

Adult Social Services and Housing

Unauthorised Encampment Policy



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[Appendix A – Flowchart of the process](#)

1. Document information

Title	Unauthorised encampment Policy
Policy Status	Agreed by ASSH DLT
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	None

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Version FINAL		

2. Introduction

This policy covers unauthorised encampments by any person or group residing in vehicles on public land where the council has not given permission.

Where the unauthorised encampment is on private land without the owner's permission the Council will take no action, except to offer advice and guidance to the landowner.

The travelling community can experience difficulties finding an authorised place to stop and may set up an encampment on someone's land without consent, including green space, car parks, highway verges and laybys.

The aim of this policy is to address the need for an effective approach to the management of unauthorised encampments on North Somerset land. The council must balance the needs of Traveller communities with those of settled communities.

It aims to clarify the internal working arrangements around unauthorised encampments across North Somerset Council departments and services so that any future unauthorised encampments can be managed successfully, swiftly and with minimal disruption to any community.

This policy is reliant on a collaborative approach between the council, our partners, and communities.

This policy outlines our duties and powers, and our decision-making framework. It includes best practice from other areas and builds on our own experience to ensure our process is fair, legal, equitable and ensures community cohesion is safeguarded.

3. Aims of the policy

This policy aims to sets out how North Somerset Council will respond to unauthorised encampments on North Somerset Council owned land. The policy seeks to ensure

that its approach to responding to unauthorised encampments is consistent, lawful, balanced and proportionate.

The council's vision is an open, fair and green North Somerset. This policy supports that vision by being open about how we deal with unauthorised encampments in developing, reviewing and making this policy publicly available. This policy aims to be fair by explaining legal duties and responsibilities of the council towards all residents and visitors to North Somerset. It also aims to balance those responsibilities fairly between visiting groups and the day-to-day expectations of our settled communities. This policy also recognises the potential harm to the environment where public green and open spaces are used for unintended purposes and sets out how the council will assess both the location and impact of an encampment and prioritise enforcement action appropriately

4. National and local context

The policy has been developed within the context of the Government publication "Dealing with Illegal and Unauthorised Encampments. A Summary of Available Powers (2015)" and other government guidance and legislation. This guidance is clear - managing unauthorised encampments must involve a balance between the rights of the landowner and/or wider community and the rights and welfare needs of those who have established the unauthorised encampment.

Gypsies, Roma and Travellers have been part of our community for hundreds of years. This includes those who travel regularly, families living in bricks and mortar housing and on our permanent sites.

Government guidance states where unauthorised encampments are not causing problems; they can be negotiated for a brief time. There will be places where unauthorised encampments occur, which are generally unsuitable for The Gypsy Roma and Traveller communities, as they do not contain the appropriate facilities, e.g. water, waste disposal facilities, pitch security and general safety measures. The lack of facilities can lead to unsanitary and dangerous conditions.

North Somerset Council experiences around 45 unauthorised encampments per calendar year on our land. These occur throughout the year, but predominantly in the months between April and October.

The Council commissioned Opinion Research Services to provide a Gypsy and Traveller Accommodation Assessment (GTAA) of the current and future need for Gypsy, Traveller and Travelling Showpeople accommodation in North Somerset. This included assessing the need for temporary or transit provision.

In summary, the [GTAA \(June 2022\)](#) identifies the need for 114 residential pitches and 4 plots between 2022-2042. This equates to 103 pitches and 4 plots over the local plan period (2024-2039).

The GTAA recommends that “need for households is addressed through new pitch allocations and the intensification or expansion of existing sites”. Given that a considerable proportion of identified need comes from households living on private sites it is likely that it will need to be addressed through the provision of private pitches or sites. In addition, the council may need to consider new public pitches to meet need identified from public sites. Further information is available on our website.

Due to small numbers of short-term encampments, there was no recommendation for formal transit provision in North Somerset at this time. The situation relating to levels of unauthorised encampments will be monitored along with current approaches for dealing with unauthorised encampments. The use of management-based approaches such as negotiated stopping agreements may also be considered.

5. Statutory duties of the council

Local authorities have a duty, under the Equality Act 2010, to promote good race relations, equality of opportunity and community cohesion in all policies and

practices. This duty covers all racial groups, including Gypsies Roma and Travellers who are covered by the protected characteristics.

The Equality Act makes it unlawful to treat someone less favourably because of a range of protected characteristics. These protected characteristics include race, nationality or ethnic or natural origins. The following of a nomadic lifestyle is lawful and is a culture recognised and protected through legislation.

The Equality Act introduces a single general public sector equality duty (PSED) under section 149, which applies to public authorities exercising public functions.

The Human Rights Act 1998 contains the Articles and Protocols of the European Convention on Human Rights that are deemed to apply into domestic legislation. It is unlawful for public authorities to act in a way that is incompatible with the Convention.

