



Home Office

Statutory Guidance for Police on Unauthorised Encampments

a summary of available powers

June 2022



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Presented to Parliament pursuant to section 85 of the Police,
Crime, Sentencing and Courts Act 2022

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ISBN 978-1-5286-3532-5

E02764577 06/22

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Associates Ltd. on behalf of the Controller of Her Majesty's Stationery Office

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Summary

About this guidance

This statutory guidance sets out the suite of powers available for police to respond to unauthorised encampments and to tackle a range of harms proportionately. It includes the powers that were already available to police in the Criminal Justice and Public Order Act 1994 (CJPOA) and new powers introduced by the Police, Crime, Sentencing and Courts Act 2022 (“the 2022 Act”). The new powers deliver on the Government’s manifesto commitment to tackle unauthorised encampments and the harms caused by trespassers refusing to leave land and causing harm to communities and landowners.

The Secretary of State must issue this guidance under s62F of the CJPOA relating to the exercise by the police of their powers under s60C to s62E of the CJPOA and regulations made under s67. The powers include a new offence of residing on land without consent in or with a vehicle with other conditions introduced by the 2022 Act. This guidance is intended to help police forces exercise the powers available to them in the CJPOA, including new or amended provisions introduced by the 2022 Act.

Under s67 of the CJPOA, any vehicles which have been seized and removed by police under s62(1), s62C(3), or s64(4) may be retained in accordance with regulations made by the Secretary of State. The Police (Retention and Disposal of Motor Vehicles) Regulations 1995 are made under this section.

All powers referred to in the guidance have been designed to apply to anyone residing on land without consent and refusing to leave who causes harm, meeting the conditions for enforcement action, regardless of their race or ethnicity. The Government expects the police to take action where appropriate against anyone who breaks the law. Police should also continue to consider their obligations under human rights legislation, their Public Sector Equality Duty and wider equalities legislation.

It remains the case that the response to unauthorised encampments and to individuals who do not leave land when asked to do so, causing harm in the conditions set out, requires a locally driven multi-agency response, led by local authorities and supported by police. Operational advice for officers dealing with unauthorised encampments produced by the National Police Chiefs Council (NPCC) will be updated in accordance with changes in the 2022 Act. There is also separate guidance for dealing with unauthorised encampments which is primarily aimed at local authorities but is also intended to be helpful to owners or occupiers of land and others affected by unauthorised encampments or individuals who refuse to leave land and cause harm in the conditions described. The decision on which police powers are used remains at the discretion of the police officer attending a particular incident who must, when exercising that discretion, have regard to this guidance under s62F of the CJPOA.

The unauthorised encampments provisions are not targeted at rough sleepers, nor at those looking to access the countryside for leisure, such as ramblers and other groups. The provisions will apply to anyone who refuses to leave land and causes harm, meeting the conditions of the powers within this guidance.

In the above context this guidance aims to:

- set out all the new powers in the 2022 Act and existing powers in the CJPOA (s60C to 62E and regulations made under s67) which are available to police to tackle unauthorised encampments.
- clarify the meaning of key terms within the 2022 Act.
- help the police decide on proportionate action.

The scope of this guidance does not cover incidents whereby individuals purchase land and occupy it, with or without planning permission. Action against an unauthorised development will continue to be led by the local planning authority.

What has been introduced in the 2022 Act?

s60C to s60E of the CJPOA set out the criminal offence relating to residing on land without consent, in or with a vehicle, and associated seizure and forfeiture powers. Some existing powers in the CJPOA have also been amended to strengthen the provisions.

What has changed for the existing powers?

Existing powers, which in some cases have been strengthened by the 2022 Act, are set out in s61 to s62E of the CJPOA. Regulations made under s67 relate to vehicles seized under s62(1) or s62C(3).

The existing provisions, as strengthened, are designed to ensure that lower levels of harm or disruption committed by those who refuse to leave land, than those for the new offence, can be met with proportionate enforcement action. Where possible, police should liaise with local authorities when assessing each individual case and rely on the evidence in each to determine the appropriate powers to use.

