

Isle of Wight Council

**MANAGING UNAUTHORISED
ENCAMPMENTS**

September 2020

Document Information

Title:	MANAGING UNAUTHORISED ENCAMPMENTS
Status:	Final Draft
Current Version:	11
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Consultation:	Legal Services
Approved by:	Cllr Gary Peace – Cabinet Member for Community Safety and Digital Transformation
Approval Date:	
Review Frequency:	3 years
Next Review:	Sept 23

Version History		
Version	Date	Description
1	31/06/2019	Draft
2	06/11/2019	Draft
3	13/02/2020	Draft
4	20/05/2020	Draft
5	12/06/2020	Draft

6	18/9/2020	Final Draft
7	08/10/2020	Amendments made to Final Draft
8	17/10/2020	Amendments made to Final Draft
9	26/10/2020	Final Draft
10	23/11/2020	Amendments made to Final Draft
11	02/12/2020	Amendments made to Final Draft

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INTRODUCTION

1. From time to time, people may stop and temporarily set up camp on public or private land without the landowner's permission - this an 'unauthorised encampment'.
2. Unauthorised campers could be anyone, and they may use a variety of accommodation such as tents, improvised shelters, caravans, trailers or vehicles.
3. Unauthorised encampments can be problematic and may cause animosity from communities, interest from media and requests for authorities to take action. In addition, such encampments rarely provide an appropriate or adequate setting and frequently result in poor living conditions for the occupants or other safeguarding concerns.
4. Unauthorised camping is classed as trespass which is a civil offence (but not a criminal offence). Landowners and local authorities have the right to repossess their property using legal means.
5. The responsibility for dealing with an unauthorised encampment lies with whoever is responsible for the land it is on.
6. The purpose of this protocol is to set out the overall approach to dealing with unauthorised encampments on the Isle of Wight.
7. The protocol has been agreed with Community Safety Partners following consultation with:
 - Hampshire Constabulary
 - Isle of Wight Council
 - i. Community Safety
 - ii. Legal Services
 - iii. Adult Social Care
 - iv. Children's Social Care
 - v. Parks and Countryside
 - vi. Planning
 - vii. Housing Needs
 - Isle of Wight Clinical Commissioning Group
 - Hampshire Police and Crime Commissioner
 - Isle of Wight Fire and Rescue Service
8. This protocol is not a policy on Gypsies or Travellers but details the agreed responses to reports of persons setting up unauthorised encampments. It is, however, recognised that unauthorised encampments may contain those from Gypsy or Traveller communities.
9. The protocol considers the advice and guidance issued by the Ministry of Housing, Communities & Local Government, Home Office and Ministry of Justice 'Dealing with illegal and unauthorised encampments' March 2015.

EQUALITY AND DIVERSITY

10. In carrying out their functions public authorities have a general duty under the Equality Act 2010 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. This duty covers all racial groups, including Gypsies and Irish Travellers who are recognised ethnic groups.
11. Local authorities and Police must always evidence that they have properly considered the equality implications of their policies/protocols and actions in relation to unauthorised encampments (including tents/shelters). They must evidence that their policies/protocols and actions are proportionate, bearing in mind all the circumstances of the case. For this purpose, an equalities impact assessment has been undertaken.
12. The Department for Communities and Local Government does however advise:
“Public bodies should not gold-plate human rights and equalities legislation. Councils and the police have been given strong powers to deal with unauthorised encampments and when deciding whether to take action, they may want to consider for example:
 - (a) the harm that such developments can cause to local amenities and the local environment,*
 - (b) the potential interference with the peaceful enjoyment of neighbouring property,*
 - (c) the need to maintain public order and safety and protect health – for example, by deterring fly-tipping and criminal damage,*
 - (d) any harm to good community relations,*
 - (e) that the state may enforce laws to control the use of an individual’s property where that is in accordance with the general public interest.”*

JOINT OBJECTIVES

13. Various Council services and external agencies must work together to manage unauthorised encampments effectively, and to achieve the below objectives:
 - Supporting Gypsies/Travellers/unauthorised campers and encouraging them to behave responsibly and within set guidelines whilst residing on land unlawfully.
 - Ensuring any inconvenience and disruption to local communities is minimised
 - Dispersing the unauthorised encampment having carried out proper investigations and assessments of the Gypsies/Travellers/unauthorised campers’ circumstances and welfare needs and in compliance with agreed legal processes.

