

**10 April 2012**

**Managing Unauthorised Encampments**

**Ward(s)** All

**Portfolios:** Cllr Z. Ali – Community & Partnerships

**Executive Summary:**

The council has a range of powers available to deal with unauthorised encampments in the Borough of Walsall and this protocol has been prepared for the purpose of ensuring an expedient, consistent, co-ordinated and appropriate response to unauthorised encampments.

**Reason for scrutiny:**

An unauthorised encampment arises where people adopting a travelling lifestyle, whether permanently or for certain periods, are residing in a vehicle or vehicles within the Borough of Walsall on Highway land, unoccupied land or on any occupied land without the consent of the occupier. Walsall Council is aware that an unauthorised encampment often attracts complaints from local residents and landowners. The protocol explains both to residents and the travelling communities how the council deal with unauthorised encampments.

The current documented protocol between Walsall Council and West Midlands Police was issued in 2009, and since then a number of operational changes have been made which have been highlighted in the proposed new protocol. The revised arrangements consider the impact of Human Rights legislation, and meeting the assessed welfare needs of travelling communities.

The protocol sets out a clear intent to undertake evictions in those circumstances that have the wider interests of the community in mind, and has been prepared for the purpose of ensuring a fair expedient, consistent, co-ordinated and proportionate response to unauthorised encampments.

This is a high profile and contentious issue which draws emotive responses from residents. Ward members have an important role to play in such incidents, responding to residents' concerns and maintaining a balanced and proportionate response.

The full protocol is attached as appendix 1.

Scrutiny are therefore being consulted and asked to comment on the protocol.

**Recommendations:**

**That Members comment on the joint protocol for Managing Unauthorised Encampments between Walsall Council and West Midlands Police.**

**Background papers:**

None.

### **Resource and legal considerations:**

Currently the responsibility for evictions lies within the Licensing Enforcement service within Regulatory Services and a modest budget is made available to deal with the costs of administration, enforcement and eviction. Licensing Enforcement Officers co-ordinate the process, with the support of officers from other council services. The particular services which need to be involved is dependent on the location of the encampment and the nature of the work required to secure the eviction and subsequently clear and secure the site. There may be costs incurred in clearing and securing sites which are met by the service area which owns the land, or the council in general in the case of highway land. Where the incursion is on private property, the land owner is responsible.

Court fees, bailiffs if required and other similar costs are met by Regulatory Services.

The housing services team also have an important role to play as a Welfare Needs Assessment must be undertaken in relation to any unauthorised encampment before the eviction process can commence.

It is difficult to quantify the number or scale of unauthorised encampments that are likely to require attention each year. Some encampments are relatively short lived and cause little local disturbance, possibly linked to a family celebration, and in these circumstances it has not proved necessary to apply the legal eviction procedures, whilst others involve many vehicles and caravans.

#### People

The protocol recognises that the council staff involved in supporting this protocol operate during normal office working hours only. There would be both financial and staffing implications to be addressed if the protocol were to seek to operate over weekends and Bank holidays or evenings.

Regulatory services and housing services have introduced some resilience in their ability to respond by widening the range of staff equipped to undertake the role of undertaking welfare needs assessments and coordinating evictions to cater for holidays and sickness. Nevertheless, it is a high profile activity and has a knock on effect on other duties for significant periods thus affecting delivery of other work.

The protocol has been drafted with the assistance of the Equality and Diversity team, and addresses the requirements of the Human Rights Act 1998.

#### Service Impact

Land owning services may be faced with un-expected costs associated with clearing and securing the site following an eviction. Officers involved in dealing with any aspect of an unauthorised encampment and the eviction are taken away from delivery of other aspects of their work.

#### Council Impact

This is a small but key partnership protocol which contributes to citizens feeling

safe and having confidence in the council and police.

#### Legal

The contents of the protocol have been reviewed carefully by both the police and local authority legal services.

#### **Citizen impact:**

Citizens will see a well managed response to local concerns, and ideally a reduction in complaints about nuisance and community safety issues. They will see the site cleared relatively quickly of fly tipping and waste and the site secured.

#### **Environmental impact:**

The protocol has been amended to reflect different working practices and improve the effectiveness of the service. This consequently will minimise any impact on the environment of an encampment, eg amount of waste to be collected, noise nuisance caused to neighbours by generators and dogs etc.

#### **Performance management:**

The partnership working between the police and local authority in dealing with unauthorised encampments is likely to have a direct bearing on customer satisfaction, health indicators and community cohesion.

#### **Equality Implications:**


Has an Equality Impact Assessment been carried out? Yes

#### **Consultation:**

The report has been produced in consultation with the police and housing services team with support from Equality Safety and Wellbeing. The protocol was originally considered by the council's Gypsy and Traveller Steering group who have indicated that there would be little merit in seeking the views of the resident gypsy community. As the National Gypsy Council is frequently called to support the gypsies and travellers that we seek to evict, they have also not been consulted.

