) fails to leave the land as soon as reasonably practicable, or</p> <p>(b) having left again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given,</p> <p>He commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.</p> <p>(5) A constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest him without a warrant.</p> <p>(6) In proceedings for an offence under this section it is a defence for the accused to show—</p> <p>(a) that he was not trespassing on the land, or</p>

(b) That he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(7) In its application in England and Wales to common land this section has effect as if in the preceding subsections of it—

(a) references to trespassing or trespassers were references to acts and persons doing acts which constitute either a trespass as against the occupier or an infringement of the commoners' rights; and

(b) References to "the occupier" included the commoners or any of them or, in the case of common land to which the public has access, the local authority as well as any commoner.

(8) Subsection (7) above does not—

(a) require action by more than one occupier; or

(b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(9) In this section—

"Common land" means common land as defined in section 22 of the [1965 c. 64.] Commons Registration Act 1965;

"Commoner" means a person with rights of common as defined in section 22 of the [1965 c. 64.] Commons Registration Act 1965;

"land" does not include—

(a) buildings other than—

(i) Agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the [1988 c. 41.] Local Government Finance Act 1988 or, in Scotland, section 7(2) of the [1956 c. 60.] Valuation and Rating (Scotland) Act 1956, or

(ii) Scheduled monuments within the meaning of the [1979 c. 46.] Ancient Monuments and Archaeological Areas Act 1979;

(b) land forming part of—

(i) A highway unless it falls within the classifications in section 54 of the [1981 c. 69.] Wildlife and Countryside Act 1981 (footpath, bridleway or byway open to all traffic or road used as a public path) or is a cycle track under the [1980 c. 66.] Highways Act 1980 or the [1984 c. 38.] Cycle Tracks Act 1984; or

(ii) A road within the meaning of the [1984 c. 54.] Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2) (a) (ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the [1967 c. 86.] Countryside (Scotland) Act 1967;

"the local authority", in relation to common land, means any local authority which has powers in relation to the land under section 9 of the Commons Registration Act 1965;

"occupier" (and in subsection (8) "the other occupier") means—

(a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; and

(b) in Scotland, the person lawfully entitled to natural possession of the land;

"property", in relation to damage to property on land, means—

(a) In England and Wales, property within the meaning of section 10(1) of the

	<p>[1971 c. 48.] Criminal Damage Act 1971; and</p> <p>(b) in Scotland, either—</p> <p>(i) heritable property other than land; or</p> <p>(ii) corporeal moveable property,</p> <p>and “damage” includes the deposit of any substance capable of polluting the land;</p> <p>“trespass” means, in the application of this section—</p> <p>(a)</p> <p>in England and Wales, subject to the extensions effected by subsection (7) above, trespass as against the occupier of the land;</p> <p>(b)</p> <p>in Scotland, entering, or as the case may be remaining on, land without lawful authority and without the occupier’s consent; and</p> <p>“trespassing” and “trespasser” shall be construed accordingly;</p> <p>“vehicle” includes—</p> <p>(a) any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and</p> <p>(b) A caravan as defined in section 29(1) of the [1960 c. 62.] Caravan Sites and Control of Development Act 1960;</p> <p>And a person may be regarded for the purposes of this section as having a purpose of residing in a place notwithstanding that he has a home elsewhere.</p> <p><b>62 Supplementary powers of seizure</b></p> <p>(1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—</p> <p>(a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or</p> <p>(b) entered the land as a trespasser with a vehicle within the period of three months beginning with the day on which the direction was given,</p> <p>the constable may seize and remove that vehicle.</p> <p>(2) In this section, “trespasser” and “vehicle” have the same meaning as in section 61.</p>
	<p><b>Powers to remove Unauthorised Campers</b></p> <p><b>77 Power of local authority to direct unauthorised campers to leave land</b></p> <p>(1) If it appears to a local authority that persons are for the time being residing in a vehicle or vehicles within that authority’s area—</p> <p>(a) on any land forming part of a highway;</p>

(b) on any other unoccupied land; or

(c) on any occupied land without the consent of the occupier,

The authority may give a direction that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land.