AGREED STRATEGY FOR DEALING WITH UNAUTHORISED ENCAMPMENTS

14. How an unauthorised encampment (including tents/shelters) is dealt with will depend both on the land ownership and how the land is used. Unauthorised encampments may set up on land owned by the local authority, privately owned land or on the highway.
15. No action will be taken before partners have established why the Gypsies/Travellers/unauthorised campers are on the land, how long they are intending to stay and whether there are any welfare issues.

16. Unauthorised encampments will be visited by a Council Officer as soon as practicable (normally within 24 hours on weekdays). An initial assessment will be carried out and the following basic information gathered:

- numbers of vehicles and families involved
- past and intended future movement
- anticipated length of stay
- reasons for stay
- any particular health, educational or other welfare needs.

The initial response and visit will be undertaken by the lead agency or relevant council department (detailed below) responsible for the land the encampment is on. The initial visit will be conducted in a cordial and respectful manner.

- Highways Land – Island Roads
- Council owned Parks and Recreation Grounds – Environment Officers
- Private Council owned land not open to the public – Property Services
- Rights of Way – Rights of Way Team
- Council owned car parks – Parking Team
- All other council land – Property Services and/or Community Safety
- Unknown or unidentified land – Community Safety
- Private land – the respective land owner, with guidance available through Community Safety

17. If Gypsies/Travellers are identified the Specific Point of Contact (SPOC) will be the designated lead officer. If homeless persons are identified the Housing Service will be requested to take the lead.

18. Information will be shared with partners, including the Traveller Education Service and Health Visitors, as necessary. Health, education and welfare assessments will be carried out by the relevant professionals.

19. If there are any safeguarding concerns referrals will be made to the Multi agency Safeguarding Hub (MASH) for children or the Multi Agency Safeguarding Triage (MAST) for adults. A MARM (Multi agency risk management meeting) may also be called where the safeguarding concern does not meet the required threshold, but a multi-agency meeting would be of benefit.

20. The flowchart in Appendix A details the primary procedure for dealing with unauthorised encampments.

Encampments on local authority land

21. If an unauthorised encampment is on local authority land, the Council will lead in determining a course of action. If the encampment is in a Council Pay and Display Car Park a decision will be made as to whether Parking will enforce the area or not. If enforcing, the encampment will be expected to abide by the conditions of use and display a valid pay and display ticket or permit. Penalty Charge Notices will be issued to any vehicles which do not comply.

Encampments on the highways network

22. If the encampment is on the highways network, Island Roads will assess whether the encampment is an obstruction of the highway.

Encampments on privately owned land

23. If the encampment is on privately owned land the Council will expect the landowners to decide on appropriate action, including seeking eviction if appropriate. The Council will not normally act for private landowners under these circumstances.

24. If the encampment is on land registered as Parish Council land, common land or village green and where the public has a lawful right of access, the Council may utilise its powers upon request from the landowner, for an arranged fee. This will be co-ordinated by Community Safety.

CONSIDERATION TO TOLERATE AN UNAUTHORISED ENCAMPMENT ON COUNCIL OWNED LAND OR HIGHWAYS NETWORK

25. It is the intention of the IOW Council to move on anyone camping without authorisation. Only under exceptional circumstances will an unauthorised encampment be tolerated.

26. Any decision to tolerate the encampment will be based on balancing the needs and wishes of the unauthorised campers and those of the settled community. In the absence of any specific welfare needs, the Council will consider the following criteria:

- the nature, suitability or obtrusiveness;
- the location;
- the impact on neighbours and other lawful users of the site;
- the size of the group, their behaviour and, if any, the level of nuisance;
- the number, validity and seriousness of the complaints.
- the length of time it has been in situ

Non-Toleration Criteria

27. The Council will proceed with an eviction where an encampment:

- creates a hazard to road safety or otherwise creates a health or safety hazard; or
- creates a nuisance to the general public or to local residents or workers by reason of its size, location, nature or duration; or
- creates an intolerable impact on the employment, use or occupation of adjoining or nearby land or property or interferes with the effective operation of management of that land or property; or
- causes or is likely to cause damage to the Council's land or property or threat or harm to its employees; or
- prejudices or is likely to prejudice the use of land for its intended purpose; or
- is too large for its location or is causing an unacceptable impact on the environment; or
- would for some other reason be detrimental to the interests of the public if allowed to remain for an extended period.

