

NOT PROTECTIVELY MARKED

Guidance for private landowners

Bailiffs are preparing for the planning enforcement at Dale Farm which is occupied by members of the travelling community who have unlawfully taken up residency in the area.

The impact of this dispersal may have an effect on the community in the Uttlesford District. On previous occasions sites identified by travellers within Essex have often been inappropriate and have caused significant disruption.

The following information is designed to assist landowners and the public if they think that land being used as a travellers campsite is unsuitable.

Not every site is illegal as some landowners may have been granted permission for travellers to camp on their land. The land may be used for this purpose for up to 28 days without requiring planning permission.

If permission has not been given, it is the landowner's responsibility to remove trespassers either through the Courts or by exercising landlords Common Law powers on trespass. Landowners are recommended to seek professional advice before taking any action.

Vigilance will be the key to preventing further sites forming on land owned or controlled by you.

1. Preventing Unauthorised Encampments

It is the primary responsibility of a landowner/user to protect their land from unauthorised encampments.

If your premises are secure then the likelihood of an unauthorised encampment occurring on your land is reduced. Businesses and landowners should balance the cost of securing their land with the potential costs associated with:

- legal action
- the use of a bailiff
- damage to the land
- removal of waste
- loss of business due to obstruction
- health and safety concerns
- the effects on neighbouring businesses and residents.

These costs could be substantial for each encampment.

A number of preventative measures can be taken to reduce the risk of unauthorised encampments. Consideration should be given to the planning requirements and health and safety issues, associated with these measures.

- substantial steel gate with anti tamper padlock
- substantial height barrier
- width restriction
- high security retractable bollards
- the use of fencing, ditching and bunding (earth mounds)

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- keeping unused land maintained and free from litter and other waste
- Patrols by Farmers and managers
- Ploughing fields immediately after Harvest

2. Powers to deal with unauthorised encampments

Both Romany Gypsies and Irish Travellers are now recognised as ethnic minorities against whom discrimination is unlawful. Land owners should be careful not to take any action to remove or deter unauthorised encampments by taking measures that could be considered to be discriminatory.

Private landowners, including Parish and Town Councils, do not have statutory duties relating to education, social services or housing and, providing that land ownership can be established, may apply to the courts with immediate effect using common law powers.

3. Common Law Powers

A landowner can obtain a possession order through the Civil Courts requiring the removal of trespassers from land/property. This is the course of action normally recommended after speaking to the unauthorised occupiers. Such action can normally be taken swiftly under Civil Procedure Rule 55 in the County Court.

Common Law recognises the rights of a landowner to evict trespassers from their property. If a trespasser refuses to leave, after being requested to do so, the landowner (or an agent authorised to act on their behalf) may use only so much force as is reasonably necessary to evict them.

It is important that excessive force is not used as this could result in the landowner committing an offence. Private Bailiffs sometimes use this power to evict people from land. In general it is not recommended that private landowners seek to use direct action to physically remove unauthorised encampments due to the potential for confrontation, allegations of discrimination, damage to vehicles, etc.

If there is a risk of breach of the peace, the Police will need to consider whether the need for possession is sufficiently pressing for the landowner, or their agent, to continue without first obtaining a possession order.

4. Typical timescale for possession proceedings under section 55

Day 1

Report of unauthorised encampment
Identification of land ownership
Decision that encampment will or will not be tolerated

Day 2

Request that unauthorised occupiers leave land by a set date usually immediately or with 24 hours (Any agreement to allow the occupiers to stay on the site for a limited period prevents the police using discretionary s.61 powers if this becomes necessary). Request needs to be made by the landowner or their agent e.g. bailiff. A notice needs to be handed to the occupiers or posted on caravans.

Day 3

If the unauthorised occupiers do not leave by the set date an application to the Court for possession can be made. Two full days notice of the court date need to be given to the unauthorised occupiers (does not include weekends)

Day 7 (9 days if over a weekend)

Court hearing will normally result in an immediate possession order.

Day 8 – 18 (depends on court time to prepare warrant and availability of bailiffs).

If unauthorised occupiers do not leave then a warrant to execute the possession order is required from the County Court. When the warrant is granted County Court Bailiffs or other certified Bailiffs can be used to enforce the possession order. The landowner is responsible for making arrangements for the removal of any items left on their land.

4. Further information:

http://www.eppingforestdc.gov.uk/gypsy_roma_traveller_services_in_essex.asp

There may be frustrations by landowners as to the manner in which the legislation is applied. However, landowners are requested to remain patient and not to engage in any activity toward the travelers that is unlawful or discriminatory. Essex Police will deal with all breaches of legislation in a positive way. This includes any offences committed by Landowners.

It is requested that landowners are continually mindful of The Equality Act 2010 which affords protection to Romany Gypsies and Irish Travellers. It is unlawful to treat someone less favorably on the grounds of Colour Race, Nationality or Ethnic or National Origins.