(2) Notice of a direction under subsection (1) must be served on the persons to whom the direction applies, but it shall be sufficient for this purpose for the direction to specify the land and (except where the direction applies to only one person) to be addressed to all occupants of the vehicles on the land, without naming them.

(3) If a person knowing that a direction under subsection (1) above has been given which applies to him—

(a) fails, as soon as practicable, to leave the land or remove from the land any vehicle or other property which is the subject of the direction, or

(b) having removed any such vehicle or property again enters the land with a vehicle within the period of three months beginning with the day on which the direction was given,

He commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A direction under subsection (1) operates to require persons who re-enter the land within the said period with vehicles or other property to leave and remove the vehicles or other property as it operates in relation to the persons and vehicles or other property on the land when the direction was given.

(5) In proceedings for an offence under this section it is a defence for the accused to show that his failure to leave or to remove the vehicle or other property as soon as practicable or his re-entry with a vehicle was due to illness, mechanical breakdown or other immediate emergency.

(6) In this section—

“land” means land in the open air;

“local authority” means—

(a)

in Greater London, a London borough or the Common Council of the City of London;

(b)

in England outside Greater London, a county council, a district council or the Council of the Isles of Scilly;

(c)

in Wales, a county council or a county borough council;

“occupiers” on entitled to possession of the land by virtue of an estate or interest held by him;

“vehicle” includes—

(a)

any vehicle, whether or not it is in a fit state for use on roads, and includes anybody, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and

(b)

A caravan as defined in section 29(1) of the [1960 c. 62.] Caravan Sites and Control of Development Act 1960;

And a person may be regarded for the purposes of this section as residing on any land notwithstanding that he has a home elsewhere.

(7) Until 1st April 1996, in this section “local authority” means, in Wales, a county council or a district council.

### **78 Orders for removal of persons and their vehicles unlawfully on land**

(1) A magistrates' court may, on a complaint made by a local authority, if satisfied that persons and vehicles in which they are residing are present on land within that authority's area in contravention of a direction given under section 77, make an order requiring the removal of any vehicle or other property which is so present on the land and any person residing in it.

(2) An order under this section may authorise the local authority to take such steps as are reasonably necessary to ensure that the order is complied with and, in particular, may authorise the authority, by its officers and servants—

(a) to enter upon the land specified in the order; and

(b) to take, in relation to any vehicle or property to be removed in pursuance of the order, such steps for securing entry and rendering it suitable for removal as may be so specified.

(3) The local authority shall not enter upon any occupied land unless they have given to the owner and occupier at least 24 hours' notice of their intention to do so, or unless after reasonable inquiries they are unable to ascertain their names and addresses.

(4) A person who wilfully obstructs any person in the exercise of any power conferred on him by an order under this section commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Where a complaint is made under this section, a summons issued by the court requiring the person or persons to whom it is directed to appear before the court to answer to the complaint may be directed—

(a) to the occupant of a particular vehicle on the land in question; or

(b) To all occupants of vehicles on the land in question, without naming him or them.

(6) Section 55(2) of the [1980 c. 43.] Magistrates' Courts Act 1980 (warrant for arrest of defendant failing to appear) does not apply to proceedings on a complaint made under this section.

(7) Section 77(6) of this Act applies also for the interpretation of this section.

### **79 Provisions as to directions under s. 77 and orders under s. 78**

(1) The following provisions apply in relation to the service of notice of a direction under section 77 and of a summons under section 78, referred to in those provisions as a “relevant document”.

(2) Where it is impracticable to serve a relevant document on a person named in

it, the document shall be treated as duly served on him if a copy of it is fixed in a prominent place to the vehicle concerned; and where a relevant document is directed to the unnamed occupants of vehicles, it shall be treated as duly served on those occupants if a copy of it is fixed in a prominent place to every vehicle on the land in question at the time when service is thus effected.

