Five Stage Procedure

The procedure comprises of 5 stages as follows:

Stage 1 – Identification of Land Ownership
Stage 2 – Action by the Council – Welfare
Stage 3 – Action by the Council – Decision Making
Stage 4 – Action by the Council – Enforcement Stage
Stage 5 – Action by the Council – Site Clean-up

The stages are simplified in a flowchart at Appendix T1 of this document.

STAGE 1 – IDENTIFICATION OF LAND OWNERSHIP

The relevant course of action will be determined depending on whether the land is privately owned land or land owned by the Council. Another factor which may need to be considered is what action should be taken where the land is owned by the Gypsies or Travellers themselves. The SPOC will liaise with the appropriate departments to determine Land Ownership.

Privately owned land:

The Council will not take action to evict where there is an illegal encampment on privately owned land. It will be the responsibility of the land owner to arrange for evictions, where necessary with the support of the police.

The Council will notify the landowner of the encampment where they are not already aware and will give advice on how to effectively manage the illegal encampment and the powers available to recover possession of the land. In order to formulate a consistent approach to advice a hand out to be issued to landowners is contained at Appendix T4.

If the landowner has given the encampment permission to use the land and the encampment are not causing disruption to the settled community the matter should be referred to the Local Authority's Planning Department to look at taking enforcement action for an illegal development.

Where the owner does not take action to recover the land or the land owner cannot be found and the encampment is causing serious disruption or a nuisance to the settled community action should be taken by the authorities following the procedure for if the land was Council owned land. Initially by proceeding to stage 2 of this procedure.

Land owned by Gypsies or Travellers (Unauthorised Developments):

STAGE1- IDENTIFCATION OF LAND OWNERSHIP:

Where Gypsies and Travellers (or anyone else) buy land and develop it as a caravan site without planning consent, any enforcement action must be taken through the planning system.

Enforcement in this regard will be a matter for the Council Planning Department in accordance with their enforcement policy.

Local Authority Owned Land:
Where the land is identified as land which is owned by the Council then proceed to Stage 2.

Devon County Council Land:

The County Council has overall management for the two gypsy and traveller Local Authority sites: Sowton and Broadclyst.

Sowton, which has been in existence for over 30 years, consists of 11 pitches, offering permanent residential accommodation.

Broadclyst consists of five permanent residential pitches and is slightly different in that the land is owned by The National trust.

Although there are a number of authorised private sites in Devon there is still a serious shortage of sites for gypsies and travellers both here in the county and across the country as a whole. This has led to gypsies and travellers camping on land that they do not own (unauthorised encampments), and also a growing tendency to buy land and develop it without planning permission (unauthorised developments). At present, approximately one in five traveller caravans in England are on unauthorised sites. 90% of planning applications that gypsies and travellers submit fail, which often forces them back onto the road with no fixed abode.

When gypsies/travellers camp on land that they do not own, without the permission of the owner, they are trespassing. If a negotiated solution is not possible, then private landowners, local authorities and the police all have powers of enforcement to evict. However, a negotiated solution that avoids confrontation is often the most appropriate way of dealing with a situation.

Unauthorised encampments **on Devon County Land** fall into 2 main categories: those on land owned by local authorities (highways, schools, public parks and car-parks etc), and those on privately owned land.

Residents on both sites pay rent and are responsible for paying council tax and utility costs.

The County Council Gypsy Traveller Liaison Service (GTLS) is the first point of contact for responding to new Unauthorised Encampments (UEs) and monitoring Areas of Temporary Acceptance (ATAs) **on Devon County Council land**. The details of any UE on Devon County Council (DCC) land should be referred to the GTLS as soon as possible.

- Referrals to the GTLS are usually through:
- MyDevon Customer Contact Centre

- The local County Councillor
- Devon County Council Highways department
- Another Public Sector organisation (3rd party notification).

Referrals may be made by anyone including members of the public, businesses, public service staff or Councillors.

Contact details for MyDevon
Telephone 0845 155 1015.

Email customer@devon.gov.uk

SMS text 80011 (please start all messages with the word Devon)
Fax 0845 155 1003 Textphone 0845 155 1020

Write to Devon County Council, County Hall, Topsham Road Exeter EX2 4QD

STAGE 2 – ACTION BY THE COUNCIL – WELFARE

Property Services will be responsible for managing this stage of the procedure and will monitor progress and report back to the nominated officer accordingly.