#### **Contact Officer:**

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# Managing Unauthorised Encampments



**West Midlands Police**  
  
and



**Walsall Council**

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# **Managing Unauthorised Encampments**

## **A Joint Protocol of West Midlands Police and Walsall Metropolitan Borough Council**

### **1. Introduction**

An unauthorised encampment arises where people are residing in a vehicle or vehicles, tents or similar structures within the Borough of Walsall on Highway land, unoccupied land or on any occupied land without the consent of the occupier.

In the event of an unauthorised encampment the Police and Walsall Council often come under intense pressure to respond. Walsall Council and West Midlands Police agreed a joint protocol in relation to the management of unauthorised encampments in 2008. The purpose of the protocol is to ensure that the response by the two principal agencies is expedient, consistent, co-ordinated, lawful and appropriate, but similarly, that it takes into account the welfare needs of the people on the unauthorised encampment. Procedures are set out to be adopted by both agencies and periodically a formal review will take place. This is to ensure that the protocol remains current and reflects relevant changes in legislation and national policy, thereby ensuring that West Midlands Police and Walsall Council provide a fair, balanced and appropriate service. Each subsequent edition is numbered and carries the month and year of publication. Walsall Council and West Midlands Police both recognise the role that each has to play and will refer to the good practice guide, 'Managing Unauthorised Camping' (DCLG, 2004).

The lead role for decision making on council owned land and highway rests with the local authority and the use of police powers will not normally be considered as a first response. The partners to this agreement will use their best endeavours to work to the protocol but it is acknowledged in some circumstances it may be more effective and in the best interests of parties involved or affected that an alternative approach is taken.

Whilst this protocol specifically deals with unauthorised encampments, the Authority is also committed to continually assessing the accommodation needs of travelling families and is pursuing, with other parties, options for increasing the provision of transit sites within the Black Country.

Signature: .....

Garry Forsyth  
Assistant Chief Constable  
West Midlands Police

Signature: .....

Jamie Morris  
Executive Director  
Walsall Council

Signed and dated the

day of

2012

## **2. Equality and Discrimination**

The Equality Act 2010 gives public authorities a general duty to eliminate unlawful discrimination and harassment, promote equality of opportunity, and foster good relations between those who share a protected characteristic and those who do not when carrying out their functions.

The Local Authority and Police must always be able to show that they have properly considered the equalities implications of their policies/protocols and actions in relation to unauthorised encampments. They must be able to demonstrate that their policies/protocols and actions are proportionate bearing in mind all the circumstances of the case.

## **3. Evaluating Unauthorised Encampments**

In considering what if any action should be taken in relation to an unauthorised encampment a balance must be maintained between the rights of those encamped and the rights of landowners, those lawfully entitled to use the land and the local community. Each encampment must be considered on its own merits.

There will be circumstances where it is not appropriate for an unauthorised encampment to remain in-situ and prompt action will be required. An example may be a problem of crime and disorder associated with the site. The police should also consider enforcement action in respect of any instances of lawbreaking associated with the encampment.

Encampments are to be kept under review and should be subject to regular visits; complaints should be monitored and logged by both Walsall Council and the Police. Changed or deteriorating circumstances and/or behavior is likely to lead to the initiation of eviction proceedings. An example of change may be the expansion of the initial encampment by the arrival of further people or caravans/mobile homes.



#### **4. Illegal encampments on land owned by Walsall Metropolitan Borough Council and highway**

It is jointly agreed that Walsall Council will be the lead agency where unauthorised encampments are established on council owned land and highway. As lead agency the Council will coordinate information and gather appropriate evidence to provide a recommendation for further action.

In general the Council's approach will be:-

- to tolerate incursions on Council land where there are substantiated welfare needs or other compelling humanitarian reasons
- to seek eviction in all other circumstances and when any needs identified have been addressed using Section 78 of the Criminal Justice and Public Order Act or Part 55 of the Civil Procedure Rules

The Licensing Enforcement officers from the Local Authority will initially visit all sites and carry out a risk assessment to determine the appropriate action to be taken. A copy of the Authority's 'Code of Conduct' (Appendix 3) will also be served advising the occupiers of the behaviour expected whilst occupying the site. The content of any notice served will be thoroughly explained to the occupiers if necessary.

Officers from Housing Services from the Local Authority will complete a 'welfare assessment form' (Appendix 9), making enquiries of the encamped persons relating to education, health, housing and social needs. Where a special humanitarian or welfare issue is identified, this will be notified by Supported Housing to the Licensing Enforcement Team who in turn will report the issue to the Duty and Neighbourhood Inspector using a 'site report form' (Appendix 1).

Where it is decided that the land and circumstances (including any information obtained as part of the welfare enquiries) are such as to warrant an eviction then the Licensing Enforcement officer will serve a 'Notice to Vacate Land' (Appendix 2) specifying a time limit. The content of any notice served will be thoroughly explained to the occupiers if necessary.