The new criminal offence

The new criminal offence under s60C to s60E of the CJPOA is as follows:

Offence relating to residing on land without consent in or with a vehicle, as introduced by the 2022 Act	
Primary conditions of the criminal offence- s60C(1)	<p>Offence relating to residing on land without consent in or with a vehicle applies where:</p> <ul style="list-style-type: none"> a) a person is aged 18 or over; b) a person is residing, or intending to reside, on land without the consent of the occupier of the land; c) a person has or intends to have at least one vehicle with them on the land; d) one or more conditions in subsection 60C(4) are met; and e) a request is made to the person to leave and/or remove their property by the occupier, a representative of the occupier or a constable. <p>This offence was created by the 2022 Act.</p>
Further conditions of the criminal offence - s60C (2)	<p>A criminal offence is committed when a person meets all the conditions in s60C (1) and also meets one of the following:</p> <ul style="list-style-type: none"> a) a person fails to comply with the request to leave as soon as reasonably practicable; or b) a person re-enters or enters the land with an intention of residing there without consent and has, or intends to have a vehicle with them, within 12 months of the request being made.
Specific conditions related to harm - s60C (4)	<p>A person will commit this offence if they have caused, or are likely to cause, significant damage, disruption, or distress and have met the other conditions in s60C(1) and (2).</p> <p>A constable must consider if the person has caused or is likely to cause significant damage, disruption or distress. What could constitute significant damage, disruption and distress can be found under the heading 'significant' below.</p> <p>Under s60C(4) a person can commit the offence if they are not yet physically on the land and if they are likely to cause significant damage, disruption or distress. Further detail can be found in the 'likely to cause' subsection further down this guidance.</p>

	<p>If a person commits significant damage, disruption or distress and then leaves further to the request from the occupier/their representative/a constable, the s60C offence will not apply unless they return to the land within the prohibited period of 12 months. However, other offences relating to damage could have been committed and options should be explored where appropriate.</p>
<p>Accompanying power to seize and retain vehicles/other property - s60D</p>	<p>Police will be able to exercise powers of arrest and seizure in relation to the offence. The power of seizure includes power to seize a vehicle but is not limited to this.</p> <p>If a constable reasonably suspects that an offence has been committed under s60C, the constable may seize and remove any relevant property that appears to the constable:</p> <ul style="list-style-type: none"> a) to belong to the person suspected of committing the offence; b) to be in the person's possession; or c) to be under the person's control <p>s60D(2)(a) provides that a vehicle can be seized 'wherever located' if the constable suspects the person had or intended to have this with them in commission of the offence under s60C. For 'other property' to be seized it must be on the land which was subject to the request to leave, as provided by s60D(2)(b).</p> <p>s60D(10) enables a person to retrieve property where they satisfy the chief officer that the property belongs to the person at that time and belonged to them at the time of the suspected offence under s60C.</p> <p>s60D(11) prevents another person retrieving the seized vehicle where the chief officer of police reasonably believes that the vehicle was in the possession or control of the offender with that person's consent at the time of the offence.</p> <p>The relevant chief officer of police may retain any property that has been seized under subsection (1) until the end of the period of three months beginning with the day of the seizure or, if criminal proceedings are commenced, until the conclusion of those proceedings.</p> <p>If a decision is made not to charge the person, the property must be returned to the person believed to be the owner as soon as practicable.</p>

	<p>If a chief officer of police cannot after reasonable inquiry identify the vehicle owner: (a) the chief officer must apply to a magistrates' court for directions, and (b) the court must make an order about the treatment of the property.</p>
Accompanying power for forfeiture - s60E	<p>If a person is convicted of the offence under s60C, the court may order any vehicle/other property that has been seized under s60D and retained by the police to be forfeited.</p>
Penalties	<p>The maximum penalty for the offence will be three months' imprisonment or a fine not exceeding level 4 (£2,500) on the standard scale, or both.</p>
Reasonable excuse	<p>A person will not commit the offence if they can show they have a reasonable excuse for failing to comply with a request to leave as soon as reasonably practicable and remove their property or, after receiving the request, entering (or re-entering) the land with the intention of residing there without consent within 12 months of the request.</p>
"Significant"	<p>The factual circumstances of each case will determine whether a 'significant' level of damage, disruption or distress has been caused or is likely to be caused and this will be for police and courts to assess.</p> <p>The assessment of this will depend on the individual facts of each case; it is important to remember that one of significant damage, disruption or distress must be caused or likely to be caused by the person's conduct or residence on the land. Such harms, disruption or distress could include, but are not limited to:</p> <ul style="list-style-type: none"> a) local communities being prevented from accessing or using facilities, such as school sports fields, parks and car parks. b) property on the land is damaged or the land itself is damaged, including agricultural land. c) forcing entry to the land has caused damage to fixtures or fittings. d) the environment is damaged, including excessive littering, fly tipping, excessive noise and smells from waste or smoke due to bonfires. e) interference with water, energy or fuel supplies. f) impacting the ability of workers or customers to access shopping centres, businesses, or agricultural land, if this results in the loss of lawful use of the land.

- g) distress caused by offensive conduct such as verbal abuse and threatening behaviour. This may include a level of distress which changes behaviour.