Toleration Criteria

28. The Council will tolerate an encampment for a specified period of up to 3 months provided that each of the following criteria is consistently observed:

- there is no fouling or dumping on the land or elsewhere including the disposal or deposit of human waste;
- there is no burning of rubbish and all domestic or trade waste is legally disposed of;
- there is no damage to the land, property or the environment;
- there is no intimidatory or anti-social behaviour;
- dogs, horses and other animals do not cause a nuisance or a danger and are kept under proper control;
- there is no unlawful activity (any such activity will be reported to the police);
- groups are small and positioned away from built up areas;
- the tolerated trespasser/s do not move to another site within the Council's ownership and/or control. If this happens the Council will commence possession proceedings immediately;
- the tolerated trespasser/s do not return to the site within a period of 3 months from the date of the original unlawful encampment.

29. If any one of the toleration criteria is not observed, the Council shall review its decision to tolerate the encampment. Subject to the conclusions of the review, if there is a failure to observe one or more of the toleration criteria, the presumption is that the Council will implement the eviction procedure set out in this protocol.

30. Where it has been decided that, for the time being, an encampment (including tents/shelters) can remain the Isle of Wight Council should ensure that other relevant bodies are informed. This will include:

- Elected members and relevant ward members;
- The public, especially complainants;
- Relevant internal Council departments and contractors
- Local education, health and/or welfare agencies.

31. Where an encampment (including tents/shelters) is permitted for a period of time, the Council may offer temporary services such as the provision of rubbish collection sacks.

ENFORCEMENT OPTIONS

32. See APPENDIX B for details on enforcement powers

MEDIA AND COMMUNICATIONS

33. Communications will be maintained with all appropriate parties, to include case conferences where required.

34. Media interest will be dealt with by the Isle of Wight Council media team.

35. The following departments should be kept informed about actions being taken:

- Legal Services
- Adult or Children's social care
- Education Welfare or the education establishment
- Ward members

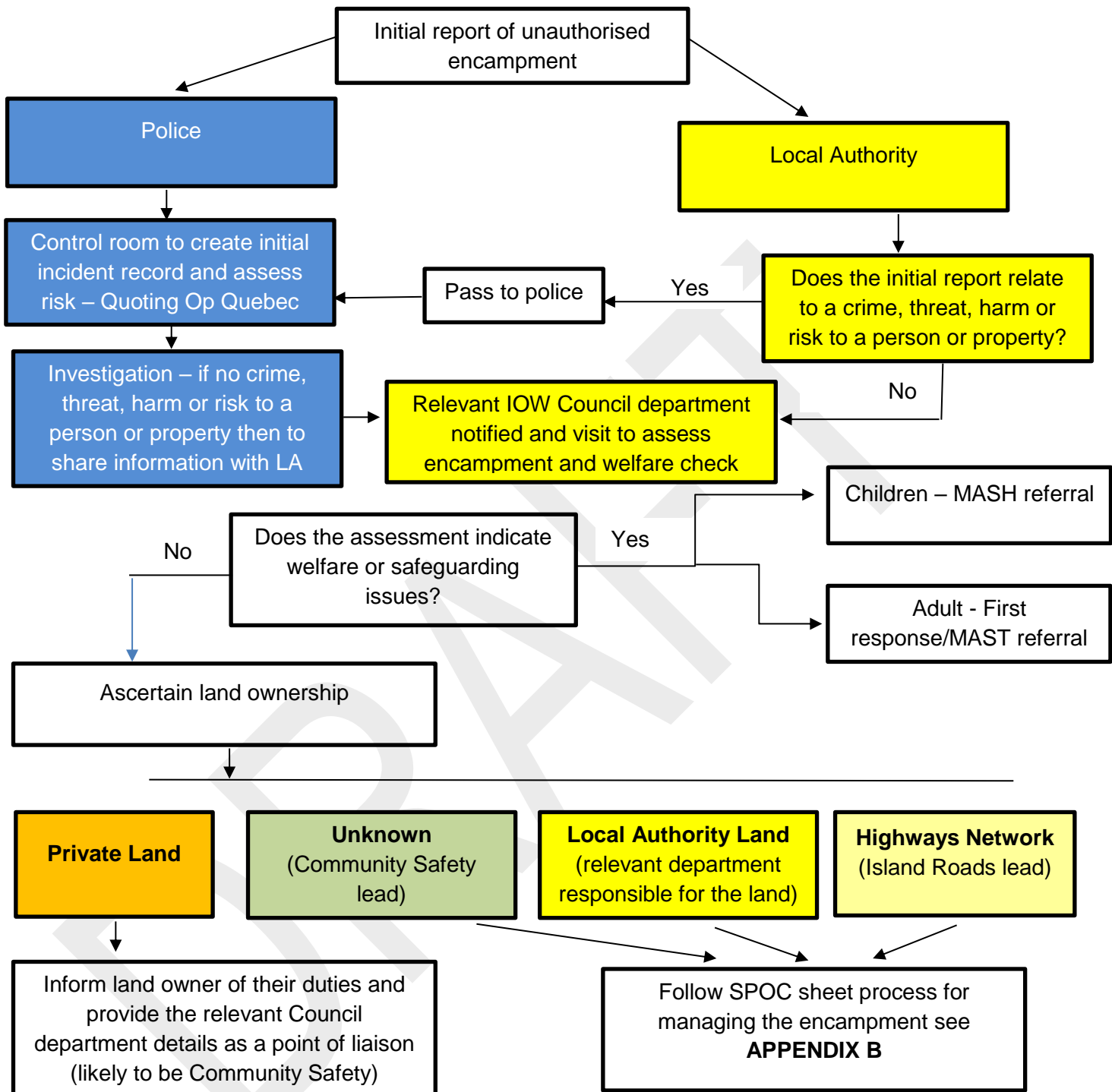
- Other relevant internal departments or external partner organisations