If the land has not been vacated at the elapse of the relevant period, the Licensing Enforcement officer will seek an eviction via the Magistrates or County Court.

A flow chart for dealing with unauthorised encampments on Local Authority owned land and highway is attached as Appendix 4. The powers available to the Authority and to the Police are further explained in Appendices 5 and 7 respectively.

## **5. Illegal encampments on privately owned land within Walsall**

Where an encampment occurs on private land the Authority and West Midlands Police will make every effort to contact the land owners to inform them of the encampment and ascertain if it is authorised or illegal. If it is an authorised encampment Licensing Enforcement will report the encampment to the Planning Department for them to monitor in relation to permitted development.

The Local Authority Housing Standards Department will conduct a welfare assessment on behalf of the land owner or the police if requested to do so. If there are welfare issues they will be identified to the relevant party. The persons residing on the site will be informed that the landowner and/or the police will be notified of any welfare issues.

The Local Authority will monitor the unauthorised encampment and provide any advice and guidance to ensure the owner is addressing the situation in a proper manner. The owner of the land can be directed to seek the issue of Court proceedings, to secure possession of the land or seek the services of a reputable firm of bailiffs.

The Local Authority may act on behalf of the landowner and remove persons or property from private land if the landowner requests. The Authority will recover the costs for this from the landowner.

A flow chart for dealing with encampments on privately owned land is attached as Appendix 6.

## **6. Dealing with unauthorised encampments identified out of hours**

On occasion an encampment may be established on Council owned land or highway outside of normal working hours. Under normal circumstances the initial visit will not take place until the next working day. Under certain circumstances however it may be necessary for West Midlands Police to seek the eviction of the encampment due to issues relating to crime and / or disorder and where it is felt that it is not reasonable for there to be a delay in commencing proceedings.

## **7. General Police procedure in relation to illegal encampments**

An OASIS incident log will be created in every instance and the duty officer will be informed. The incident log should include the following information:

- date the occupiers arrived at the location
- how the persons entered the land
- number of caravans and vehicles present and their registration numbers
- the exact location of the encampment
- details of livestock (horses etc) and dogs present
- what steps, if any, have been taken locally to request that they leave
- the identify of the land owner and if they have been informed
- what steps are being taken to secure the remainder of the property while they are present
- is there anything especially valuable, sensitive or dangerous on the site (toxic waste, powers or gas installations etc)
- information of any immediate health or welfare needs, especially that of children and elderly people
- what steps will be taken to secure the site once they leave
- all calls from the public and/or complaints concerning the conduct of the persons (including incidents of verbal-abuse and anti-social behaviour) will be recorded on the MDIS log, in order to create a 'running' and complete record
- the Licensing Enforcement officer contact details & any updates and developments reported

The LPU duty Superintendent will be informed when the initial report is confirmed.

Once the Local Authority (in respect of Council owned land and highway) or the owner or his representative (in respect of privately owned land) has asked the occupiers to leave documentary evidence (a statement or copy notice) must be obtained.

A police officer not below the rank of Inspector should attend the location to become the senior decision making officer present in order to serve a notice under Section 61 (Appendix 8).

It has previously been considered best practice to video record the service of each document, vehicles and people and the site in general. This type of indiscriminate filming often causes offence and anxiety to the occupiers. Without specific authority or consideration for collateral intrusion, this type of 'directed surveillance' may be difficult to justify and without proper consideration of Regulation Investigatory Powers Act 2000 video recording should not take place. Although consideration may be given to video recording the operational briefing.

Inform any person who has expressed welfare needs that their situation is being considered. The police should liaise with the Local Authority and consider what options are available to alleviate any social/medical needs of the occupiers. Records of this process should be contained within police and Local Authority logs.

When giving 'notice to leave' a reasonable time must be allowed. Those encamped should be consulted and logistical difficulties should be taken into account. It is not usually appropriate to require those encamped to leave in the middle of the night; the notice should specify that they should leave as soon as reasonably practicable, how long this will be will depend on the individual circumstances, as a guide 24 hours should be sufficient.

Once notices have been served, solicitors representing the occupiers may become involved. Their involvement should not usually delay the police operation; a detailed log of all communications should be kept.

On the day of the eviction, consideration should be given to sending Officers to the site at an early stage to monitor any movements and ascertain the occupier's intentions. Ensure vehicles that have tow and/or lift capability are available and that provision has been made for the secure storage of recovered or seized vehicles.

The local authority do not operate an out of hours service, however, where the land under illegal occupation is 'parks land' then West Midlands Police will contact a Ranger to attend in order to issue the land owner's instructions requiring the trespassers vacate the site. There will be a presumption that s61 action will be taken if the site is not vacated. In these circumstances the welfare assessment will be undertaken by West Midlands Police officers.