(3) A local authority shall take such steps as may be reasonably practicable to secure that a copy of any relevant document is displayed on the land in question (otherwise than by being fixed to a vehicle) in a manner designed to ensure that it is likely to be seen by any person camping on the land.

(4) Notice of any relevant document shall be given by the local authority to the owner of the land in question and to any occupier of that land unless, after reasonable inquiries, the authority is unable to ascertain the name and address of the owner or occupier; and the owner of any such land and any occupier of such land shall be entitled to appear and to be heard in the proceedings.

(5) Section 77(6) applies also for the interpretation of this section.

Appendix 3

The Occupants of Caravans,  
Stationed at Hampson Park Playing Field,  
Stevenage,  
Hertfordshire.

Your Ref: -  
Our Ref:  
Contact:  
Direct Line:

Date:

Dear Sirs,

The Council is the Freehold Owner of the land on which you are stationed. You are there without the Council's consent and are therefore trespassers and have no right to remain on this land or any other council owned land, including common land. You should, therefore, leave the land, (together with all your vehicles and other goods), by (date and time). If you fail to do so, the Council is entitled to exercise self-help and to remove you from the land. The Police have stated that they will attend whilst the Council exercises its rights of removal, to ensure that there is no breach of the peace.

Yours faithfully,

Lead Officer

**CONSIDERATIONS FOR EVICTION**

In considering how to deal with an unauthorised encampment SBC together with HCC and potentially the Police will consider the evidence obtained from the pro forma together with the interest of the local community. The following points should be considered when making the decision:

- Is the land needed for use by the authority or the general public?
- Is the presence of trespassers detrimental to the use of adjoining land?
- Is the encampment creating a hazard to road safety?
- Are public services such as gas, electricity, water or telecommunications at risk of damage, interruption, loss or contamination?
- Is there a danger to public or personal safety or the environment?
- Is the land or any property at risk from damage as a result of the trespass?
- Is the encampment creating an intolerable impact on the employment, use or habitation of adjoining or nearby property?
- Is the encampment too large for its location?
- Has advice been received from the Police which suggest that alleged criminal activity is taking place?
- Are waste materials being deposited on the land causing a pollution hazard?
- Has any false or misinformation been given by the gypsies or travellers?
- Continuous site occupation - no consecutive occupation of a site will be permitted.
- Has the group been in the district before, if so, when and what condition did they leave the site in?
- Are there health and well-being issues that need to be considered

If the answer is yes to any of these questions then the likelihood is that action will be taken to evict the gypsies or travellers.

If the gypsies or travellers are not adhering to the Code of Conduct, this will be considered a strong case for eviction proceedings.

## Unauthorised Encampment Information Sheet

<b>Location</b>	
<b>Date of arrival</b>	
<b>Number of caravans</b>	
<b>1. Are the travellers on Council Land?</b>	
If not, has the owner requested the Council to take action?	
<b>2. What is the occupation of the travellers?</b>	
Is this likely to give rise to a nuisance?	
Is there a nuisance at present?	
<b>3. Are any of the travellers receiving medical treatment from a GP or Hospital?</b>	
Name/address of GP/Consultant	
Any other information?	
<b>4. Are there any children receiving education locally?</b>	
Name/address of school	
<b>5. Are any travellers receiving support from Social Services for any reason?</b>	
Name/phone number of social worker	
<b>6. Are the travellers known to the Council?</b>	
Have they caused any nuisance/public health problems previously?	
<b>7. Are there any vehicles that cannot be moved?</b>	
What steps are being taken to resolve any problems?	
<b>8. Are there any special circumstances as to why they must remain?</b>	
<b>9. Other material information</b>	

<b>Decision</b>	
How long have the travellers been given to remain?	
Officer(s) making decision	
Date of notification to travellers	
Any amended dates	
Reason for amendment	
Officer(s) making decision	
Date eviction proceedings commenced	
Officer(s) reason for eviction	