

DRAFT FOR APPROVAL

TRAVELLERS ENFORCEMENT POLICY

1.0 INTRODUCTION

1.1 The Council, the Police, the Milton Keynes Parks Trust, English Partnerships, Milton Keynes Chamber of Commerce, Enterprise and Training, Parish Councils and other Key Partners (The Partners) are developing a comprehensive integrated policy on Travellers for Milton Keynes. Many stakeholders in Milton Keynes are contributing to this policy, including Parish and Neighbourhood Councils and the settled community through the Citizen Advisory Group on Travellers (CAGoT). A common thread has emerged through all the information available and there is a clear consensus that:

- ❖ *the appropriate enforcement action will be taken by the agencies working in partnership against unauthorised encampment.*
- ❖ *Anti social behaviour or criminal activity associated with any encampment will be dealt with as if any member of society committed it.*

2.0 ENFORCEMENT POLICY STATEMENT

Acknowledging the Government's guidance on local discretion, the Council, the Police and other Key Partners will make every effort to encourage use of legitimate sites and shall take action against unauthorised encampments and any associated anti social behaviour or criminal activity in Milton Keynes.

3.0 SUMMARY

3.1 The Partners accept:

- ◆ Our legal responsibilities to the settled community and Travellers in Milton Keynes and will work together within the DETR Guidelines on Managing Unauthorised Camping.
- ◆ The Council will provide a Travellers Central Office where both the settled community and Travellers can give and receive information.
- ◆ There will be ongoing consultation with stakeholders.
- ◆ The need to provide additional appropriate sites for Travellers in Milton Keynes.

- ◆ The Council will set standards of behaviour to be followed by all Travellers when occupying sites in Milton Keynes.
- ◆ The Police will act within their various powers including Section 61 of the Criminal Justice and Public Order Act 1994.
- ◆ The Council will consider the needs of both the settled community and Travellers before taking any action on unauthorised encampments.

4.0 THE LAW AND GOVERNMENT GUIDELINES

4.1 Unauthorised encampments are a civil law matter and individual landowners have legal rights and remedies available. The Council and the Police powers supplement landowner remedies. They do not replace them.

4.2 The powers available to both the Police and the Council when dealing with unauthorised encampments are well documented in the **Home Office and DETR Good Practice Guide on Managing Unauthorised Camping**. It is clear that any enforcement policy on unauthorised camping should balance the needs of the settled community and Travellers, in particular the expected standards of behaviour should be the same. Attached at Annex A is a summary of the legal powers and responsibilities of the Police and the Council.

4.3 **The Human Rights Act 1998** comes into force in October 2000. All public bodies have a responsibility to ensure their policies and procedures are compatible with the Act.

4.4 The police and the Council in consultation with each other will apply to the Magistrates Court for an **Anti-Social Behaviour Order** against an individual or several individuals (a family) whose behaviour is anti-social (i.e. it causes alarm, distress or harassment to one or more people). The orders are preventative in nature and intended to be used to put an end to persistent and serious anti-social behaviour, which can make life a misery for a community. The Central Office will refer cases to the Anti Social Behaviour Team to be set up by the Crime and Community Safety Co-ordinator who will progress action/application to the Magistrates Court where necessary.

5.0 WIDER ENFORCEMENT ISSUES

5.1 The Partners will encourage other agencies such as Custom and Excise; DSS; Trading Standards; Environment Agency, Broadcast Licence Authority and Inland Revenue to take action where appropriate. The Central Office will develop a close working relationship with each agency to ensure they support the actions approved by the Partners.

6.0 CENTRAL OFFICE ROLE

6.1 The Central Office will be the focal point for all Travellers issues in Milton Keynes. It will provide and maintain a database on all Traveller activity and initiate effective actions where Travellers activity conflicts with this Policy. The Travellers Service Manager will manage the Central Office.

7.0 EVALUATION OF UNAUTHORISED ENCAMPMENTS

7.1 The Council's Traveller Liaison Officer (TLO) is well respected by the Travelling community. There is a degree of openness, trust and respect on both sides that must be protected. It is important to safeguard this relationship with Travellers and maintain staff safety. The existing role of information gathering, monitoring sites and progressing eviction will continue.

7.2 The information will be recorded and used to determine any further action by the Partners at the weekly Operational Review meeting. The proforma to be used is at Annex B.

7.3 The site visit will primarily be concerned with helping the Travellers to leave the area. This can be done voluntarily within a prescribed timescale set by TLO or by agreement between the TLO and the Travellers. Alternatively the TLO will progress appropriate legal action to remove the Travellers from the site through the Central Office.

