

# **Newton Flotman Parish Council**

## **GYPSY & TRAVELLER POLICY & PROCEDURE**

### **1. INTRODUCTION**

- 1.1 The purpose of this policy and procedure is to better equip Officers and Councillors in deciding how to deal with unauthorised Traveller encampments on Newton Flotman Parish Council owned, leased, or managed land.
- 1.2 This policy is also to reassure Newton Flotman's residents and other interested parties of the Council's position with regards to unauthorised encampments.

### **2. DEFINITION**

- 2.1 An unauthorised encampment occurs when two or more people trespass on privately owned land with the intention of residing there without permission of the land owner.

### **3. POLICY**

- 3.1 Responsibility following this policy is with the Parish Clerk and Chairman at the time an unauthorised encampment is reported. Due to the nature and speed at which action unfolds, liaison with the Council is not always possible so this policy is therefore in place to ensure that unauthorised encampments can be dealt with in a fair and humane manner balancing the rights and needs of the parish and the Travellers themselves.

### **4. COUNCIL POWERS**

- 4.1 The Clerk/Chairman (on behalf of the Council) will consider carefully whether unauthorised encampments can be tolerated for a period and when and how to instigate eviction procedures. Each occurrence will be considered individually, and any exceptional circumstances will be taken into account.
- 4.2 Any decisions made will balance the needs of Travellers with the impact on Council services and undue nuisance to neighbours and members of the public, including damage to land and property and loss of income and financial implications to the Council and other organisations.
- 4.3 Attached at Appendix A is a Traveller Incursion Form, which will provide Councillors with a step-by-step guide of what to do in the situation where the Clerk is unavailable and an unauthorised encampment occurs.

4.4 Attached at Appendix B is the Traveller Incursion Form, which will provide Council Officers a step-by-step guide of what to do in the situation where an unauthorised encampment occurs.

## **5. POLICE POWERS**

5.1 Norfolk Police will visit all sites reported to them, but trespass is a civil offence and not a criminal offence. Prevention of trespass and the removal of trespassers are the responsibilities of the landowner and not the Police.

5.2 The Police have powers to move Travellers off land where criminal activity by them can be established but this must be proven. The police also have discretionary powers under section 61 – 62 of the Criminal Justice and Public Order Act 1994 to direct trespassers to leave and remove any property or vehicles they have with them where group behaviour goes against the Act.

5.3 The power applies where the senior police 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:

- i) That any of the trespassers have caused damage to land or property.
- ii) That any of the trespassers have used threatening abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or
- iii) That the trespassers have between them six or more vehicles on the land.

5.4 The mere fact of an encampment without any aggravating factors will not normally enable Police to use this power. At the request of the Divisional Duty Inspector, the Police Superintendent will assess whether an eviction notice can be served on the Travellers by the Police. In order to do so, there must be an evidenced and severe impact on the local community i.e., nuisance caused to residents, community events inhibited, significant loss of income, resident's health and safety put at risk.

5.5 The police are bound by the Human Rights Act and may be constrained to avoid using Section 61 of the Criminal Justice and Public Order Act 1994 in circumstances where it would preclude welfare considerations from being applied by the civil courts.

5.6 The most efficient way for this impact to be proven is through each individual case of nuisance and criminal behaviour or damage being reported to the Police on their non-emergency number of 101.

## **6. FORMAL REPOSSESSION PROCEDURE**

- 6.1 Where the Police Superintendent is not able to grant an eviction notice, the Council as the landowner may seek to serve notice to evict the Travellers.
- 6.2 In order to serve notice the Council must also have completed the necessary welfare assessment of the travellers before eviction proceedings are sought.
- 6.3 The Clerk/Chairman (on behalf of the Council) shall have the discretion to assess whether any Council representative can safely visit the unauthorised encampment, usually accompanied by a member of the Police or a registered Bailiff.
- 6.4 Such discretion shall extend to sanctioning expenditure (within a limited budget annually of up to £2000), to be used for the purpose of serving notice, eviction, cleaning up the site and securing the site; also, on preventative measures to minimise repetitive unauthorised encampments.
- 6.5 The Clerk/Chairman shall at the earliest opportunity report to the next full Council meeting and keep Councillors informed by e-mail.

