



# Joint Agency Protocol for Managing Unauthorised Encampments in Cumbria

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## 1. Introduction and Core Principles

Unauthorised encampments occur when trespassers occupy land belonging to private landlords or public authorities without permission, this also includes overnight stays outside of sites with planning consent.

Following consultation between Cumbria Constabulary and Local Authority (LA) representatives of Cumberland and Westmorland and Furness, this joint protocol has been agreed which contains guidance for dealing with unauthorised encampments and incorporates guidance from both the Department for Levelling Up, Housing and Communities (DLUHC), The Home Office and the National Police Chief's Council (NPCC). This protocol is intended to support a multi-agency response for encampments arriving on land that is not currently classified as a designated stopping site or land authorised for this purpose.

- 1.1 A multi-agency approach can be very effective particularly in areas where encampments are a regular occurrence. This protocol is to be applied consistently across Cumbria to ensure a rationalised multi-agency response and appropriate management of unauthorised encampments. Each Local Authority area will need to draft and maintain their operation process and procedure in line with other relevant guidance, strategy, and policy.
- 1.2 Increasing trust in the police and local authority amongst minority ethnic groups is a priority country wide. The Equality Act 2010 makes it unlawful for public bodies such as Local Authorities and Police to discriminate on the grounds of protected characteristics including race. Case law has held that because of their shared history, geographical origin, distinct customs and language Romany Gypsies and Irish Travellers are distinct ethnic groups. This means that treating people less favourably, solely because they come from a Traveller community is unlawful. It is very important that all the measures explained in this protocol are considered on an individual case-by-case basis.
- 1.3 Cumberland and Westmorland and Furness Councils will, with their partners take a multi-agency response, where appropriate, to unauthorised encampments within their designated area, working together to provide coordinated solutions to encampments, maintaining relations with the Gypsy, Traveller and Roma communities as well as managing any wider community tensions.
- 1.4 Each local authority and Cumbria Constabulary are to draft and maintain their own operating procedure and policies in relation to unauthorised encampments. This protocol will support these individual policies and the multi-agency approach.
- 1.5 Cumbria Constabulary, Cumberland Council and Westmorland & Furness Council recognise the importance of effective communication when managing what are potentially very sensitive issues. Effective communication is vital with those individuals and their families who are required to move, as well as local residents and other interested parties. Effective communication and liaison should be maintained between all agencies involved.

1.6 This Joint Agency Protocol relates to all travelling groups and all unauthorised encampments in Cumbria outside of Appleby Fair.<sup>1</sup> In order to manage the extensive numbers of Gypsy Travellers and Roma associated with Appleby Fair the New Fair Encampment Protocol will apply. The Appleby New Fair Encampment Protocol will be applied to any encampment clearly associated with the Fair (including transient encampments for persons travelling to and from Appleby Fair). The Appleby New Fair Encampment Protocol will apply for Gypsy, Traveller and Roma encampments associated with the Fair.

## 2. Police and Local Authority Powers

### 2.1 Police Powers

- 2.1..1 Police powers to evict people from an unauthorised encampment are provided for by sections 60, 61 and 62 of the Criminal Justice Public Order Act (“CJPOA”) 1994. In addition, the Police, Crime, Sentencing and Courts Act 2022 introduced a new offence relating to residing on land without consent in or with a vehicle (section 60C of the CJPOA 1994). In all instances where Cumbria Constabulary will be looking to use Police powers there will be early consultation with the Local Authority. Each Cumbria Neighbourhood Policing Team will be required to act in accordance with this protocol.
- 2.1..2 Any decision to use powers under the act must be authorised by an Officer of at least Superintendent rank.
- 2.1..3 The rationale around the use of Police powers is to be made in writing and recorded on the appropriate Police system.
- 2.1..4 The decision on which Police powers are used remains at the discretion of the Police decision maker, who when exercising that discretion must have regard to this protocol.

### 2.2 Local Authority Powers

- 2.2..1 Local Authorities are enabled to deal with incidents of unauthorised encampments under Section 77 of the Criminal Justice and Public Order Act 1994.