7.4 Most unauthorised encampments move on by agreement with the TLO. This well established practice will continue.

8.0 OPERATIONAL REVIEWS

8.1 The process to decide whether to evict or tolerate an unauthorised encampment begins with the completion of the record sheet by the TLO. Each unauthorised encampment will be the subject of a weekly Operational Review. The Travellers Service Manager will be accountable for all actions agreed at the Operational Review meeting. The Police, English Partnerships and the Parks Trust and operational sections of the Council will participate in the Operational Reviews and other agencies will be invited to participate as and when required. Each Agency will be responsible for progressing action that is within their jurisdiction. Clear procedures including decision tables (see examples at Annex C) will be developed to show how and when decisions and actions are taken by the Central office.

8.2 Each Partner and Agency and in the case of the Council all departments should have a named officer as the responsible officer in relation to Travellers issues. The co-operation of all agencies to take action and provide adequate resources when required is vital to the implementation of this policy.

8.3 The Council responsibilities will be co-ordinated by the Traveller Services Manager.

8.4 If a forced eviction is required it will be co-ordinated by the Central Office and the Police will attend the forced eviction to ensure public order is maintained.

9.0 INFORMATION REQUIREMENTS

9.1 Action can only begin once aware of an unauthorised encampment. Intelligence gathering is an important activity of the Central Office. The Partners will encourage residents, Parish and Neighbourhood Councillors, and local Member to gather information/evidence on unauthorised encampments and report this to the Central Office.

9.2 The Central Office will provide Information to each Joint Planning Forum meeting on Travellers and the performance of the Central Office.

10.0 EXCLUSION AREAS

10.1 The provision of additional sites in Milton Keynes to meet the needs of Travellers brings with it the need to identify areas where unauthorised encampments will seriously interfere with the legitimate rights of the settled community. ***Exclusion Zones will be areas where unauthorised camping will face immediate eviction. Exclusion Zones in Milton Keynes are every:***

***park,
school,
recreation or sports ground,
vehicle parking area,
business premises,
village road
within 50 metres of
footpaths
bridleways
redways
within 100 metres of housing***

10.2 Travellers will be encouraged to refrain from parking in these areas of Milton Keynes. If they do camp in these areas immediate action will be taken to

evict the encampments from site.

11.0 TOLERATION

11.1 The Partners recognise that travellers unable to obtain a place at any of the legitimate sites will wish to park somewhere. This should not be tolerated. However emergency stop over locations will be required and the Partners will tolerate this activity for a prescribed short period only.

11.2 Toleration of any unauthorised encampment will be evaluated at the weekly Operational Review meeting where all factors can be considered. Toleration of an unauthorised encampment will be allowed for identified and recorded medical or welfare reasons and where the code of conduct is not breached. Each encampment should be considered on the merits of individual circumstances

12.0 CODE OF CONDUCT FOR TRAVELLERS

12.1 A **Code of Conduct** will apply to all unauthorised encampments in Milton Keynes. This is attached at Annex D.

12.2 Any violation of these conditions will result in immediate eviction. A leaflet including these criteria should be given to each Traveller on site.

13.0 CHARGING FOR SERVICES/RECOVERY OF COSTS

13.1 Where Travellers move from site to site within Milton Keynes appropriate evidence should be obtained to enable legal action to be taken to recover costs e.g. clearing site or reinstating landscaping. Partners and Agencies should gather evidence on the condition of the site occupied by Travellers and pass this information to the Central Office. Subsequent visits should identify changes to site condition and this will initiate action if necessary to require Travellers to keep the site clean and tidy should be taken.

14.0 EVIDENCE OF UNAUTHORISED ENCAMPMENTS

14.1 All unauthorised encampments should have their precise location logged with the Central Office.

14.2 The Central Office will use professional witnesses where necessary. The Police have the capability to provide photographic and/or video evidence to support an eviction or criminal prosecution. The Central Office should liaise with the Police and other Agencies to ensure evidence is obtained.

15.0 AGREEMENT BY PARTNERS ON ACTION

19.1 The main landowners in Milton Keynes are the Milton Keynes Parks Trust, the Council and English Partnerships. To enable effective and speedy action a prior agreement between the parties should be completed to enable TLO's to act on behalf of the landowners.

16.0 INFORMATION PROVIDED TO TRAVELLERS

16.1 Clear concise information shall be provided to each Traveller at legitimate sites and unauthorised encampments detailing the policy of the Partners and the responsibilities of travellers including the code of conduct. If necessary this should be placed on notice boards at sites.

17.0 INFORMATION FOR THE SETTLED COMMUNITY

17.1 This Policy shall be published and made available to the public. It should be considered a 'living' document where changes in law or Government guidance can be implemented quickly.

