



**UNAUTHORISED ENCAMPMENTS: A GUIDE FOR DISTRICT COUNCILLORS
AND PARISH & TOWN COUNCILS**

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Contents

1.0	General Information	Page 1
1.1	Responding to unauthorised travellers encampments	
1.2	Managing Unauthorised Encampment	
1.3	Needs Assessment	
1.4	Public Authority Role	
2.0	The role of Sevenoaks District Council on District Council land	Page 3
2.1	The role of Sevenoaks District Council	
2.2	Legislation used by Sevenoaks District Council to Evict Trespassers	
3.0	The role of Kent Police	Page 4
3.1	General Information	
3.2	Legislation used by Kent Police to Evict Trespassers	
4.0	Town and Parish Council/Private Landowners	Page 5
4.1	General information	
4.2	Legislation used by Town and Parish Council/Private Landowners to Evict Trespassers	
5.0	Post UE	Page 5
6.0	Contacts	Page 6
Appendix A	Flowchart for UE within Sevenoaks District Council	Page 7
Appendix B	Flowchart for UE on Parish/Town Council Land (Remedies also appropriate for private landowners)	Pages 8 & 9
Appendix C	Example of an eviction letter	
Appendix D	ACPO Guidance on Unauthorised Encampments	
Appendix D	Guide to effective use of enforcement powers Part 1: Unauthorised encampments (ODPM)	

GUIDE FOR DISTRICT COUNCILLORS AND PARISH & TOWN COUNCILS

1.0 General Information

1.1 Responding to unauthorised travellers encampments

Unauthorised encampments (UE) can occur on highway land, industrial areas, waste land, car parks, parks and recreation areas. Some sites affected are more obtrusive and less acceptable than others and are more likely to cause public complaint.

The basic concerns around an UE is between Gypsy/Travellers who want to stay in an area for a period of time (for work, education or other welfare needs) but have nowhere legally to stay, and the settled community or business who generally do not want to have Gypsies/Travellers camped in their midst.

Public authorities including Sevenoaks District Council and Town & Parish Councils try to balance the conflicting needs of each group even though this balancing act will not necessarily be understood by all the groups affected by the UE.

It is unlawful for a public authority to act in a way which is incompatible with the European Convention of Human Rights so the decision making process must be structured so it reflects:

- The legality of the decision
- Its necessity
- Proportionality
- That it is non-discriminatory

It is not possible for an UE to be removed immediately, so it is critical to manage the expectations of the local community who usually require an immediate response and speedy removal of the UE.

1.2 Managing Unauthorised Encampment

It is the responsibility of the landowner to undertake the eviction of an UE, although in exceptional and specific circumstances the Police may undertake the removal.

1.3 Needs Assessment

The District Council must comply with the relevant legislation at all times. All children living in a caravan are classed as children in need (Children's Act 1989). Other legislation such as the Human Rights Act must also be taken in to consideration prior to a group

being moved on and a full assessment of the group relating to health, social care and educational needs must be carried out.

Consideration will then be given to these assessments and the Human Rights of all parties involved.

As a District Council we have to work within the constraints of legislation available to us, and must ensure all decisions are proportionate and legally robust.

1.4 Public Authority Role

Numerous public authorities become involved with UE's and all have a part to play in the management process.

2.0 The Role of Sevenoaks District Council on District Council land

2.1 The Role of Sevenoaks District Council

The District Council have the following roles in case of an UE:

- The management of UE's on land which the Council is responsible for;
- Managing the impact of the UE on the local environment and its settled community; and
- Any decision being proportionate and legally robust and informed by current legislation and published Central Government guidance.

Once an UE is reported on District Council land, a Council Officer will visit as soon as possible (same day if pre 16:00, if post 16:00 then next working day), although no response to an UE will occur over weekends or bank holidays. The circumstances of the UE and its occupants shall then be assessed. There will be a full assessment of the occupants, which will relate to health, social care and educational needs.

