



Office of the
Deputy Prime Minister

Creating sustainable communities

*Supplement to
'Managing Unauthorised Camping:
A Good Practice Guide'*



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March 2005

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Introduction

The Unauthorised Camping Guidance was originally published on the ODPM and Home Office websites in February 2004. It was intended to be updated when consultation on the new provisions introduced in the Anti-social Behaviour Act 2003 (amending the Criminal Justice and Public Order Act 1994) was complete. This consultation has now ended, and guidance on those provisions appears below.

Guidance will also be issued on the management of unauthorised developments, including the use of planning enforcement powers by local authorities. As there are many common issues relating to the management of unauthorised developments and unauthorised encampments, guidance on both types of unauthorised sites will be incorporated into a single document, which will be published in hard copy when complete.

S62A to S62E of the Criminal Justice and Public Order Act 1994

Sections 60 to 64 of the Anti-social Behaviour Act 2003 insert sections 62A to 62E into the Criminal Justice and Public Order Act 1994 (CJPOA).

The legislation provides the police with a power to direct trespassers to leave land and to remove any vehicles and other property from the land, where there is a *suitable pitch* available on a *relevant caravan site* elsewhere in the local authority area. Where a direction has been given to a person it is an offence for that person to fail to leave the land as soon as reasonably practicable or to enter any land in the local authority area as a trespasser within 3 months of the direction being given.

Power to remove trespassers where an alternative site is available

Under Section 62A, the senior police officer present may direct trespassers to remove themselves and their vehicles and property from land where a *suitable pitch* on a caravan site is available within the same local authority area.

The power may be used where:

- at least two persons are trespassing;
- the trespassers have between them at least one vehicle;
- the trespassers are present on the land with the common purpose of residing there for any period;
- it appears to the officer that the person has one or more caravans in his possession or under his control on the land, and that there is a *suitable pitch* on a *relevant caravan site* for that caravan or each of those caravans;
- the occupier of the land (ie 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.

A *relevant caravan site* is one which is situated in the same local authority area as the land on which the trespass has occurred, and which is managed by a local authority, registered social landlord, or other person or body as specified by order by the Secretary of State. In two tier authority areas, where a district council is situated within a wider county council area, the *relevant caravan site* may be anywhere within the county council area.

The meaning of *suitable pitch* is not defined in the legislation. Of course, it is for the courts to interpret legislation, but the Secretary of State considers that a *suitable pitch* is one that provides basic amenities including water, toilets and waste disposal facilities. Other factors include the potential for community tension and issues of public order/anti-social behaviour need to be considered especially where the Trespasser intends to remain on the site for the 3 month period. This could include an authorised transit site or stopping place. There should be a reasonable expectation that the pitch will be available for peaceful occupation for at least three months, except where the trespasser is expecting to move on before that time.

In determining whether a *suitable pitch* is available, the police officer must consult the local authority within whose area the land is situated. In two tier authority areas, where a district council is situated within a wider county council area, the *suitable pitch* may be anywhere within the county council area. A suitable pitch will only be available if there are currently no waiting lists for that site.

Local authorities and the police are both public authorities bound by the Human Rights Act 1998, and it is unlawful for a public authority to act in a way which is incompatible with a Convention right. In advising on whether a *suitable pitch* is available, the local authority should take account of the results of welfare enquiries undertaken at the encampment, which may give rise to human rights issues. In particular, efforts should be made to find *suitable pitches* that would enable the unauthorised campers to remain together. If the size of the encampment is such that this is not possible, then efforts should be made to ensure that any dependent members of the encampment are not separated from necessary support. For example, every effort should be made to keep together parents and dependant children, or adults supporting elderly or infirm relatives.

Where the senior police officer present at the scene reasonably believes that these conditions are satisfied in relation to a person and land then he may direct the person:

- to leave the land (including roads or the roadside);
- to remove any vehicle and other property he has with him on the land.