REVIEW OF PROTOCOL

36. The protocol will be reviewed every three years.

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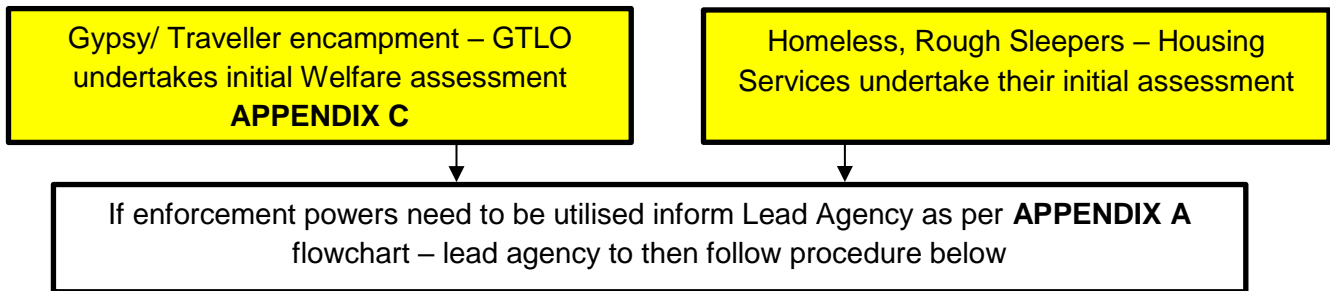
APPENDIX A - FLOWCHART



Tolerating – If lead agency is to tolerate the encampment see points 24 - 30 for toleration criteria. Lead Agency to document and regularly update their toleration decision and continue to monitor the situation.

See **APPENDIX G** for officer decision record.

APPENDIX B – SPOC SHEET



SPOC Action List

Action	Complete/ notes
Log the case on IOW Council's case management system – Uniform	
Ascertain land ownership via GIS system (Contact land owner if not IOW Council)	
Inform the Police via 101 quoting 'Operation Quebec'	Crime Ref no is:
Review Enforcement Powers available – options included within the link below and liaise with Legal on the most appropriate way forward https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments	
If vehicles form part of the encampment and are situated on council land, draft a Sec 77 'direction to leave' notice and seek sign off from authorised officer. APPENDIX D Alternatively seek advise from Legal on other suitable powers that might be more appropriate.	
Send officers to site to undertake a needs/ welfare assessment and issue the direction to leave. Ensure lone working policy is followed.	
Email and inform Ward Cllrs, Portfolio holder and IOW Council Customer Services of action taken	
Email internal teams - Media, Estates, Housing, Leisure (if on a park/ sports pitch), Community Safety, Legal	
Email external Partners - Local Police Team, relevant support services	
Depending on outcome of assessment seek a court order (sec78) to repossess the land via Magistrates Court through Council's Legal Team	
Serve Court Summons on encampment including date time of court hearing - APPENDIX E	
Create court pack including Welfare Assessment, Sec77 notice, map, photos and officers witness statement and Sec78 notice - APPENDIX F	
Keep above parties informed	
Once summons is secured serve on the site	