These are some of the factors that the police could consider when assessing whether damage, disruption or distress is significant. If the police deem the harms to not be significant, then the offence under s60C would not apply. However, powers under s61 and s62A of the CJPOA 1994 could still be used, providing the conditions are met.

Some of the factors for police to consider when considering the appropriate enforcement response could also include:

How are the occupiers of the land and users of the land affected? If local sports teams cannot use the facilities due to damage caused by people residing or intending to reside on land, or because the land is obstructed, then this could be deemed significant damage or disruption. The size and scale of the land occupied/damage caused is relevant when considering how an occupier and land users are affected.

How frequently is the land used? People residing or intending to reside on an industrial estate or shopping centre car park could significantly disrupt people's ability to go about their lawful business and impact trade. However, if the unauthorised encampment is in the corner of a local field or park then it might not be causing significant disruption.

How is the environment being damaged? A small amount of rubbish may not be judged by the courts to constitute significant damage to the land. However, excessive smells, noise, bonfires, and larger amounts of rubbish may be considered significant by police/courts.

The above is not, and should not be considered, an exhaustive list. There may be scenarios listed above which a court could deem to meet the threshold of "significant" in certain circumstances. Police will be expected to deal with each case on its own merits and determine through gathering evidence whether the threshold of significant has been met. If it has not been met, then the other CJPOA powers may be used.

Existing and strengthened powers to remove trespassers on land

Existing powers to remove trespassers on land as introduced in the CJPOA and amended by the 2022 Act	
<p>Power to remove trespassers with a common purpose of residing on land</p>	<p>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.</p> <p>s61 gives police the powers to direct trespassers on land who have the common purpose of residing there for any period.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>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'.</p> <p>Failure to comply with the direction, by failing to leave the land as soon as reasonably practicable and without reasonable excuse, is an offence.</p> <p>Similarly, it is an offence for a trespasser who has left the land in compliance with a direction to re-enter it as a trespasser within 12 months of the direction being given. The period of prohibited return has been extended from 3 months to 12 months under the 2022 Act. If breached, without reasonable excuse, police will be able to exercise powers of arrest and seizure.</p> <p>If a constable reasonably suspects a person has failed to remove their vehicle as directed, without reasonable excuse, or entered the land as a trespasser within 12 months of the direction to leave</p>

	<p>being given, a constable may seize and remove that vehicle under s62 of the CJPOA.</p> <p>As introduced by the 2022 Act, a direction under s61 can be issued to trespassers on land that forms part of a highway where the other conditions are met.</p> <p>If there are no significant harms committed, then s61 powers can be used by police and local authorities can use other existing powers available to them.</p>
<p>Police Powers to direct trespassers to an alternative site</p>	<p>Police have powers under s62A of the CJPOA to direct trespassers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area, provided there is at least one trespasser with the purpose of residing, one vehicle present on the land and an occupier or person acting on their behalf has asked the police to remove the trespassers.</p> <p>Failure to comply with the direction, by failing to leave the land as soon as reasonably practicable, without reasonable excuse, is an offence under s62B. Similarly, a person is committing an offence if they enter any land in the area of the relevant local authority as a trespasser with the intention of residing there within 12 months of the direction being given.</p> <p>In accordance with s62C, if a direction issued under s62A(1) is breached, without reasonable excuse, police will be able to exercise powers of arrest and seizure.</p>
<p>Police (Retention and Disposal of Vehicles) Regulations 1995/723</p>	<p>Under s67 of the CJPOA, any vehicles which have been seized and removed by police under s62(1), 62C(3), or 64(4) may be retained in accordance with regulations made by the Secretary of State. The Police (Retention and Disposal of Vehicles) Regulations 1995/723 are made under this section.</p> <p>These regulations provide for the retention, safe keeping, disposal and destruction, by the police or persons authorised by the chief officer of the relevant police force, of vehicles seized under those powers.</p> <p>Under Regulation 4, the authority having custody of the vehicle is obliged to take steps to give a notice to the person from whom the vehicle was seized requiring them to claim the vehicle within 21 days of the day on which notice is given. The notice must state that unless the vehicle is claimed on or before that date the</p>