Subject to the outcome of the assessment, and if necessary in conjunction with Kent Police, a decision will be made on what suitable action is to be taken. Please see Appendix A – Flow Chart for UE

2.2 Legislation used by Sevenoaks District Council to Evict Trespassers

The District Council uses a discretionary power under Section 77, Criminal Justice and Public Order Act 1994 to direct unauthorised campers to leave land. This power gives no immediate remedy for the trespass, so it will take time until the actual eviction occurs. The process associated with Section 77 is shown in Appendix A – Flow Chart for UE

Where crime and disorder issues are raised or the UE causes:

- A clear highway hazard
- Or is located on high profile sites
- Or the unauthorised encampment is causing policing problems.

There will be detailed discussions with Kent Police to determine if there are discretionary powers that are appropriate and provide for a speedier eviction.

3.0 The role of Kent Police

3.1 General Information

Normally trespass will be a civil matter between the trespasser(s) and landowner. The role of the Police in these circumstances is to maintain law and order.

In dealing with an UE, the Police will recognise the rights of the community including the occupiers of the land, while balancing this with the needs of the trespassers.

The Police will enforce the law wherever necessary to fulfil the role outlined above and use statutory powers where appropriate.

3.2 Legislation used by Kent Police to Evict Trespassers

The Police have a power under Section 61 Criminal Justice & Public Order Act 1994, which allows a Senior Police Officer, not below rank of Inspector, to attend the scene of an illegal encampment and order the trespassers and their vehicles to leave land as soon as reasonably practicable.

This power can only be used where the senior police officer believes:

- That reasonable steps have been taken by or on behalf of the occupier to ask them to leave; and
- Damage has been caused to the land or to property or threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent has taken place or
- There are six or more vehicles on the land

It is worth noting S61 provides a discretionary power and does not impose a duty upon Kent Police to automatically use these powers. Such powers will only be used if appropriate triggers including criminal activity, serious breaches of the peace, disorder or significant disruption to the life of the local community occur. Guidance on S61 powers are given in a document titled ACPO Guidance on Unauthorised Encampments 2011, a copy of which is attached.

4.0 Town and Parish Council/Private Landowners

4.1 General Information

The landowner has responsibility for the removal of Gypsy/Traveller groups from their land, although Sevenoaks District Council will offer advice and guidance when asked, but are not responsible for undertaking the actual eviction. An important role the District Council usually plays is the communication of events to the wider community. Our principle communication role is to reassure the local community who contact the District Council directly that action is being taken; to advise other Town and Parish Councils of events and up date local District Councillors. Modern methods including Facebook and twitter can also be used to swiftly advise people of the situation and such media routes will be increasingly used in the future.

4.2 Legislation used by Town and Parish Council/Private Landowners to Evict Trespassers

There are two methods available to landowners for removing an UE. Firstly, the Common Law rights to recover land which involve the use of private bailiffs and secondly, the use of Part 55 Civil procedure rules, which involves applying to the County Court in order for a judge to issue an eviction order. A flowchart (Appendix B) shows the processes involved in evicting trespassers'.

For both eviction options the land owner must ask all trespassers to leave and an example of such a letter is provided in Appendix C.

On public land including that owned by Town and Parish Councils there is a welfare obligation that needs to be fulfilled. Assistance in undertaking such welfare assessments can be provided by the District Council in collaboration with Town/Parish Council. This welfare assessment will inform the decision making process and can mean that in certain circumstances, such as a serious illness or imminent birth the UE should be tolerated for a specific length of time.

If a landowner has insurance, it is strongly recommended that contact is made with them at an early stage as in some instances the removal of an UE is part of the policy.

5.0 Post UE

Once the travellers have left it is not necessarily the end of the work or costs. Works that often need undertaking are:

Clearing waste/rubbish on the land;

Ensuring adequate security measures are provided; and

Repairing recreational/playing fields.

After an UE there usually lessons which have been learnt, it would be helpful if these can be discussed with the District Council in order to improve this document.

