

A short guide to the Policing Act 2022



What it means
for Gypsy and
Traveller camps



This is a short guide for Gypsies and Travellers in understanding the new powers relating to roadside camps in the Police, Crime, Sentencing and Courts Act 2022.

This guide is in a Question and Answer style format for easy reference.

What is the new law?

The Police, Crime, Sentencing and Courts Act 2022 (the 'Police Act') is in effect as of 28th June 2022, creating a new offence under the Criminal Justice and Public Order Act 1994 ('the 1994 Act') namely sections 60C to E. This new offence greatly increases eviction powers.

Are roadside camps now illegal?

No, not in all cases.

There are certain conditions that need to be met before the police can use the new powers.

The new offence applies if a notice is served by either the police or the occupier of the land (which means the person entitled to possession of the land which could be a lessee or licensee as well as the actual landowner) or a representative of the occupier asking you to leave. The notice has to be served on a person or persons residing or intending to reside on land without the consent of the occupier in or with at least one vehicle. A vehicle can include the caravan and the towing vehicle and even a barrel top wagon.

The conditions for serving the notice are that significant damage and/or disruption and/or distress have been caused or are likely to be caused.

The offence is committed if a person served with the notice (which can be given in writing or orally) fails to leave the land by the relevant deadline or returns to the same land within 12 months of the notice (an increase on the 3 months that applied in section 61 evictions, under the 1994 Act). Like section 61 evictions, very short deadlines are likely to be given.

What happens if I don't leave?

If you don't leave by the deadline given by the police, the occupier or the representative of the occupier, then you can be arrested, and you could even lose your vehicles (in other words, your home). The police do not need to obtain a court order before arresting people or impounding vehicles (though they would have to get such action confirmed by a court).

What happens if I am found guilty of this offence?

A person found guilty of this offence can **be imprisoned for up to three months or fined up to £2,500 or both**. This applies to any person aged 18 or over in the household in question.

What were the other eviction power changes brought in by the Police Act?

Section 61 of the 1994 Act has also been strengthened by adding in further criteria, namely disruption and distress, by including highway land and by banning return to the same land for 12 months (as is the case with the new offence).

The prohibited period under section 62A – E of the 1994 Act has been changed from 3 months to 12 months. This may mean that, even if you comply with a notice under s.62A directing you to a 'suitable pitch', you may be, effectively, banned from the relevant local authority area for 12 months even though the Government guidance is that the pitch only has to be available for 3 months.

How do they define the meaning of 'significant', 'disruption' and 'distress' and the phrases 'likely to cause' and 'offensive conduct'?

The Government has attempted to suggest how these new words and phrases (which did not previously appear in the 1994 Act) might be interpreted but it is very unclear indeed as to how they will be interpreted and how they will be used in practice.

Do the police need to do a welfare check before asking me to move?

Local authorities and other public bodies (including the police) should take account of welfare considerations before deciding whether to evict an encampment, as the existing Government guidance on unauthorised encampments (both in England and in Wales) remains in place.

Where a local authority are the legal occupier and are considering serving a notice under the new section, they should consider whether there are alternative locations that you could be directed to,

and this is especially in the context where Gypsies and Travellers are only stopping on encampments because of the total lack of authorised stopping places. If the local authority do not ask about these matters, it may be important to bring to their attention any welfare concerns and ask them about alternative locations.

What options do I have if the police come and say I'll be committing an offence if I don't leave?

You can, of course, try to persuade the police or the occupier that they are incorrect in stating that you have caused or are likely to cause significant damage or distress or disruption. We suggest contacting your local Gypsy and Traveller organisation, FFT, or Community Law Partnership for advice and assistance, if needed.

However, if the police or the occupier do not agree to withdraw the notice by the deadline, unfortunately the advice would be to leave the land because otherwise you risk being arrested and having your vehicles impounded. Given the very short deadlines that are likely, it may be impossible to actually

prevent the eviction happening. Ultimately, to get a conviction the police would need to take the matter to Court and, at Court, you could argue that you had a 'reasonable excuse' for not leaving the land or that the conditions for the offence were not met. However it is extremely unlikely that such matters will come before the Court because, understandably, you will leave the land in question rather than risk being arrested and having your vehicles (i.e. your home) impounded.

Given how draconian this new power is, it should be noted that, even if you have to leave the land in response to a notice, you may be able to bring a challenge in any event. It may be important for such challenges to be brought even after eviction has taken place to try and at least make it clearer what precisely this offence involves and what the various terms and phrases used in the offence actually mean.

Surely this is a breach of human rights?

A legal challenge may be brought against this new offence on the grounds that it is incompatible with the Human Rights Act. Any challenge will inevitably take some time to progress and will not offer a quick solution to the situation on the ground.

If you need legal representation in challenging an eviction call:

Travellers Advice Team

0121 685 8677

09:00-13:00 Monday to Friday

(leave a message if out of hours)

Gypsy and Traveller organisations will need to know what is happening on the ground.

Information about evictions that are taking place, especially under the new offence, should be passed to your local Gypsy and Traveller organisation or Friends, Families and Travellers.



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