

Sections 61- 62 Criminal Justice and Public Order Act

43. If the landowner or his agent has asked the unauthorised campers to leave the land by a particular date and time, and they have failed to do so, and any of the three following conditions have also been met:

- the unauthorised campers have caused damage to the land or property on the land;
- they have used threatening, abusive or insulting words or behaviour to the occupier, a member of his family or his employee or agent;
- there are six or more vehicles on the land.

44. The police can use Section 61 of the CJPOA to direct unauthorised campers to leave the site. They can do this without reference to the courts.

45. The initial step is for the landowner to make a formal request to the police that they use their powers under the CJPOA.

46. A senior police officer then considers whether it is appropriate to use the power, based on various factors:

- whether there are there other activities on the encampment, such as serious breaches of the peace, disorder, criminal activity or anti-social behaviour which would necessitate police involvement under their wider powers;
- given the impact of the unauthorised encampment on the environment and the local settled community, is it reasonable and proportionate to use police powers;
- is action by the police legally sustainable;
- are sufficient resources available.

47. Although case law (*R v The Commissioner of the Metropolitan Police ex p. Small*) has established that police officers are not under any obligation to undertake welfare enquiries with unauthorised campers, they must be aware of humanitarian considerations when considering action to remove an encampment. The joint ODPM/Home Office document 'Guidance on managing unauthorised camping' recommends that local authorities should be involved in the process.

48. Once a decision to use police powers is made, a uniformed police officer visits the encampment and advises the occupiers that they are required to leave by a certain date and time, and provides them with a copy of the legislation. The police may determine the period of notice to the unauthorised campers to leave, and this may be hours or days. The police may also videotape their visit to the encampment in case of later challenge or dispute.

49. If the unauthorised campers fail to leave by the date and time specified by the police officer, or return to that location within three months of the direction, they are then committing an offence and liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £2,500. Further, if a direction issued under Section 61 is contravened, a police officer may then seize and remove the vehicles under **Section 62** of the CJPOA. Vehicles would be impounded in an appropriate police facility with a fee payable for their return.