6. Council powers

The main powers for councils to remove encampments are:

- i) Removal of Unauthorised Campers – Criminal Justice & Public Order Act 1994, sections 77-78
- ii) Possession Claim – Civil Procedure Rules, Part 55
- iii) Common Law - Land Owners Right to Remove Trespassers

The Council will use the most appropriate legal route depending upon the specific circumstances of the case.

Overview of Options

Removal of Unauthorised Campers – Criminal Justice & Public Order Act 1994, section 77 & 78

This is the method most used by North Somerset Council. This has been the case for several years. It is a mechanism available only to a local authority. It can be used on any land.

The process involves the service of a section 77 direction on persons camped on land to leave by a certain time. There is no minimum time that must be allowed. If that direction is not complied with then a section 78 order can be obtained by application to the Magistrates Court.

The timescale involved depends on availability of a listing date from the Magistrates Court, but these are generally available within less than one week. A fee is payable to the Magistrates Court.

Officers in the Private Housing Team carry out initial visits including a welfare check and determine whether to serve a section 77 direction taking into account equalities and human rights considerations.

Those encamped, who have not complied with a direction must be served with a court summons a reasonable time before a hearing. This is usually deemed to be approximately 24 hours, but in urgent cases the court has been willing to accept a lesser timeframe.

Although the legislation states that the court ‘may’ grant an order, authority shows that the reasonableness of the council’s decision is not before the court, and it is only considered to have a limited discretion to refuse an order for example where an unreasonable undertaking to leave has been given.

If the section 78 order is not complied with then it may be enforced. This involves the engagement of contractors.

Once a section 78 order has been made, it is a criminal offence for the same persons to return to the land within a 3-month period. However, it is rare for a group to return to the same parcel of land within a short period.

This procedure relates to a specific piece of land and to a specific group so if the same group relocate then the process must recommence. This is also the case if a new group arrive after the first has left.

Possession Claim – Civil Procedure Rules, Part 55

This was the default process but has not often been utilised more recently as it was found to typically take longer and be more costly than the section 77/78 procedure outlined above.

This procedure can only be used by a landowner and requires an application to the County Court.

Applications for encampments in the south of the district are made to Weston Super Mare County Court and those in the north of the district to Bristol County Court. (The High Court can be used if there is a substantial risk of public disturbance or serious harm to people or property.)

Court papers must be served at least 2 days before a court hearing.

To remove trespassers immediately using this procedure a possession order and a warrant of possession must be obtained. Court bailiffs enforce the warrant.

Common Law - Land Owners Right to Remove Trespassers

This is a right held by landowners to remove trespassers from land. It does not require any involvement of the courts and is known as a 'self-help' remedy. It can be carried out by a landowner or private bailiffs acting on the landowner's behalf.

This is not a remedy typically used by the council. The reasons the common law right is not often used by landowners in the public sector is due to obligations owed under the public sector equality duty and human rights considerations. Evictions of encampments under a court order provides an appropriate mechanism to check

duties have been complied with. The council reserve the right to use this power in exceptional circumstances, for example where other powers included in this policy are unavailable.

7. Police powers

The use of police powers requires careful consideration of not only whether the relevant criteria for the use of the legislation have been met but also the proportionality of their application in all the circumstances and considering competing pieces of legislation such as the Human Rights Act.

Operational advice provides clear guidance around the use of the powers. Section 60C to 60E of the Criminal and Justice and Public Order Act will only apply in those cases where the threshold test of 'significant' damage, disruption or distress has been met.

The test for this will be on a case by case basis, where Police and Council work together to understand the community impact and act where appropriate. These decisions will always balance the human rights of all affected. There will however be a small list of locations where, by the nature and extent of disruption, damage and distress caused to the wider community by the presence of an encampment, there will be a rebuttable presumption of meeting the threshold. This presumption will factor in previous significant issues for local communities and strategic importance to North Somerset Council and local communities. This list will be reviewed annually by North Somerset Police's Senior Leadership Team and North Somerset Council Senior Management to ensure all information remains relevant and this presumption remains in as few locations as possible. In each of these locations, proactive prevention measures will be reviewed annually in line with their strategic importance.

Sections 61 & 62 of the Criminal Justice and Public Order Act may be considered to bring about prompt and lawful removal of groups. Guidance imposes a series of

considerations which police forces must make before determining if such intervention is proportionate and appropriate before acting.

North Somerset Council and the police will liaise closely during the occurrence of an encampment. We will regularly review its location and impact on the settled community to ensure that each organisation is using its enforcement powers appropriately and in accordance with this policy and associated national guidance.

8. Our approach

Guidance states that the response to unauthorised encampments and to individuals who do not leave land when asked to do so requires a locally driven, multi-agency response, led by local authorities and supported by police.

Different departments and agencies involved with unauthorised encampments have wide ranging roles and responsibilities in dealing with encampments. It is important that roles are clearly defined to minimise duplication and ensure that both the Travellers and the local settled community know who to contact for specific issues.