	<p>authority intend to destroy or dispose of it. The notice must also indicate that charges may be payable by that person and that the vehicle may be retained until these charges are paid.</p> <p>The level of the charges is prescribed in Regulation 9.</p> <p>Where the authority is unable to serve a notice on the owner of the vehicle, or that person fails to remove the vehicle from their custody, the authority may dispose of or destroy the vehicle in accordance with Regulation 6.</p> <p>Regulation 6(5)(a) provides, subject to Regulations 6(5)(b) or (c), that the vehicle must not be disposed of/destroyed before 3 months from the date of seizure</p> <p>Regulation 8 provides that where a vehicle is sold, the net proceeds of sale are payable to the owner of a vehicle, if, within one year of the sale, they satisfy the authority that they were the owner of the vehicle.</p>
<p>Compensation for victims of an offence</p>	<p>Where an offender (which includes an adult or an organisation) is convicted of an offence, s133 and s134 of the Sentencing Act 2020 give the criminal courts in England and Wales the power to impose a compensation order. A compensation order requires the offender to pay compensation for any personal injury, loss or damage resulting from the offence. The court must give reasons if it decides not to make an order where one is available.</p> <p>A compensation order may be imposed as a sentence in its own right, or as an ancillary order alongside another sentence such as a fine or a community order.</p> <p>s135 of the Sentencing Act 2020 provides that a compensation order must specify the amount to be paid under it, and that this must be an amount which the court considers appropriate having regard to any evidence, including any representations made by the offender or prosecutor. There is no statutory limit on the amount of compensation that may be imposed for an offender aged 18 or over. However, in determining whether to make a compensation order, and in determining the amount to be paid under such an order, the court must take into account the offender’s means.</p> <p>s137(4) of the Sentencing Act 2020 makes clear that compensation can be awarded in relation to certain costs connected to certain offences relating to waste, and these would constitute loss or damage for the purposes of making a</p>

	compensation order. A compensation order may be made in favour of a local authority.
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Application of the guidance

When deciding on the appropriate enforcement action to take in relation to the new offence and existing CJPOA enforcement powers, police should continue to consider all the facts of each case. NPCC operational advice for tackling unauthorised encampments and individual police force guidance will provide operational best practices and can be used alongside this statutory guidance.

The ‘likely to cause’ damage, disruption or distress provision applies to the offence and not the existing s61 or s62 provisions.

Possible considerations for the police include (but are not limited to) the levels of the following harms caused and, for the new offence only, the levels of harm a person is ‘likely to cause’:

- (a) damage that the person has caused.
- (b) interference that a person has caused to local amenities such as gas and electric supplies through their presence, likely presence or conduct on the land.
- (c) harm that the person has caused to the local environment, such as excessive noise or smells through their presence, likely presence or conduct on the land.
- (d) interference with people’s ability to access or use the land through the person’s presence, likely presence or conduct on the land.
- (e) potential interference with the peaceful enjoyment of neighbouring property.
- (f) harm to good community relations.
- (g) distress caused by abusive behaviour and/or language or threatening, abusive or insulting writing or signs.
- (h) risks of public disorder or public safety.

The s60C offence applies only to those individuals who commit or are likely to commit significant damage, disruption or distress.

Failing to leave

A s61 direction to leave can be made against all trespassers even if the damage, disruption, or distress is caused by only one member of the encampment, providing there are two or more trespassers on the land with the purpose of residing. A direction to leave can also be made against all trespassers in the event no damage, disruption or distress is caused but there are six or more vehicles on that land. s61 relies upon reasonable steps being taken by, or on behalf of, the occupier to ask trespassers to leave in every case before police powers can be used.

Under s61, if the person fails to comply with the request to leave as soon as practicable (which will depend on the facts of the case), or they return as a trespasser to the location within 12 months of the direction, without reasonable excuse, they are committing a s61 offence.

What is a reasonable excuse?

A person can show they have a reasonable excuse for failing to leave the land as soon as reasonably practicable or for entering again within the prohibited period.

Police will be expected to consider what constitutes a reasonable excuse depending on the factual circumstances of each case.

The following examples may be unlikely to be considered reasonable excuses:

- a) the vehicle has broken down; the legislation states a vehicle is 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;
- b) the attendance of events;
- c) the attendance of an appointment, unless for medical reasons to which the police and courts deem a reasonable excuse for residing on land without permission applies.

Welfare issues

Police should ensure that, in accordance with their wider equalities and human rights obligations, proper welfare enquiries are carried out to determine whether there are pressing needs presented by those on unauthorised encampments and that, where necessary, the appropriate agencies (including Local Authorities) are involved as soon as possible.

Each case should be dealt with on its own merits by police. This includes considering the potential impact issuing a direction to leave, arresting a person, or seizing a vehicle may have on the families involved and on the vulnerable, before taking an enforcement decision.

If necessary, enforcement action against those on the unauthorised encampment could be delayed while urgent welfare needs are addressed.

The police have the powers to take action where significant harms have been caused. It is for the police to decide on proportionate enforcement action based on the circumstances and evidence of each case.