## **7. JOINT WORKING WITH OTHER AUTHORITIES**

- 7.1 Norfolk County Council, South Norfolk District Council and Norfolk Police will all work closely with Newton Flotman Parish Council where there is an unauthorised encampment on Council land. Norfolk Gypsy & Traveller Liaison Group's Unauthorised encampment protocol is attached at Appendix C. This document gives a good understanding of the overall process to be followed by each authority, the powers each has and considerations to be made.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 When dealing with an unauthorised encampment on Council land there will be financial implications for the Council. Up to a limit of £2,000 annually, the Clerk/Chairman may put in place necessary measures and deal with the incursion as urgently as this situation demands. To also have the discretion to allocate the appropriate manpower hours, to deal with health and safety issues, potentially reinforcing security to sites and such like. As part of the post-incursion review, the total costs incurred will be calculated and reported to the Council for ratification.

Attached:

Appendix A – Councillor Action.

Appendix B – Reporting Protocol.

Important Information from Norfolk County Council website.

## Appendix A

# Councillor Action

Within normal working hours

1 – Inform the Clerk

Councillors should tell the public to report any incidents, crimes, damage etc to the Police, 101.

# Traveller Incursion Guide

Outside of normal working Hours

1 - Alert the Police – call 101 and obtain crime reference no.

2 – Alert District Council  
Tel: **01508 533701**

3 – Alert the Chairman – *who will then inform the Clerk*

01508 533701

N.B – a more detailed guide is then followed.

## GENERAL INFORMATION:

Date and Time of Incursion	
Location of Incursion	
How was Entry Gained? <i>Site Security last checked/photo'd?</i>	
Number of Travellers	
Details of Vehicles <i>(number, registration, make, model, colour etc)</i>	
Number of Children	
Number of Animals	
Any additional relevant information	

To be undertaken by Clerk/Chairman or designated officer (only) in their absence

**CONTACTS:**

*There is a contact sheet at Appendix A, please update with changes/additions.*

Clerk or Chairman name	
Police Informed	
Gypsy Liaison Team (NCC) Informed	
South Norfolk Council Informed	
All Councillors Informed	

**REMINDER:**

***REPORT EACH OCCURENCE OF CRIMINAL ACTIVITY/DAMAGE ON/TO PARISH COUNCIL LAND/FACILITIES TO 101***

FIRST ACTION (with police presence):	
Formal Eviction Letter given (date & by) (attach copy to this form)	
Date Given for Eviction	
Date Travellers Said Intend to Leave	

**COMMUNITY IMPACT ASSESSMENT (CIA) MEETING:**

Norfolk County Council (NCC) – Traveller Liaison Team (TLT) Welfare Check Undertaken?

Complicating Factors i.e., health or welfare factors, vehicle issues etc?

Community Impact Assessment (CIA) meeting arranged by Norfolk County Council (NCC) Traveller Liaison Team (TLT) (details)

Police Willing to Apply to S61 for Eviction?

Repeat Offenders? If yes, give previous dates of encampment.

Parish Council to seek Court Order?

**PARISH COUNCIL ACTIONS - AS SOON AS POSSIBLE:**

Press Release by the Clerk

Letter to Local Residents on Adjoining Roads

Letter to Local Pubs/Bars

Log of Residents Calls/Complaints/Incidents

Disruption of Events? If yes, give details.

**POST INCURSION:**

Date Left

Method i.e., own accord, evicted, Police, Court order etc

Liaise with South Norfolk Council about Clean Up/Councillor Volunteers

**Hazardous Waste Dept. needed?**

**Further Comments/Future Considerations/Point to Note etc**

Financial Impact Assessment Calculated?

To be attached to this form for future reference:

- Standard eviction letter
- CIA meeting Agenda & Notes
- Details of residents' complaints
- Any correspondence to residents
- Press releases
- Details of impact on events/the community
- Details of subsequent maintenance works/clean up etc
- Financial Impact assessment

**Review: after each occurrence or September annually, whichever is sooner.**

A guide for private landowners to removing unauthorised encampments



This guidance provides information to private landowners about what to do if an unauthorised encampment is set up on your land without your permission. This guide is not intended to provide legal advice and therefore we suggest that you seek independent legal advice from a suitably qualified legal professional before taking any action.

### First steps

The legislation surrounding unauthorised encampments is complex and therefore in addition to reading this guide we would recommend that you seek advice from a legal professional. The Norfolk & Suffolk Gypsy, Roma, and Traveller Service (NSGRTS) can give you generic, free information in relation to your rights and responsibilities and provide you with details on limiting the potential for repeat encampments.

You may need to consider the use of an \*agency which could comprise of a bailiff or solicitor/process server to act on your behalf.

### Responsibilities

As the landowner it is your responsibility to decide what action to take, if any, if an unauthorised encampment is on your land. It is also your responsibility to remove the encampment.