## 3. Encampments on Local Authority Land

Where an illegal encampment is on land owned by the local authority, it is the council’s responsibility to lead in determining a course of action.

## 4. Encampments on privately owned land

Landowners will decide on the appropriate course of action, including seeking eviction at their discretion and expense. It is the legal responsibility of the private landowner to seek eviction, not the local authority.

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<sup>1</sup>The Multi Agency Strategic Co-ordinating group (MASCG) works to resolve the issues regarding unauthorised encampments associated with Appleby Fair.

## 5. Encampments on common land

Where the public has a lawful right of access the Council (including Parish Councils) may request the Police to use their powers of eviction, (under CJPOA 1994).

## 6. Safeguarding Considerations

6.1 As with any encounter where young people are likely to be present or involved officers must be aware of safeguarding requirements. A child is anyone under the age of 18. It is essential that action is taken, if it appears that a child may be in need of help and support.

Further guidance can be sought at

<https://www.cumbriasafeguardingchildren.co.uk/professionals/concernsaboutachild.asp>

6.2 An adult at risk is someone over the age of 18 'who is, or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself or unable to protect him or herself against significant harm or exploitation.' It is essential that action is taken straight away if it appears that an adult at risk may be abused or neglected. Cumbria Constabulary will sometimes use the term Vulnerable Adult to refer to an adult at risk.

Further guidance can be sought at <https://cumbriasab.org.uk/people/howto.asp>

6.3 Where safeguarding concerns (including Domestic Abuse) exist the agreed safeguarding reporting process should be followed in all cases.

**If there are concerns that a child or adult at risk is at immediate risk the police should be alerted on 999.**

## 7. Equality and Discrimination

7.1 This protocol is not a policy on any specific ethnic group; rather it is a protocol on the agreed response to reports of persons residing as trespassers on land. It is, however, recognised that many unauthorised encampments will be occupied by Gypsy, Traveller or Roma, which is protected under the Equality Act 2000.

There are protections against discrimination under the Equality Act 2010 in England. The Equality Act 2010 requires public authorities to have due regard to the need to eliminate discrimination, 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.

7.2 Local Authorities 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

## 8. Relevant Legislation

- Equality Act (2010)
- Human Rights Act (1998)
- Race Relations Act of 1976 and the Race Relations Amendment Act of 2000
- Police, Crime, Sentencing and Courts Act 2022

## 9. Identification and Decision making for an Unauthorised Encampment

9.1 When an agency identifies a new encampment, the landowner must be identified and consulted, the coordination of this will be delivered through the locally identified process, which is detailed in the flow diagrams at appendix 1 for Cumberland.

9.2 The landowner will be supported by Cumbria Police to deliver the Multi Agency response. This will include welfare, code of conduct, notice to residents and the serving of any statutory notices. Decisions will be taken in line with the operating procedure agreed at each respective authority.

9.3 Where an encampment is on local authority land, prior to possession proceedings being undertaken, a welfare check must be carried out of the occupants. This is necessary to ascertain whether there are any vulnerabilities which may be a factor to be considered by the Judge and will be undertaken by the locality Housing teams and be conducted in line with statutory legislation.

9.4 Where land is owned by the Local Authority a toleration decision may be made by Cumberland or Westmorland and Furness Council. It is recognised that there may be genuine reason for staying on a site, e.g. welfare reasons, in locations where minimum disruption is caused to communities. This decision will be made by the Officer with the

appropriate delegated Power in consultation with the Legal Services team. In the event a decision not to tolerate is made, this will be taken in line with local processes and government guidance.

## 10. Media and Communications

10.1 It is important that any public communications regarding an unauthorised encampment are consistent across all involved partners. Where there is a need for public communications a lead agency regarding public communications will be agreed. Consistent messaging is key, and each agency is required to consult with the other(s) involved to agree a consistent communications strategy.