## 8. Section 61: Practical Considerations for the Police

- The Act confers powers on the police, not a duty. It is a matter of discretion for the Police whether to exercise their powers or not. Each case must be looked at on its merits with the safety of the community and the potential for disorder or disruption to the life as major guiding factors.
- The law provides for a range of responses according to the seriousness of the nuisance. It may be appropriate for the landowner to apply for an order for re-possession. In other cases the Local Authority can use its powers under the Criminal Justice and Public Order Act (Section 77) but in circumstances where for example there are aggravating factors of crime or disorder, the Police may exercise powers given under Section 61.
- Exercise of the power under Section 61 does not require the landowner to have applied for an order for re-possession nor should it be used as a last resort. There are occasions where immediate or prompt exercise of the power will be the most appropriate response. This requires the occupier, or his agent, to have taken reasonable steps to ask the trespassers to leave. The law does not define reasonable steps but Police Officers must be satisfied that action has been taken by the landowner, or his agent, to ensure that trespassers have been made aware of the request to leave. A verbal request accompanied by the serving of a notice to quit is 'good practice'. A police officer must not act as agent for the landowner.
- The senior Police Officer considering the use of Section 61 to deal with trespassers, in an area where such incursions may have become a local issue or a regular problem, will need to be aware of plans that may have been made by the local Community Safety Partnership to tackle the problem under the provisions of the Crime and Disorder Act (1998).
- Landowners may find it difficult to understand why the Police will not exercise powers contained within Section 61 immediately and at their request. Care needs to be taken by the officer in charge of the incident to ensure that, if the power is not to be exercised, adequate reasons are communicated to the owner of the land or other interested parties.
- When considering the issue of a direction to leave an established site (a site that may have been occupied for some time) the officer in charge should consider whether there has been a sudden escalation of trouble or other aggravating factors. Exercise of the power may result in further trespass nearby and it may be felt that a trespass on one site is less damaging to the community than a trespass on a more sensitive site nearby. A decision to allow a site to remain will need to be discussed with the owner of the land and other interested parties, including the trespassers. The local community should not, however, be expected to tolerate crime and disorder arising from encampments on any such site.

- A reason for non-exercise of the power may be a lack of police resources to deal with a large incursion or concerns over the safety of officers. These are real concerns and may properly justify not exercising the power at once. The decision not to exercise the power under Section 61 should be referred to the officer in charge of the Operational Command Unit for his/her endorsement. This is not a requirement of the legislation but reflects Government concerns that the police should, wherever appropriate, make use of the available enforcement legislation.
- The use of Section 61 is not restricted by the compulsory need for Local Authorities to consider welfare issues. Where the local authority exercise their powers under Section 77 they do have a duty to consider welfare implications ("The Wealden Case"). It was the intention of Parliament to separate the powers granted under Section 61 from those granted under Section 77. Local Authorities have other responsibilities under housing and education legislation as well as child care and social service considerations. These are not Police responsibilities. The duty of the Police is to enforce the criminal law; prevent crime, and maintain order. Case law however, (ex parte - Small 1998) confirms that the police **MUST** pay due regard to humanitarian issues prior to using Section 61. There should not be a lengthy delay in carrying out enquiries; people who have moved onto land only a short time before will not need the same consideration as people who have been settled on land for a considerable period of time and who may have children attending local schools.
- The standard of behaviour expected from those trespassing should be the same as that expected from the settled community and officers will need to be aware of the responsibilities placed upon them to provide the same standard of service as would be expected to those living in settled communities. This applies to all groups of people who should not, for example, be subjected to their vehicles being stopped and searched without good reason or required to produce their documents just because they are recognisably from unauthorised encampments.
- It is suggested that a 'direction to leave the land', where practical, should be given both verbally and in writing. Providing uncooperative trespassers or a large gathering with both verbal and individual notices may however, be impossible. Although the issue of a documentary notice is not a statutory requirement it is good practice.
- Police officers must take care to ensure that they do not become agents for the other parties, and on such occasions maintain neutrality from the other's purpose, but to provide reassurance to all involved that the peace will be maintained.
- The Association of Chief Police Officers have issued guidance covering the options to be considered in dealing with any people who trespass on land owned by another with an intention to reside. West Midlands Police officers will not proactively seek out encampments but will wait until a landowner, affected resident or the local authority contacts them. As soon as the Local Policing Units (LPU) do become aware of an encampment, the Community Safety Bureau will notify their existence to the owner of the land concerned and the Local Authority's licensing enforcement team.

## **9. Communication**

It is recognised that the provision of timely information to all relevant stakeholders will maintain the confidence of the local community in the ability of the Authority, Police and other agencies. For this reason it is vital that clear messages are provided to manage expectation.