Dennis Boobier
Head of Policy and Support Services
7 OCTOBER 1999
(Revised)

Annex A

Legal Powers & Responsibilities

1.0 Eviction of Unauthorised Encampments

1.0.1 Currently (*October 99*), there are three legal processes to seek the eviction of unauthorised encampments:

- the Civil Law of **Trespass** (*a landowner's remedy*)
- Section 77 and 78 of the **Criminal Justice and Public Order Act 1994** (*Local Authority powers*).
- Section 61 and 62 of the **Criminal Justice and Public Order Act 1994** (*Police powers*).

2.1 Civil Trespass

2.1.1 The **common law** remedy of **trespass**:

- is available to any landowner or occupier;
- against any trespasser of whatever status, even if names are not known;
- covers land, water and buildings;
- may under some circumstances be used for land threatened by trespass.

2.1.2 Before it can be used, **the Plaintiff must prove**:

- entitlement to possession (*not merely ownership*);
- that the land is occupied solely by persons without consent;
- that the trespassers are not tenants holding on after the end of a tenancy.

2.1.3 **Evidence** must be given by **sworn affidavit** made by somebody with proper authority from the Plaintiff.

The case may be heard in either:

- **High Court** - usually faster but more expensive *or . . .*

- **County Court** - cheaper, but court bailiffs often have a heavy workload so the actual eviction may be delayed.

2.1.4 Using **court orders** in this way can be very expensive and not particularly fast.

- In practice, issuing a **Direction to Leave** using Local Authority **Section 77** powers under the Criminal Justice and Public Order Act 1994 (*and relying on a certain amount of trust and goodwill from the travelling community*) is cheaper and faster.
- If the circumstances fall within Police **Section 61** powers (*and the relevant ACPO guidelines governing how these powers should be used*), an eviction could take place within 48 hours.

When **landowners** carry out their own civil evictions, the process inevitably takes much longer compared to our current average move-on time using Section 77 and Section 61 powers.

2.1.5 **High Court Action** : Under the common law tort of Trespass, landowners can apply to the Chancery or Queen's Bench Division of the High Court, using 1/RSC/113 (*Order 113 of the Rules of the Supreme Court*).

- The process tends to be both lengthy and costly.
- Bailiffs carry out the eviction, supervised by the Police if necessary.
- There is an option for the Court to ban re-offending on any land owned by the landowner.
- Joint applications from more than one landowner are possible, but notices can only be served relating to one landowner - a second Court order is required for other landowners if trespass occurs on their land as well.

2.1.6 **County Court Action** : Similar to the High Court, County Court applications can be made under 1/CPR/8 (*Part 8 of the Civil Procedure Rules*). However, as always with Court Orders, landowners are at the mercy and discretion of the Court. Delays may occur.

2.1.7 **Injunctions** : In certain circumstances, an **injunction** can be used to prevent trespass taking place (*for example: where one particular family has caused substantial damage over an extended period*).

- Seeking an injunction can be costly and lengthy.

2.1.8 Currently, unlike an eviction carried out by a local authority, 'private evictions' do not have to consider family **welfare needs** or the **educational needs of children**.

*(This may change when case law becomes established under the new **Human Rights Act 1998**).*

2.2 Criminal Justice and Public Order Act 1994

2.2.1 Only Local Authorities and the Police can take action under the **Criminal Justice and Public Order Act 1994** (CJ&PO Act).

- Legally, **English Partnerships** (*formerly CNT / MKDC*) and the **Parks Trust** are deemed to be 'private landowners' and both regularly rely on the Council or the Police for action to secure an eviction.
- The **Police** can only intervene if the number of caravans exceeds five, or if there is a public disturbance.

2.2.2 Section 77 (and 78) Powers

Section 77 of the CJ&PO Act gives **local authorities** the power to direct individuals living in vehicles on:

- highways land;
- unoccupied land;
- occupied land without the consent of the occupier . . .
- to leave and remove vehicles and other property.

These situations are referred to as unauthorised encampments and local authorities can issue a **Direction to Leave**. Failure to leave (*or having left, returning within 3 months*) constitutes an offence.

2.2.2 If the **Direction to Leave** is ignored, local authorities can apply to the Magistrates Court for an **Order for Removal of Persons and Vehicles** under Section 78 of the CJ&PO Act to permit the Council to enter the site and remove the encampment.

- When an application is made, the court issues a **summons** requiring the person(s) in charge of the caravan(s) to appear before the court to answer the complaint.
- The hearing usually takes place very quickly, either later the same day or the following day.
- If the Travellers contest the eviction, the case is usually adjourned to allow enough time to hear all the evidence. Depending on how busy the Court is, this can cause delays.
- The Order costs a total of £20.

2.2.3 The CJ&PO Act does not deal with the encampment as a whole, only the people and vehicles within it.

In situations where some people leave an unauthorised encampment and others arrive, it may be more effective to take out a **Court Order** against

the whole encampment using the **Common Law** tort of **Trespass** (see *Section 2.1 above*).