6.0 Contacts

For dealing with encampments on local authority land, the contacts are:

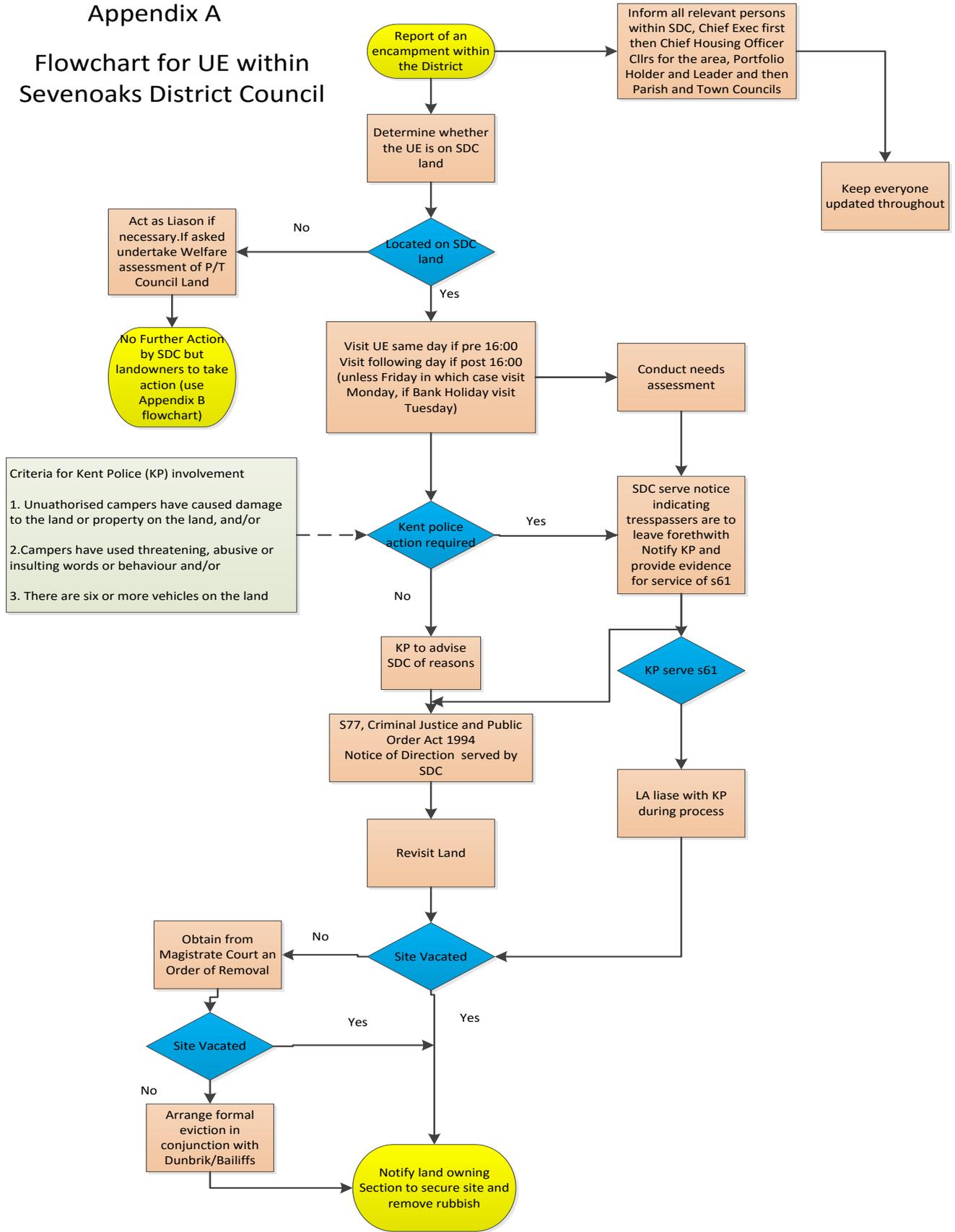
Contact James Cox, Housing Standards Team Leader –