## **10. Role of Licensing Enforcement Officers (LEO)**

Once concern is raised over a potential incursion, Licensing Enforcement Officers will investigate the circumstances, and determine the potential course of action in accordance with the protocol. A short alert will be forwarded to the relevant Heads of Service, Portfolio Holder and police contacts indicating the status of enquiries and likely action. The LEO will also inform relevant Ward Members, Area Managers and Legal Services.

## **11. Role of Head of Regulatory Services**

Dependent upon the scale of the incursion a decision will be made to notify others. A briefing will be provided for the relevant Executive Directors, Portfolio Members and local Ward Members.

## **12. Media relations**

As a story breaks it is likely that media will make contact with the Council and Police press offices. Where possible, responses will be prepared jointly between the agencies. The Head of Regulatory Service, in consultation with the Police, where appropriate, should consider whether it is appropriate to issue press statements or use social media on a case by case basis

## **13. Role of Members**

Members provide a key local interface. It is foreseeable that the first report of an unauthorised encampment will be via Members, and in all cases appropriate information will be provided to assist Members in responding to local concerns. An understanding that arrangements between the Council and Police have been agreed to provide a response in accordance with this protocol will enable Members to reassure the public. A factsheet will be given to Members each time they are involved.

## **14. References**

'Managing Unauthorised Camping', Department of Communities and Local Government, 2004 accessed by  
<http://www.communities.gov.uk/documents/housing/pdf/157323.pdf>

## **15. Contact details**

Walsall Council  
Licensing Enforcement Team  
Challenge Building  
Hatherton Road  
Walsall  
West Midlands  
Tel:- 01922 650000  
E mail:- LicensingEnforcement@walsall.gov.uk

West Midlands Police  
Green Lane  
Walsall  
West Midlands

Tel:-  
E Mail:-





**Local Authorities 'Notice to Vacate Land'.**



**Notice Reference Number:**

**TO: ALL PERSONS PRESENTLY OCCUPYING**

**(Address)**

1. The land / highway which you are on is in under the control of Walsall Metropolitan Borough Council, the consent and approval of the Council to your presence on this land has neither been sought nor given.
2. You are occupying the land as trespassers and are present with the common purpose of residing there.
3. You are hereby required to leave the land and remove all vehicles and any other property you have on the land (*spec time*) upon receipt of this notice.
4. If you fail to vacate the land (*spec time*) legal/further action will be taken to obtain possession of the land.
5. It is a criminal offence not to leave this land as soon as practicable, or to return within 3 months (Section 77 of the Criminal Justice and Public Order Act 1994).

**IMPORTANT**

**You Should Comply With The Code Of Conduct At All Times.**

Dated This:

Signature: .....  
Licensing Enforcement Officer  
Regulatory Services



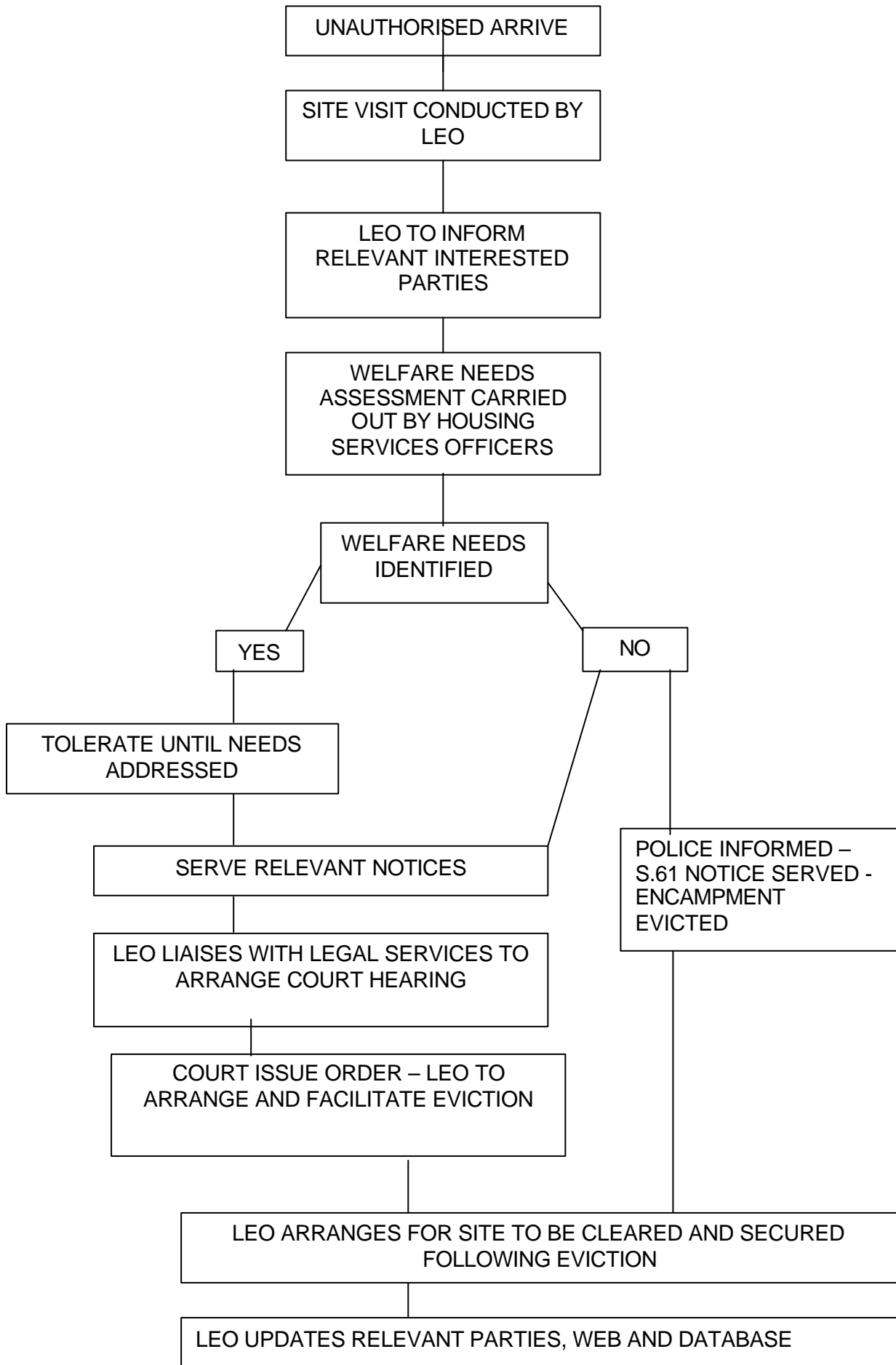
**Licensing Enforcement**  
**A Division of Regulatory Services**