Court appearance to secure order necessary to reposes the site	
Serve order on the encampment	
Depending on outcome of order being served instruct bailiffs	
Once the encampment have left the site attend and remove any notices and identify any remedial works <ul style="list-style-type: none"> • Identify any waste • Identify the latrine area • hand site over to relevant services 	
Inform relevant parties	
Source costing from internal teams and make note of for future reference and FOI requests	
Evaluate and make note of any learnings	

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APPENDIX C – Needs Assessment Form

Land Owner			
Address			
Visiting Officer		Post held	
Time of arrival		Date of visit	

Adults	Family Name	Males	Females
No. of adults on site and Family name.			

Children	First Name	Surname	Date of Birth / Age
Educational Welfare Officer to be notified			
Yes / No			

People over 60 yrs	First Name	Surname	Date of birth / Age
Any identified needs			
Yes / No			

Pregnancy	First name	Surname	Due date	Contact No.
Any pregnancies within the group				
Yes/No				

APPENDIX C

Vehicles (inc. campervan/RV)	Make	Colour	Registration Number
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
CARAVANS			
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
OTHER			
Buses			
Coaches			
Live-in-Lorries/Vans			
Horseboxes			
Tents			
Kennelling/stabling			

APPENDIX C

SUMMARY FOR GUIDANCE OF AUTHORISING OFFICER

HUMANITARIAN CONSIDERATIONS		
Was any offer made to put encampment occupiers in contact with:-		
	<i>Yes / No</i>	Action Required / Taken
Health	<i>Yes / No</i>	
Welfare	<i>Yes / No</i>	
Housing	<i>Yes / No</i>	
Education	<i>Yes / No</i>	
Other Agencies	<i>Yes / No</i>	
If yes, was this accepted?		<i>Yes / No</i>
If no, is it considered agency contact is required?		
<i>Yes / No</i>		

Any Council interest in the land	
PARK or OS / HIGHWAY / FOOTPATH / OTHER	
Encampment Conditions:- Are the following available?	
Refuse Disposal	
Toilet Facilities WC	
Running Water	
Complaints Received	

Nuisance to the Public by:-		Evidence to Support
Size		
Location		
Duration		
Noise		
Nature		
Other (Specify)		
Impact on adjoining or nearby properties		Yes / No
Damage to Council property or prejudice to its employees		Yes / No
Prejudice to the use of land by legitimate tenants or occupants		Yes / No
Is causing unacceptable impact on the environment		Yes / No

RECOMMENDED DECISION (Having taken the above into consideration)		
Decision	<i>Insp.Off</i>	<i>Auth.Off</i>
No action but review in days	<i>Reason</i>	
Consult and seek further information		
Serve CJPOA direction to leave		
Invite the police to use their powers	<i>State why</i>	
Request a further site visit report. State reasons.	<i>Reason</i>	

Signed Dated

Isle of Wight Council Assessing Officer

Authorising Officer's Comments:

The Human Rights Act has been taken into consideration before arriving at this decision and I agree with the above recommendations.

Signed Dated

Isle of Wight Council Authorising Officer

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APPENDIX D – DIRECTION TO LEAVE NOTICE



CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

SECTION 77 DIRECTION

TO: ALL OCCUPANTS OF THE VEHICLE/S ON LAND AT XXX

IT APPEARS to Isle of Wight Council being the local authority for the land mentioned below that persons are, for the time being, residing in a vehicle or vehicles on land at :-

XXX (insert land address)

WITHOUT CONSENT

And Isle of Wight Council **HEREBY GIVE A DIRECTION** that those persons and any other persons residing with them, are to leave the said land and remove the said vehicle(s) and all other property they have with them on the land **IMMEDIATELY**.

NOTE:-

If you fail as soon as practicable, to leave the land and remove from it any vehicle or other property which is the subject of the direction or, having removed such a vehicle or property, enter the land again with a vehicle within a period of three months beginning with the day on which this direction was given:-

- (a) you are committing an offence and may be liable on summary conviction to a fine not exceeding £1,000

and

Isle of Wight Council will apply to the Magistrates Sitting at Isle of Wight Magistrates Court, aforesaid for an order under Section 78 of the Criminal Justice and Public Order Act, 1994 for the removal of any vehicle or other property present on the said land.