A flowchart of the process can be found at Appendix A.

Where the council receives a report of an unauthorised encampment this is passed on to North Somerset Council's Private Rented Housing Team who will seek confirmation that the occupied land is owned by North Somerset Council.

Where the land is not owned by the council, the relevant landowner (where known) will be notified.

The team will liaise with other agencies and council departments such as social services, parks and open spaces, highways, car parks, communications, legal, waste and elected members to ensure regular updates are provided.

Where it is confirmed that the unauthorised encampment is located on council land, officers will visit the encampment as soon as is practicably possible (generally the same day) and complete a site inspection, carry out health, welfare and educational enquires to ensure compliance with Equality Act duties and best practice guidance.

The following factors will be taken into consideration in determining what action to take;

- The health and welfare need of the group
- Local amenities being deprived to communities
- Local disruption to the economy
- Disruption to the local community
- Damage to the local environment
- Danger to life (due to location)
- Need to take preventative action due to previous actions of the group
- Consideration as to when these factors are significant or not

Where support or welfare needs are identified, the council will try to assist or refer the matter to the relevant agency. Where significant needs are identified the case will be assessed on its own merits.

Upon visiting officers will explain to the occupants that they are trespassing on North Somerset Council owned land and if it is deemed that land is not suitable the local authority will use legal powers to regain possession of the land.

When considering available enforcement powers, the location and impact of the encampment will form part of the decision making. The table below demonstrates the council's response to locations whilst balancing the needs of the group and local settled community.

Unauthorised encampments on NSC land – enforcement approach and engagement with the police		Encampment factors – variable by group and time		
		E1 (Higher impact – encampment linked to significant instances of damage, disruption or distress or likely to interfere with planned events or activities on the land)	E2 (encampment linked to isolated episodes damage, disruption or distress)	E3 (Lower impact – no reported impacts of encampment)
Location factors – constant and site specific	L1 (land very close to homes/places of work, in constant use by the settled community and/or particularly prominent local amenity)	Out of hours NSC response (+rapid engagement with the police)	Out of hours NSC response (+early engagement with the police)	Out of hours response (+early engagement with the police)
	L2 (land close to homes/places of work, and/or local amenity in regular use by the settled community)	Accelerated NSC response (+rapid engagement with the police)	Accelerated NSC response (+early engagement with the police)	Accelerated NSC response (+routine engagement with the police)
	L3 (site less like to have community impacts and/or in infrequent use by the settled community)	Accelerated NSC response (+rapid or early engagement with the police depending on impacts)	Standard NSC response (+early engagement with the police)	Standard NSC response (+routine engagement with the police)

Out of hours NSC response	Health and welfare checks completed out of hours, notice to leave served ASAP next working day, engagement with court to secure earliest possible court date
Accelerated NSC response	Health and welfare checks completed next working day, notice to leave served 24 hours later, engagement with court to secure earliest possible court date
Standard NSC response	Health and welfare checks completed next working day, notice to leave served 24 hours later, await routine court date
Engagement with police	A protocol is in place for the police to consider use of their powers – joint engagement and intelligence sharing supports their decision making Rapid engagement = NSC officer call to police to discuss impacts (followed up in writing). Completed at the earliest opportunity. Early engagement = NSC officer email to police Inspector to inform them of the NSC response and any impacts. Completed at the earliest opportunity. Routine engagement = NSC officers to update police as necessary.

9. Prevention and deterrence

We will assess whether any further actions could be taken to secure locations which are subject to repeated encampments that have a detrimental impact of the use of the land.

This approach is a balance between preventing access for unauthorised encampments whilst ensuring the area remains accessible for residents, grounds maintenance and where necessary emergency vehicles. This means that on some sites it will not be possible to implement additional target hardening measures.

10. Further enquiries

If you would like further information on any of the information contained within this policy, please contact the Private Rented Housing Team on the contact details below;

Private Rented Housing Team

North Somerset Council
Town Hall
Walliscote Grove Road
Weston-Super-Mare BS23 1UJ

Telephone: 01934 426 885

Email: privaterented.housing@n-somerset.gov.uk

Website: <http://www.n-somerset.gov.uk/Housing/>

11. Feedback

We value your feedback and welcome both compliments and areas for development. [You can send us feedback through our website](#). If you have any concerns about any action or decision taken by Adult Social Services and Housing, you should initially talk to the person you normally talk to. You can also contact our complaints manager at:

Complaints Manager,

Adult Social Services and Housing,
Town Hall,
Walliscote Grove Road,
Weston super Mare,
BS23 1UJ

Telephone: 01275 882171

Email: complaints.manager@n-somerset.gov.uk

12. Accessible information

Council documents can be made available in large print, audio, easy read, and other formats. Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require Council information in languages other than English. Please email asshsstrategyandpolicyteam@n-somerset.gov.uk or ring 01934 888 888.

Appendix A – Flowchart of the process