**CODE OF CONDUCT FOR PERSON (S) OCCUPYING AN ILLEGAL  
ENCAMPMENT IN WALSALL**

You are occupying land within Walsall Metropolitan Borough. Until you leave this land the Authority ask that you:

1. Look after the land and do not cause damage to fencing or other property associated with it.
2. Do not dump, accumulate household waste or foul the land. If filled bags are placed in a central location, collection can be arranged. Do not leave filled bags all over the land.
3. Dogs and other animals must be kept under control. They must not be allowed to roam freely and must not annoy local residents/highway users.
4. Please be respectful of local residents, businesses and visitors to the land.
5. In the interest of hygiene and family health, keep the land clean.
6. The Authority will not tolerate any type of intimidation, abuse or assault against officers or residents. Any such incidences will be reported to the Police and further action will be taken.

Authority flow chart for unauthorised encampments on Council Land/Highway



### **Powers available to the Authority**

The Authority has a range of powers available to deal with unauthorised encampments:

#### **Power of local authority to direct unauthorised campers to leave land Section 77 Criminal Justice and Public Order Act 1994**

If unauthorised campers are residing in a vehicle or vehicles within the Borough of Walsall on highway land, unoccupied land or on any occupied land without the consent of the occupier, the Council may give direction that those residing on the land illegally must leave and remove the vehicle or vehicles and any other property they have with them.

A notice of direction must be served on the persons to whom the direction applies, but it is sufficient for this purpose for the direction to specify the land and to include all occupants without naming them. If the occupants fail to leave the land as soon as possible or having left the land re-enter within a period of three months from the date the direction was given they commit an offence.

#### **Orders for removal of persons and their vehicles unlawfully on land Section 78 Criminal Justice and Public Order Act 1994**

The Authority can make a complaint to a Magistrates Court that persons and vehicles in which they are residing are present on land within the Borough of Walsall in contravention of a direction given under section 77. Where a complaint is made under this section a summons will be issued by the court requiring the persons to whom it is directed to appear before the court to answer to the complaint. The summons may be directed to the occupant of a particular vehicle on the land in question or to all occupants of vehicles on the land in question, without naming them.