DATED:

SIGNED:

Insert officer title
Isle of Wight Council

APPENDIX E – COURT SUMMONS TEMPLATE**SUMMONS ON COMPLAINT FOR ORDER FOR REMOVAL OF PERSONS AND THEIR VEHICLES
UNLAWFULLY ON LAND (MCA 1980 ss 51, 52; MCR 1981, R98)****Isle of Wight Magistrates Court**

Date of complaint: XXth XXXXX 2019

To the Defendant(s)*: All the occupants of vehicle/s on land at XXXXXXXXXXX XXXXXXX
XXXXXXXXXXXXXXXX, ISLE OF WIGHT

You are hereby summoned to appear on the XXth day of XXXXX 2019 at
XXXX am/pm before Isle of Wight Magistrates Court sitting at Quay
Street, Newport, Isle of Wight, PO30 5YT to answer the following
complaint.

Matter of the Complaint: That you and your vehicle/s in which you are residing are present on
land at XXXXXXXXXXX XXXXXXX XXXXXXXXXXXXXXX, ISLE OF
WIGHT the area of the Isle of Wight Council (“The Council”), being the
local authority of the area, in contravention of a direction given under
section 77 of the Criminal Justice and Public Order Act 1994 (“The Act”) by
The Council on XXth XXXXX 2019. The Council seeks an order under
section 78(1) of the Act requiring removal of any vehicle or other
property which is so present on the land and any person residing in it
and to authorise the local authority to take such steps as are reasonably
necessary to ensure that the order is complied with.

The Complainant is: XXXXX XXXXXXX a duly authorised officer of the said Council.

Address: County Hall, High Street, Newport, PO30 1UD

Signed:

Dated:

DATED:

.....
Clerk to the Justices/Clerk to the Court/
Justice of the Peace

*Where the complaint is made under section 78(1)
of the Criminal Justice and Public Order Act 1994,
a summons issued by the court may be directed to
the occupant of a particular vehicle on the land in
question or to all occupants of vehicles without
naming him or them

APPENDIX F – SEC78 ORDER FOR REMOVAL TEMPLATE

ORDER FOR REMOVAL OF PERSONS AND VEHICLES UNLAWFULLY ON LAND (MCA 1980, s 53, Criminal Justice and Public Order Act 1994 s 78.)

Isle of Wight Magistrates' Court

Date of complaint: XX XXXXX 2019

To the Defendant(s)*: All occupants of vehicles on land at XXXXXXXXXXXXXXXX XXXXXXXX
XXXXXXXXXX, ISLE OF WIGHT

Complainant: On the complaint of XXXXXXXX XXXXXXXX, an authorised officer of Isle
of Wight Council ("The Council")

Address: County Hall, High Street, Newport, PO30 1UD

Matter of the Complaint: That you and vehicles in which you are residing are present on land at
XXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX in
contravention of a direction given under section 77 of the Criminal Justice
and Public Order Act 1994 ("The Act") by The Council on XXth XXXXX
20XX.

And that an order should be made under Section 78(1) of The Act
requiring removal of any vehicle or other property which is so present on
the said land and any person residing in it.

It is adjudged that the complaint is true and it is ordered that:

Order: Any vehicle or other property on the said land and any person residing
therein should be removed **forthwith**.

And the Council is hereby authorised, in accordance with section 78(2) of
the Act, to take such steps as are reasonably necessary to ensure that
this order is complied with and, in particular its officers and servants to
enter upon the said land to take, in relation to any vehicle or property to
be removed in pursuance of this order, the necessary steps for securing
entry and rendering it suitable for removal and to remove any vehicles,
property and associated paraphernalia

By order of the court

Signed:
Dated:

APPENDIX G – Officers Decision Record

Officer:	Date:	Item: Unauthorised Encampment		
Date	Item	Decision made	Review date	Officer
<i>e.g. 20.05.20</i>	<i>Unauthorised encampment including 3 caravans and associated vehicles arrived on example park</i>	<i>Tolerate the encampment due to suggested leaving date of 22/05/20</i>	<i>22/05/20</i>	<i>Joe Bloggs</i>

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