2.2.4 If land is occupied but *with the consent of the owner*, after 28 days local authorities can take action using **Planning** enforcement powers.

2.2.5 **Section 61 Powers**

Section 61 of the **Criminal Justice and Public Order Act 1994** (CJ&PO Act) gives the **Police** powers to direct trespassers to leave if:

- reasonable steps have been taken by or on behalf of the occupier to ask them to leave, *and . . .*
- there are two or more people intending to reside on the land in question *and they . . .*
- are using threatening behaviour, etc., *and/or . . .*
- are causing damage to land or property on the land, *and/or . . .*
- have 6 or more vehicles (*and/or caravans*)

Failure to comply (*or having left, returning within 3 months*) constitutes an offence.

2.2.6 Section 61 powers can be invoked for **any land** including commons or 'green lanes', but not classified roads.

2.2.7 Section 61 can also be used against anybody who may have been **lawfully on land** but have become trespassers because, for example, they have gone beyond the terms under which they were let on to or allowed to remain on the land

2.2.8 Evictions using Section 61 usually need a significant number of **police officers** because of the possibility of confrontation. Local patrol officers have to be drawn away from their normal duties for 3 or 4 hours at a time.

2.2.9 The Police have **no statutory obligations** on when to use their powers or welfare matters similar to local authorities.

- Circular 45/94 provides government guidance
- The Police have their own internal ACPO guidelines.

There appears to be different views in different police forces about to what extent **humanitarian considerations** must be considered before using Section 61 powers, (*although this may become harmonised when*

judgements under the **Human Rights Act 1998** become part of case law).

Annex B

TRAVELLER SITE VISIT RECORD

In order for Milton Keynes Council to evaluate Travellers accommodation and welfare needs we require the following information.

1. LOCATION

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2. FAMILY DETAILS

<u>NAME</u>	<u>DATE OF BIRTH</u>	<u>STATUS</u>

3. PERSONS OVER 60 YEARS OF AGE

NAME	DATE OF BIRTH	REMARKS

4. VEHICLES

MAKE	DESCRIPTION	REGISTRATION

NAME	DATE OF BIRTH	REMARKS

5. HEALTH, WELFARE AND ACCOMMODATION NEEDS

CONCERNS

Annex C

PROCESS FOR EVICTION OR TOLERATION

Action	Timescale
Visit location and agree leaving date and undertake informal welfare needs assessment.	Following notification from Central Office
Leave site on agreed date. <i>No eviction process</i>	Within timescale set by TLO
If encampment has needs identified it will be tolerated and needs monitored with a time to go set by TLO.	Within timescale set by TLO
If encampment has no needs identified – TLO request to leave site within 24 hours.	Leave site in 24 hours
If encampment not left site when required TLO issue ‘Direction to Leave’.	Day 1
If not complied TLO to make complaint to Magistrates Court	Day 2 Complaints can be presented for signature at 9.00am each day
TLO serve summonses on Travellers	Day 2

with a date for court appearance	
Attend court – court order issued and served on Travellers.	Day 3 Hearing will be fixed for 10.00am the day after summons approved
Forced eviction	Day 4 or 5

Annex C

UNAUTHORISED ENCAMPMENT – EVALUATION

1. IS THE TRAVELLER GROUP KNOWN TO THE CENTRAL OFFICE

YES

NO (GO TO 3.)

2. DOES THE TRAVELLER GROUP HAVE A GOOD TRACK RECORD

YES

NO (CONSIDER IMMEDIATE EVICTION ACTION) (IF 6 VEHICLES OR MORE CONSIDER POLICE POWERS (S61))

3. ARE THEY PREPARED TO ABIDE BY THE CODE OF CONDUCT

YES

NO (NO TOLERATION) CONSIDER IMMEDIATE ACTION TO EVICT

4. DO WE TOLERATE ON THIS SITE

What is the impact on the settled community?
What are the Travellers needs?
What is the physical impact of the encampment?
What is the anticipated length of stay?

YES

Overwhelming welfare/medical needs

NO

Sensitive site (exclusion zone)
Large numbers of vehicles
Wish to stay a long time

A BALANCED DECISION

Annex D

Code of Conduct for Travellers on Unauthorised Sites

- 1. There is no forced entry to the site.***
- 2. Any fixtures, fittings and landscape on the site is not damaged.***
- 3. Vehicles are driven responsibly at all times.***
- 4. There is no dumping or tipping of rubbish or waste materials.***
- 5. All household rubbish is bagged (to be provided by TLO)***
- 6. There is no abuse, intimidation or harassment of the settled community.***
- 7. Noise must be kept to a minimum.***
- 8. Animals should be under the control of their owners at all times.***
- 9. Electricity is not tapped from Street Lighting.***
- 10. Water mains and fire hydrants are not interfered with.***

11. *The site is left clean and tidy.*