### What can you do?

Broadly speaking there are two courses of action that you can take as a landowner:

- Serve a Common Law Notice or
- Apply to the Courts for a possession order under Part 55 of the Civil Procedure Rules (CPR) to remove the trespassers.

The following sections of this guidance explain what this means.

### Serving a Common Law Notice

All landowners can use their common law rights to recover land (i.e., the offence or tort of trespass against property). However, in exercising those rights, you must consider the following:

- In order to evict the occupants from an unauthorised encampment they must be served with a Common Law Notice requiring them to leave by a specific date and time. This can be done by the landowner or an \*agent working on behalf of the landowner.
- The law says that any trespasser who enters land peaceably is entitled to a request to leave the land before being removed by reasonable force. This means that before taking any action it is advisable to organize a discussion with occupants of the

unauthorised encampment as part of serving the Common Law Notice to determine if an agreement can be reached.

- A trespasser who has entered land with force and violence may be removed without a previous request to depart. This means that the landowner may seek to remove an individual(s) without providing a notice period when serving the Common Law Notice.
- If a trespasser refuses to leave, after being requested to do so, the landowner or their agent may use only so much force as is reasonably necessary to evict them.

### Things to be aware of when serving a Common Law Notice

It is strongly recommended that if you are considering exercising common law rights that you inform the police and ask for assistance to prevent a breach of the peace. Some points you should also consider include:

- Once the notice period is complete, if the unauthorised encampment is still in place, then you can instruct private bailiffs to remove the encampment without need for further notification.
- As the landowner you are responsible for instructions to private bailiffs as well as their costs.
- Serving a Common Law Notice and use of bailiffs does not stop individuals returning and setting up the unauthorised encampment again once they have been evicted.
- As the landowner you are responsible for immediately blocking access to the land trespassed upon to prevent further incursions.
- During the eviction only “reasonable force” must be used. As the landowner you must be aware that use of “excessive force” can give rise to a claim against you, even if you have employed a bailiff to carry out the eviction.
- If the land includes any buildings or land ancillary to those buildings be mindful if any force or violence is used to gain entry as you may be at risk of an offence under section 6 of the Criminal Law Act 1977.

### Seeking a Possession Order under Part 55 of the Civil Procedure Rules (CPR)

As the landowner you can apply to the County Court to gain possession of your land back from individuals who have set up an unauthorised encampment. The process for this is set out in Part 55 of the CPR and Practice Directions. You can read more about this by clicking this [link](#). It is recommended that you seek legal advice before taking any action. The following are key points about the process:

- As the landowner it is you or your \*agents’ responsibility to serve notice to the unauthorised encampment which specifies a date when they must leave. This could be immediately, within 24 hours of that date or any other reasonable time frame.

- You or your \*agent can serve the claim by posting it on the caravan(s) or by handing it to the unauthorised encampment residents. The information provided must include a copy of the claim form (N5), particulars of claim (N121) and any witness statements that form the basis of what you are telling the Court.
- The claim should be served upon the unauthorised encampment residents at least two clear days before the hearing in the case of occupied land or five clear days in the case of residential property.
- You as the landowner or your \*agent must provide a statement of service to the County Court, setting out how the service was affected, and which documents have been served to residents in the unauthorised encampment. This is to satisfy the Court that you have complied with CPR and Practice Directions and provided notice and the correct information to those facing eviction.
- If the court determines that you are entitled to possession (that you own the land and that you have complied with the CPR) it will usually grant the order straight away.
- If the land is not vacated by the date specified, then you can apply for a warrant of possession and a bailiff's appointment using form N325 in order to progress with the eviction.

### Things to be aware of when seeking a Possession Order

It is strongly recommended that if you are considering seeking a possession order that you seek legal advice prior to undertaking action. Some points you should consider include:

- As the landowner you will be responsible for paying court fees as part of the application.
- If the same unauthorised encampment comes back after enforcement to evict them, you can seek to enforce the original order without issuing a fresh possession claim provided that there is a sufficient link between the first and second occupancy. To apply for a warrant of restitution use form N445.
- If a different unauthorised encampment is set up on your land the point above will not apply, and the process will have to be started again.
- Should the possession order be ignored, it can take time to get an appointment with a court bailiff to execute the warrant.

### **The Norfolk and Suffolk Gypsy Roma and Traveller Service**

Enforcement action can be stressful, time consuming and expensive. Norfolk and Suffolk County Councils operate the Gypsy, Roma, and Traveller Service (NSGRTS) to help provide free information to private landowners on what they need to do to manage or remove an unauthorised encampment on their land.

For more information email us on [NSGRTS@Norfolk.gov.uk](mailto:NSGRTS@Norfolk.gov.uk) and we will get in touch