Tel: 01732 227312 or 01732 227000

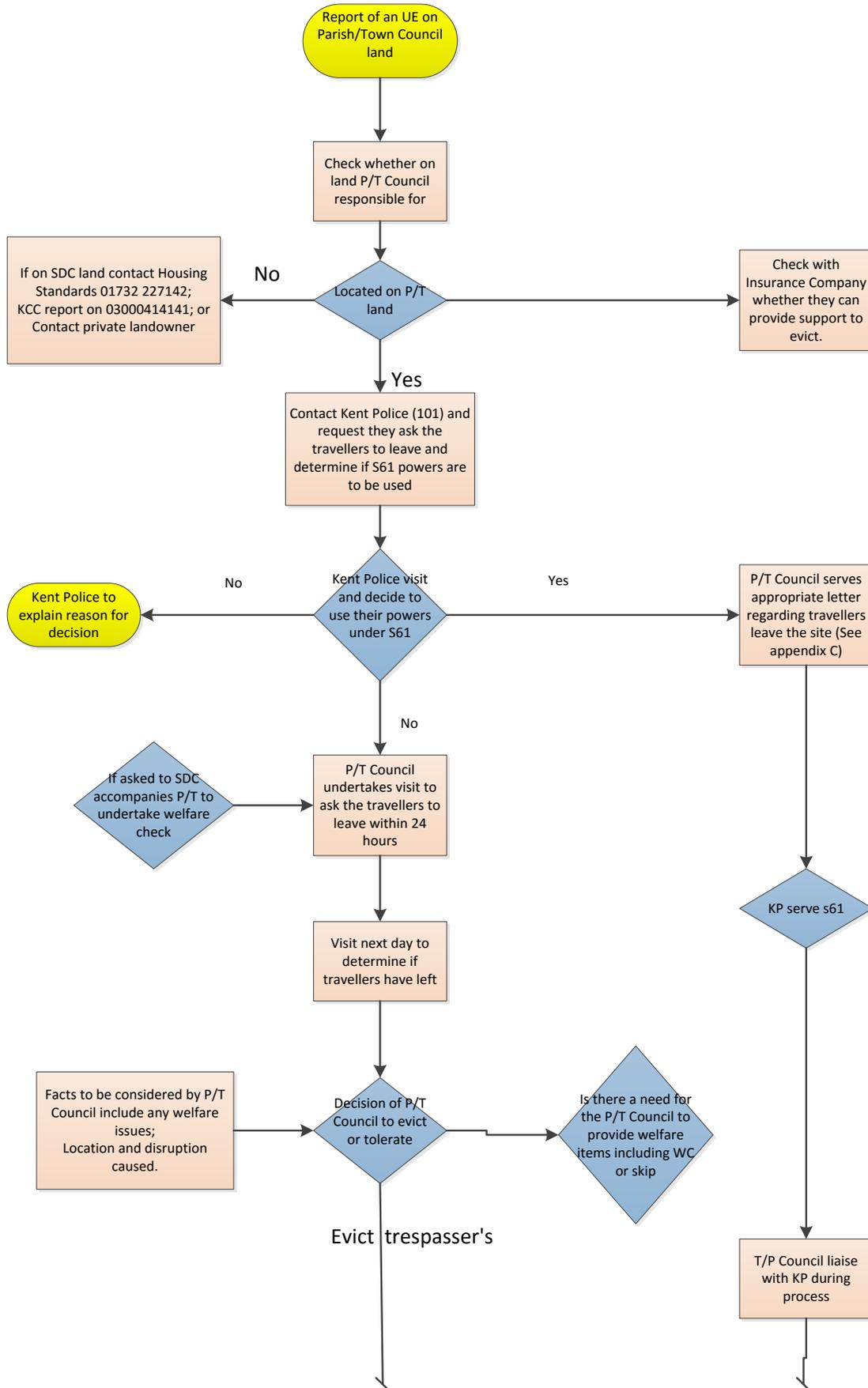
Or email - james.cox@sevenoaks.gov.uk or housing@sevenoaks.gov.uk

Appendix A

Flowchart for UE within Sevenoaks District Council



Appendix B – Flowchart for UE on Parish/Town Council Land
(Remedies also appropriate for private landowners)



Eviction Routes