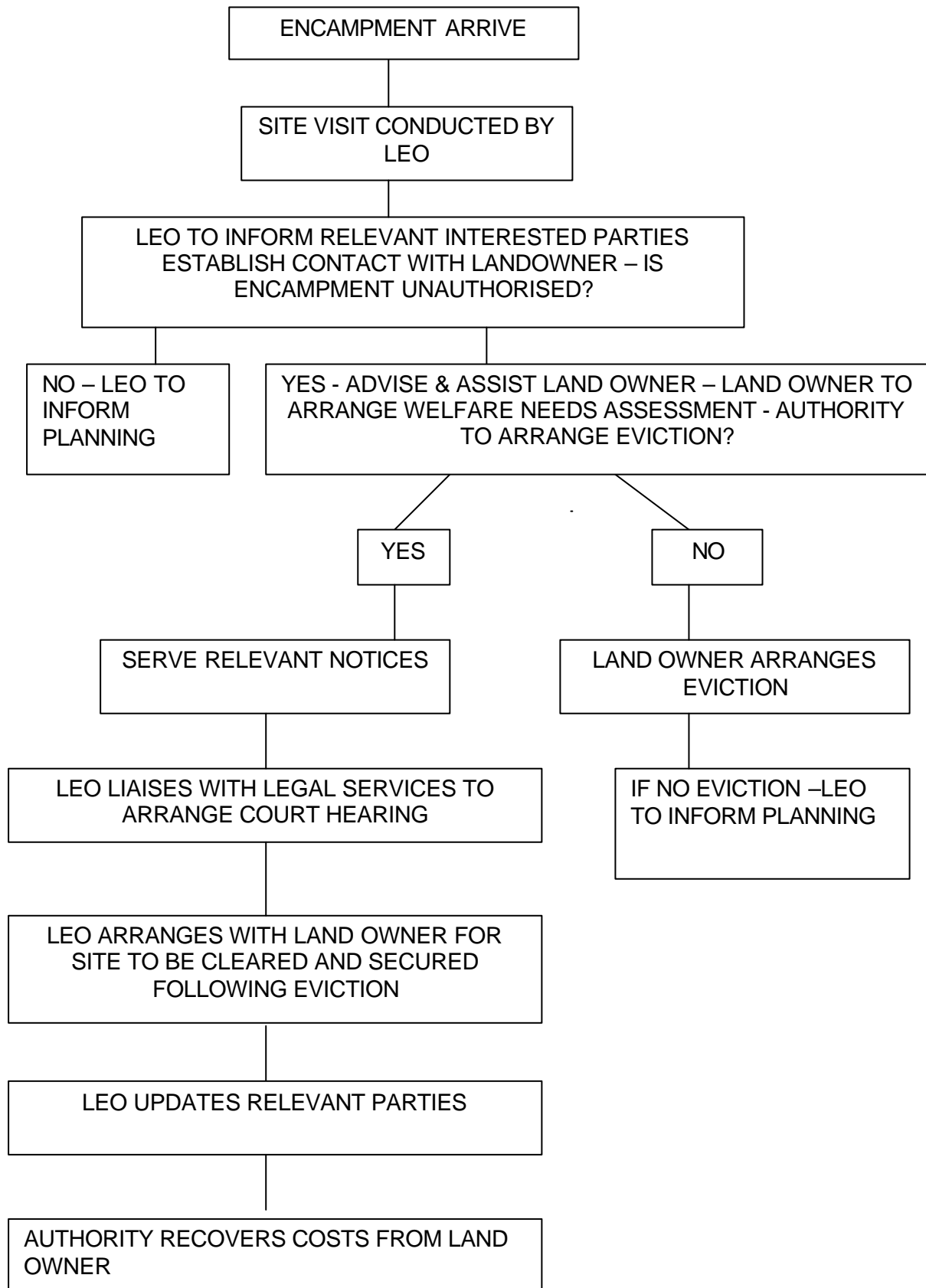
The court if then satisfied can make an order requiring the removal of any persons, vehicles or other property on the land. The order may authorise the local authority to enter upon the land specified in the order and to take steps to enable the removal of any vehicle or property in pursuance of the order.

The Authority will not enter upon any occupied land unless they have given to the occupier at least 24 hours notice of their intention to do so or unless after reasonable enquiries they are unable to ascertain their names and addresses.

#### **Civil Procedure Rules 1998 - Part 55**

Where an unauthorised encampment is on council owned land without permission, the Authority may also choose to secure an eviction by instituting proceedings under Part 55 of Civil Procedure Rules. This is a possession claim against the trespassers which commences in the County Court and if successful is converted to a High Court Order for execution by High Court Enforcement Officers.

Authority flow chart for unauthorised encampments on private land



### **Powers available to the Police**

The Association of Chief Police Officers have issued guidance covering the options to be considered in dealing with any people who trespass on land owned by another with an intention to reside. West Midlands Police officers will not proactively seek out encampments but will wait until a landowner, affected resident or the local authority contacts them. As soon as the Local Policing Units (LPU) do become aware of an encampment, the Community Safety Bureau will notify their existence to the owner of the land concerned and the Local Authority's licensing enforcement team.

### **Criminal Justice and Public Order Act 1994 (CJPOA)**

There are a number of circumstances where it may be appropriate for the Police to exercise powers under section 61 of the CJPOA.

If it is not appropriate for the Police to use their powers under Section 61 the owner of the land should be advised as to the reasons why, such reasons may include:

- the persons have no intention to take up residence,
- insufficient number of vehicles,
- humanitarian grounds,
- no instances of damage, nuisance or apparent criminal activity

The owner of the land can be directed to seek the issue of Court proceedings, to secure possession of the land or seek the services of a reputable firm of bailiffs.