As soon as it is agreed that the Council will take action a representative from the Council will attend the site to carry out an initial welfare assessment to identify relevant welfare issues. This person will also distribute refuse sacks to be used by members of the encampment in order that the duties regarding refuse under the code of conduct can be adhered to. This person will have regard to the Council's risk assessment. This person will then report back to the Property Services who will then contact the relevant person should any welfare issues have been identified.

If any welfare concerns are raised welfare support will be provided by the following:

Potential Issue	Support
Education	Ethnic Minority Achievement Service
Homelessness	Strategic Housing Service
Health	Public Health – Health Protection & Civil Contingencies
Animal Welfare	RSPCA RSPCA
Child Care	Safe Guarding Procedure , MASH, DCC Care Direct.
Adult Care	Safe Guarding Procedure , MASH, DCC Care Direct.

Full contact details of the above services/agencies are at Appendix T5.

Where possible welfare support should be provided within 2 working days.

STAGE 3 – ACTION BY THE COUNCIL – DECISION MAKING

A decision will be made by the Group Manager for Corporate Property and Commercial Assets on the best course of action. The decision will be recorded.

If serious or urgent welfare issues need addressing the removal of the encampment should be delayed where possible unless the site is particularly hazardous or sensitive, in which case the illegal campers should be asked to relocate to a more appropriate location in the vicinity.

Where there are serious or urgent welfare issues the Deputy Chief Executive (S151), in discussion with Elected Members will need to make a decision on whether to enforce or allow the campers to stay until the welfare issues are resolved. This decision will be based on a number of factors including, type of land, number of campers, behaviour of campers and the effect that the encampment is having on the settled community within the vicinity of the site.

Before making a decision to evict the decision maker must:-

- Consider the relevant human rights of the persons involved. Public bodies must take account of the relevant human rights when deciding whether or not to evict persons from an illegal encampment and must act proportionately.
- Consider and ensure the Council complies with other relevant public duties such as the Public Sector Equality Duty or the duty under section 11 of the Children Act 2004

Generally the following also should be considered:

The decision to evict and the full reasons for it should be recorded including considerations of human rights and the other public duties (Public Sector Equality duty and the duty under s.11 of the Children Act 2004). Such a written decision will be particularly helpful if the decision comes under judicial scrutiny.

Where an encampment cannot be allowed to remain eviction action may have to be taken:

There are various methods of enforcement action available to remove illegal campers. Although many encampments can be dealt with through negotiation there will be times when eviction is the only option. The Government believe that local authorities should always follow a route which requires a court order and this should be taken into consideration by the authorities when making any decisions. Different cases will require different courses of action and when making its decision the Council should take into account the factors. In the majority of cases the Council will use the services of the external service.

STAGE 4 – ACTION BY THE COUNCIL - ENFORCEMENT

Once the decision to evict has taken place the procedure taken to secure eviction will differ depending on the decided course of action.

The most likely course of action to be taken by the Council will be by private Bailiffs or through the County Court.

Step by step approach – Civil Procedure Rule 55 County Court:

NOTE: These steps will only be taken once the Council has carried out its initial welfare assessments and a member of the Leadership team has approved this course of action.

- Legal Services will draw up the relevant documentation which includes a witness statement detailing the action taken by a Member of the Property Services team.

- Legal Services will attend Court, usually accompanied by the Enforcement Officer to issue the papers and obtain a hearing date.

- The Group Manager for Corporate Property and Commercial Assets will arrange for the service of the Notice of Hearing and accompanying documentation.

- If the illegal campers fail to leave the site Legal Services will attend Court with the Enforcement Officer to obtain an Order for possession.

- A Member of the Property Services team will serve the Order for possession and keep the necessary stakeholders informed.

- If the illegal campers fail to leave the site Legal Services will apply for a warrant for possession of land.

- A member of the Property Services Team will work with the County Court/Bailiffs who will carry out the eviction.

STAGE 5 – ACTION BY THE COUNCIL – SITE CLEANUP

Although the Council provides illegal encampments with refuse sacks and arranges collection there will still be some circumstances where cleaning up will be required.

The Street Scene service should be notified by The Enforcement Officer as soon as the illegal encampment has left the site.

The Council will then attend as soon as reasonably practicable.