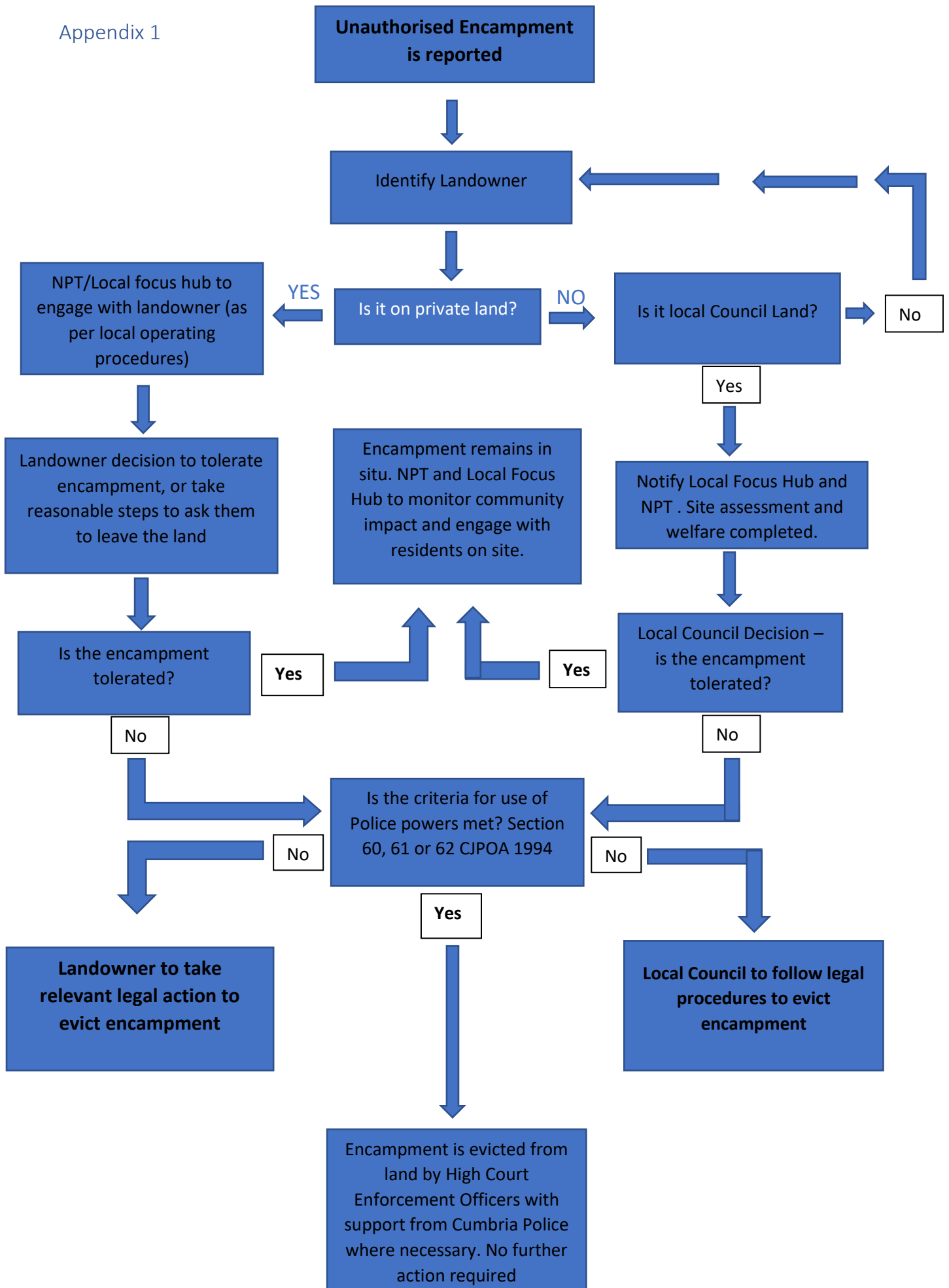
## 11. Associated Documents and Information

Refer to individual organisational webpages for current information relating to unauthorised encampments

Cumbria Gypsy and Traveller Accommodation Assessment – Final Report 2022

[GTAA Final Report](#)

Local Multi-Agency Operating Procedures -undergoing harmonisation as a result of Local Government Reorganisation



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