If it is appropriate for the Police to take the lead in enforcing removal, sections 61 and 62 of the CJPOA 1994 will be applied. In all instances there will be early consultation/involvement with the Local Authority. Each LPU will be required to act in accordance with Force policy.

Force Policy requires that powers under section 61 and 62 CJPOA 1994 will be considered by the senior officer present, taking all the circumstances into account with particular note of whether the following circumstances exist:

- there is a threat to public order, or
- when crime is, or has been, committed which can be linked to the illegal encampment

In cases where the Council considers that any of the above criteria have been met for an illegal encampment on either private or public land then the appropriate West Midlands Police Local Policing Unit (LPU) will be notified at the earliest opportunity by email. West Midlands Police will then respond by email at the earliest opportunity.

Having regard to the criteria above, the decision to invoke police powers will be made by the senior police officer present having consulted with the LPU duty Superintendent who must be satisfied that the illegal occupiers have;

- Been requested to leave, and
- That damage has been sustained to the property, or
- That the persons have used threatening, abusive or insulting words or behaviour towards the occupier or owner of the land, a member of his/her family or their employee or agent, or
- There are six or more vehicles on the land.

On each occasion, prior to invoking police powers consideration must be given to humanitarian and welfare issues. Depending on the urgency of the particular circumstances the Local Authority will carry out enquiries in this regard. If outside of normal working hours and circumstances are such that a decision is made to use police powers to evict, the police will conduct welfare checks. Such considerations should not cause an obstructive delay. The Local Authority may make an evaluation that issues such as a critical illness or treatment at hospital are valid reasons for not moving the particular/relevant persons present. Factors such as children attending school will not, generally, be regarded as being sufficient grounds for a delay.

It should be noted that the Police powers under Section 61 Criminal Justice and Public Order Act 1994 cannot be used on Highway land. Consideration may be given to the use of powers contained in alternative legislation i.e. wilful obstruction of the highway in Section 137 of the Highways Act 1980 although it is a prosecutable offence followed by a court order if the obstruction is not removed. Action under this section is not an expedient remedy.



**Example of Section 61 Notice.**

Police form to be added



**Walsall Council**

# Welfare Needs Assessment

(The questions must be answered by an adult)

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Time \_\_\_\_/\_\_\_\_/\_\_\_\_

Officer: \_\_\_\_\_

Vehicle registration (car or caravan): Description:	
Name of head of household:	
Adults (names & ages):	
Children (names & ages):	
<b>1</b>	<b>Adult Health:</b> Do any of the adults feel unwell or would like to see a: Doctor, Nurse, Health Visitor, Dentist, Midwife, Other _____ Reason:
<b>2</b>	<b>Child Health:</b> Do any of the children feel unwell or would like to see a: Doctor, Nurse, Health Visitor, Dentist, Midwife, Other _____ Reason:
<b>3</b>	<b>Children's Educational Needs:</b>  Do any of the children need registering for education:  Details

4	Vehicles:	Car registrations & type	Caravan Registrations & type	No. other vehicles

Is there anything effecting your ability to travel?		No <input type="checkbox"/>	Yes Details: <input type="checkbox"/>
5	<b>Housing</b>		
	Do you have a permanent place to live	No <input type="checkbox"/>	Yes Details: <input type="checkbox"/>
	Do you need assistance with housing in Walsall	No <input type="checkbox"/>	Yes Details: <input type="checkbox"/>
6	<b>Animals</b>		
	Are there any animals on site?		
Dogs	<input type="checkbox"/>	How many?	
Horses	<input type="checkbox"/>	How many?	
Other	<input type="checkbox"/>	Details:	
Do any of your animals need treatment?			
<b>Do you need advice from</b>			
Vet	<input type="checkbox"/>	Details:	
RSPCA	<input type="checkbox"/>		
7	<b>Other Information Disclaimer / Agreement</b>		
<p><b>Data Protection:</b> We may need to share this information with other departments including health, education and other Council services. <b>Do you have any objection? No</b><input type="checkbox"/></p> <p>I agree that the information provided here is correct, and that by signing this form, I agree that it may be shared with other council departments and partners.</p>			
<b>Name/Mark of Person interviewed:</b>		<b>Date:</b>	
<b>Name of Officer:</b>		<b>Date:</b>	
I have declined to provide Welfare information to the Walsall Borough Council representative			
<b>Name/Mark of Person interviewed :</b>		<b>Date:</b>	
<b>Name of Officer:</b>		<b>Date:</b>	
<b>Comments:</b>			
<p>The Welfare Check is to find out the welfare needs of the person (and their household) being interviewed before Walsall Borough Council take any action. This is important, as there may be a need to involve other professionals from health or education services to complete a full assessment of their needs. This form will be used as evidence in court that welfare checks have been carried out to the best of Walsall Council's ability and that any action we take has taken account the needs that have been identified.</p>			