Equalities

The Equality Act 2010 makes it unlawful to treat someone less favourably than others because of their protected characteristic, including race (which includes a person's ethnic or national origins and nationality).

The Public Sector Equality Duty, under s149 of the Equality Act 2010, applies to the police (as a public authority) and places a duty on the police to have due regard to the need to

eliminate discrimination, promote equality of opportunity and foster good relations between persons of different racial groups.

Gypsy, Roma, and Irish Travellers, each a distinct racial group, are recognised as sharing a protected characteristic under the Equality Act 2010. Following a nomadic lifestyle is lawful. The Gypsy, Roma, Traveller community has a unique way of life and their way of life may need to be accommodated differently to other communities or wider society. Members of the Gypsy, Roma, Traveller community, like all members of the public, have a right to respect for private and family life under Article 8 of the Human Rights Act 1998. The European Court has recognised that a nomadic way of life is central to the Gypsy and Traveller identity.

However, the police, alongside other public bodies, should not gold-plate human rights and equalities legislation. The police have been given strong powers to deal with unauthorised encampments and when deciding on what action to take, they should consider the harms caused by the unauthorised encampment (including those listed on page 5 and 6) and that an individual may be deprived of their property where this is provided for by law and where there is public interest justification for doing so.

Human rights legislation does not prevent action to protect local amenities and the local environment; to maintain public order and safety; and to protect public health.

The necessary balancing of interests and rights of both travellers and settled residents reflects the position regarding qualified rights in the Human Rights Act 1998/European Convention on Human Rights (“ECHR”) and the need to maintain good community relations under the Equality Act 2010.

Likely to cause

Relating to the new offence under s60C only, a person will commit an offence if they have caused, or are **likely to cause**, significant damage, disruption, or distress while residing or with an intention to reside. This enables the police to prevent further repeated significant harms, rather than waiting until damage has taken place again, at another or the same location before taking action. This is particularly useful where those who cause damage, leave and move to another piece of land a short distance away or return, without the consent of the occupier.

As is the case for other criminal offences, the police will need to collect evidence to form reasonable grounds to suspect a person has committed the offence and the offence will have been committed only where the specific conditions have been met.

Intention to reside

As for ‘likely to cause’, the police will need to assess each case and consider whether there is an intention to reside. An example could be where a person is not yet physically

on the land but is in a vehicle just outside of the land and has already placed several of their belongings on the land, thus possibly indicating an intention to reside.

Preventing the return of an unauthorised encampment

Following up on enforcement action

Where a trespasser or unauthorised encampment returns in the conditions specified and the police have used their powers under the CJPOA as amended by the 2022 Act to remove them, police should consider pursuing further enforcement action.

Circumstances where the police should consider further enforcement action are:

- s60C offence - when a person returns with an intention to reside in or with a vehicle within 12 months of being directed to leave, without a reasonable excuse.
- s61 offence – when a person having left the land after being issued a direction to leave, again enters the land as a trespasser within the period of 12 months without a reasonable excuse.

Police should have systems in place to record data so they can know whether a trespasser or encampment is returning to the same location or moving to another location to commit (or in some cases likely to commit) an offence in order to make best use of their enforcement powers.

Additional Sources of Information

Police may also wish to refer to the following guidance documents and resources:

[Dealing with illegal and unauthorised encampments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dealing-with-illegal-and-unauthorised-encampments)

[The Police \(Retention and Disposal of Motor Vehicles\) Regulations 1995 for powers of seizure](#)

[NPCC operational advice](#)

Glossary of terms

Term	Definition
Highway	This can be interpreted broadly. In London Borough of Southwark and Another v. Transport for London [2018] UKSC 63, the Supreme Court considered a highway to be “a way over which the public have rights of passage, whether on foot, or horseback or in (or on) vehicles”.
Human Rights Act 1998	An Act passed in 1998, and brought into force in October 2000, which requires all public authorities to act in compliance with the rights and obligations set out in the Act.
Land	Does not include buildings other than— (a) agricultural buildings within the meaning of paragraphs 3 to 8 of Schedule 5 to the Local Government Finance Act 1988, or (b) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979.
Proportionality	The concept that enforcement action should go no further than necessary to prevent or tackle the harm that has been or is likely to be committed and that a fair balance should be struck between the rights of the individual and the interests of the community.
Occupier	The person entitled to possession of the land by virtue of an estate or interest held by the person, including a person who rents the land.
Relevant property	1) a vehicle which the police suspect the person had or intended to have with them for the purposes of the offence under s60C or 2) any other property on the land which was subject to the request to leave.
Vehicle	Vehicle includes 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. Static caravans which are capable of being moved are included.

