



## **Private Landowners Guidance to Unauthorised Encampments**

This guidance provides information to private landowners about what to do if an unauthorised encampment is set up on your land without your permission. This guide is not intended to provide legal advice and therefore we suggest that you seek independent legal advice from a suitably qualified legal professional before taking any action.

The legislation surrounding unauthorised encampments is complex and therefore in addition to reading this guide we would recommend that you seek advice from a legal professional.

You may need to consider the use of an agency which could comprise of a bailiff or solicitor/process server to act on your behalf.

### **Responsibilities**

As the landowner it is your responsibility to decide what action to take, if any, if an unauthorised encampment is on your land. It is also your responsibility to remove the encampment.

### **What can you do?**

You could contact your local police to see if the criteria of your encampment would fit into their Policing powers such as:

[Criminal Justice and Public Order Act 1994 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1994/43)

[Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2022/1)

Broadly speaking there are two courses of action that you can take as a landowner:

- Serve a Common Law Notice or
- Apply to the Courts for a possession order under Part 55 of the Civil Procedure Rules (CPR) to remove the trespassers.

The following sections of this guidance explain what this means.

#### **Serving a Common Law Notice**

All landowners can use their common law rights to recover land (i.e. the offence or tort of trespass against property). However, in exercising those rights, you must consider the following:

- In order to evict the occupants from an unauthorised encampment they must be served with a Common Law Notice requiring them to leave by a specific date and time. This can be done by the landowner or an \*agent working on behalf of the landowner.
- The law says that any trespasser who enters land peaceably is entitled to a request to leave the land before being removed by reasonable force. This means that before taking any action it is advisable to organise a discussion with occupants of the unauthorised encampment as part of serving the Common Law Notice to determine if

an agreement can be reached.

- A trespasser who has entered land with force and violence may be removed without a previous request to depart. This means that the landowner may seek to remove an individual(s) without providing a notice period when serving the Common Law Notice.
- If a trespasser refuses to leave, after being requested to do so, the landowner or their agent may use only so much force as is reasonably necessary to evict them.

Things to be aware of when serving a Common Law Notice

It is strongly recommended that if you are considering exercising common law rights that you inform the police and ask for assistance to prevent a breach of the peace. Some points you should also consider include:

- Once the notice period is complete, if the unauthorised encampment is still in place then you can instruct private bailiffs to remove the encampment without need for further notification.
- As the landowner you are responsible for instructions to private bailiffs as well as their costs.
- Serving a Common Law Notice and use of bailiffs does not stop individuals returning and setting up the unauthorised encampment again once they have been evicted.
- As the landowner you are responsible for immediately blocking the access to the land trespassed upon to prevent further incursions.
- During the eviction only “reasonable force” must be used. As the landowner you must be aware that use of “excessive force” can give rise to a claim against you, even if you have employed a bailiff to carry out the eviction.
- If the land includes any buildings or land ancillary to those buildings be mindful if any force or violence is used to gain entry as you may be at risk of an offence under section 6 of the Criminal Law Act 1977.

Seeking a Possession Order under Part 55 of the Civil Procedure Rules (CPR)

As the landowner you can apply to the County Court to gain possession of your land back from individuals who have set up an unauthorised encampment. The process for this is set out in Part 55 of the CPR and Practice Directions. You can read more about this by clicking [this link](#). It is recommended that you seek legal advice before taking any action. The following are key points about the process:

- As the landowner it is you or your agents’ responsibility to serve notice to the unauthorised encampment which specifies a date when they must leave. This could be immediately, within 24 hours of that date or any other reasonable time frame.
- You or your agent can serve the claim by posting it on the caravan(s) or by handing it to the unauthorised encampment residents. The information provided must include a copy of the claim form (N5), particulars of claim (N121) and any witness statements that form the basis of what you are telling the Court.

- The claim should be served upon the unauthorised encampment residents at least 2 clear days before the hearing in the case of occupied land or 5 clear days in the case of residential property.
- You as the landowner or your agent must provide a statement of service to the County Court, setting out how the service was affected, and which documents have been served to residents in the unauthorised encampment. This is to satisfy the Court that you have complied with CPR and Practice Directions and provided notice and the correct information to those facing eviction.
- If the court determines that you are entitled to possession (that you own the land and that you have complied with the CPR) it will usually grant the order straight away.
- If the land is not vacated by the date specified, then you can apply for a warrant of possession and a bailiff's appointment using form N325 in order to progress with the eviction.

#### Things to be aware of when seeking a Possession Order

It is strongly recommended that if you are considering seeking a possession order that you seek legal advice prior to undertaking action. Some points you should consider include:

- As the landowner you will be responsible for paying court fees as part of the application.
- If the same unauthorised encampment comes back after enforcement to evict them, you can seek to enforce the original order without issuing a fresh possession claim provided that there is a sufficient link between the first and second occupancy. To apply for a warrant of restitution use form N445.
- If a different unauthorised encampment is set up on your land the point above will not apply, and the process will have to be started again.
- Should the possession order be ignored, it can take time to get an appointment with a court bailiff to execute the warrant.