The direction may be communicated to the person to whom it applies by any constable at the scene.

Failure to comply with a direction: offences

Under Section 62B, a person commits an offence if he knows a direction has been given which applies to him and:

- he fails to leave the land as soon as reasonably practicable;

or

- he enters any land in the area of a *relevant local authority*, as a trespasser, within 3 months of the direction being given with the intention of residing there.

Where the land in respect of which the direction was given is situated in the area of more than one local authority, that is, which is situated within the area of a district council, but which is also within the area of a county council, then an offence is only committed if further trespass occurs in the area of the district council (which is the *relevant local authority*) where the original trespass occurred.

A person guilty of an offence is liable to imprisonment for up to 3 months or a fine not exceeding level 4 on the standard scale (currently £2,500) or both.

A constable in uniform who reasonably suspects that a person is committing this offence may arrest him without a warrant.

In proceedings relating to such an offence, it is a defence to show:

- 1) that the person was not trespassing on the land;

or

- 2) that the person had a reasonable excuse:

- for failing to leave the land as soon as reasonably practicable;

or

- for entering land in the *relevant local authority* area as a trespasser with the intention of residing there;

or

- 3) that, at the time the direction was given, the person was under the age of 18 years and was residing with his parent or guardian.

“Reasonable excuse” may mean illness/injury to a member of the group or vehicle failure etc which prevents them moving off but it would be a decision for the officer at the scene to establish whether this was indeed a ‘reasonable excuse’ in the circumstances.

Failure to comply with direction: seizure

Under Section 62C, a constable may seize and remove a vehicle from the land.

This power may be exercised where a direction under section 62A has been given and the constable reasonably suspects that a person to whom the direction applies has, without reasonable excuse:

- failed to remove the vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control;

or

- entered any land in the area of the *relevant local authority* as a trespasser with a vehicle within 3 months of the direction being given, with the intention of residing there.

(Where the land lies in more than one local authority, that is, in a district council within a county council's area, then the power of seizure only relates to the area of the district council (the *relevant local authority*) where the original trespass occurred.

Under these new powers the term 'vehicle' means the same that is applied to section 61 of the Criminal Justice and Public Order Act 1994, to cover:

- (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
- (b) a caravan as defined in section 29(1) of the Caravan Sites and Control Development Act 1960;

S62A to S62E – practical implementation

Role of the occupier

Before the police can act, the occupier of the land, or person acting on his behalf, must ask the police to remove the trespassers from the land.

Before contacting the police, occupiers or their agents are advised to check that the following conditions apply:

- there are two or more persons trespassing on the land;
- they have between them at least one vehicle on the land;
- and they are intending to reside on the land for any period.

It is often the case that talking to the unauthorised campers can lead to an agreement that they will leave shortly and no further action may be necessary.

Where the occupier or person acting on his behalf considers that the above conditions apply, and believes the unauthorised campers intend to remain, he may ask the police to remove them from the land.

Where the occupier is a public body

Where the occupier of the land is a public body (such as a local authority or the Highway Agency), then every effort should be made to avert forced eviction.

In cases where the trespassers are members of an ethnic minority, such as Romany Gypsies or Irish Travellers, public bodies are required under the Race Relations Acts to have due regard to the need (among other matters) to promote good race relations in their dealings, including managing an unauthorised encampment.

Those on an encampment should be treated with the same courtesy and respect as would be extended to members of the settled community, and officials should be sensitive to different cultural perspectives.

Before police are asked to give a direction under S62A, local authorities and other public bodies should have undertaken the welfare enquiries set out in Chapter 5 of the Guidance on Managing Unauthorised Encampments.

Where eviction is considered to be the only option, and the public body believes the conditions required for S62A to S62E of the CJOPA are satisfied, and the local authority has confirmed that a *suitable pitch* is available, then the public body may ask the police to remove the unauthorised campers from the land.