

# Unwanted visitors

Illegal encampments can cause misery for private landowners. Here Robert Dangerfield hears from one landowner affected and from an enforcement officer

'Unauthorised encampment' is our worst nightmare: invasion, disruption, stress, cost. Perpetrators' rights seem to come before the victim's – burdened with duties of care and a strict civil process – all of which can be cruelly exploited.

David runs a business on the England-Wales border. His fear of repeat or reprisal drives him to tell us his story anonymously – itself a measure of how sensitive this issue really is.

"I looked out the kitchen window and there they were," says David. "I knew straight away what I was dealing with. And it wasn't as though they were in a distant field – they were in my back garden."

## Sole trader

It's a crisis. David is a sole trader on a 25 acre former dairy converted in the 1990s into a caravan site and storage business. A modest set up like this is vulnerable. "You're a soft target if you don't have strong security, a team alongside you, legal and other help immediately at hand.

"Criminals go down for shoplifting or car theft and I feel this is no different: taking without intention to pay. The pitches they occupied were reserved – deposit paid – by honest customers.

"I have my vital relationship with clients here on site and the business' overall reputation to protect.

The removal bill was over £3,500, more for the tidy-up – and still more in improving the security of the site. And I'm left with the nagging sensation that it'll happen again. The ache of violation and injustice was physically sickening."

David sought advice from the authorities. "A criminal offence is committed by any party which causes damage or breaches civil order. Even if you're morally in the right – that could be you."

"The police won't act unless there's damage, break-in or civil disorder. They keep the peace."

The council advised David to issue an eviction notice and instruct a bailiff to enforce it. A recommendation can't be made. David felt abandoned by the system. He started from scratch: "I tapped into Google. What I saw terrified me: I had no idea how to pick one," he recalls, shrugging his shoulders.

"Obviously I wanted the job done legally and effectively. But we're beginning a critical relationship here. Trust is vital. The face-to-face problem now becomes a triangle – introducing more hazards.



LEFT: YOU CAN'T AFFORD TO LOSE YOUR RAG



"The firm charged me to serve the eviction notice and provide the first hour's communication," David says. "This is where a game started. From then on you pay by the hour. The firm had its badges and code of practise, but this hardly drives the bailiff to resolve the matter in 20 minutes."

## Brinksmanship

Then followed a process of awkward mutual posturing. "The visitors tried to cut deals," David recalls. "For some time I didn't know what was going to happen. It terminated in a game of brinksmanship. They have 24 hours to depart before reasonable force can be used to force eviction. But where cars are parked in front of tow-bars – and women and children are present, it's very difficult to know what reasonable force means.

"The ultimatum is the call out for the tow-trucks. The victim pays the tow charge and that triggers departure. The trucks were recalled. I still received the bill."

David shakes his head. "I heard where they'd come from – and where they went to. The same processes occurred. In all three cases the landowners lose out."

"I've three conclusions. You must deter unauthorised encampment. Open-ground is fair game." Lighting, chains, fencing: these are the minimum. David has now installed HD CCTV cameras and electromagnetic gate locks.



MIKE ANDERSON OF HCE GROUP



DAVID'S CARAVAN SITE

"Costly, inconvenient, but secure," he says. "We must be assertive and proactive. We must do everything possible to deter intrusion."

"Second, we need a support service, I really did feel alone and vulnerable. Finally, we must improve the law to tackle the absence of protection for landowners. Aggravated trespass is as damaging as many forms of theft.

"There's a sense that an offence without an apparent victim isn't a crime. There is a very real victim here. Loss of facilities, damage to reputation and cost of eviction and clear up and uneasy sense that our livelihood is a soft target."

## Be prepared and act fast

"Many landowners don't know where to turn. Our aim is to provide a high degree of comfort," says Mike Anderson. "We deal with about 20 cases every month." Mike is one of 43 formally authorised High Court Enforcement Officers (HCEO) in the UK. His business employs 16 authorised officers in a team of over 250 employees in five offices in England and Wales. His business was not involved with David's case.

"Building the right reputation to our clients is critical to our success," Mike explains. "It's vital to demonstrate expertise, success and long-lasting client-care.

"Speed is vital to prevent more trespassers coming, minimise damage and reduce costs."

They tread very fine lines of rights and responsibilities. Mike says: "An authorised enforcement provider will manage the process and link up with a legal specialist if a solicitor isn't already on board. The majority of cases are handled under Common Law – a speedier solution. The enforcement agent attends the site, 24-hours' notice is given. If the visitors have not departed, physical steps can then be taken.

"This approach can't be used if the trespassers have moved into a structure and – as David learned – the police will only act in certain circumstances: they might even prevent an eviction if they think it would cause a breach of the peace."

## Powers of arrest

The alternative option is to obtain an Order for Possession – in the County Court or via Possession Claim Online. "The writ is an absolute remedy – we HCEO's have powers of arrest and can command the



## ADVICE FROM CLA LEGAL ADVISER ANDREW GILLET

- Know your rights: Have an up to date plan of your land including title deeds, land registration documents, tenancy and grazing agreements. You must be able to prove ownership and legal rights to your land
- Make land secure: using ditches, boulders, fences and gates. Do not erect anything that could cause injury or obstruct public rights of way
- Insure yourself for legal costs: focus closely on what costs are covered
- Make sure you can contact your solicitor – including outside working hours
- Make records and photos – of numbers of vehicles, caravans, people, damage etc, but with care not to intimidate and being mindful of your obligations under GDPR

police to attend to ensure the writ is carried out. Resistance is a criminal offence. Importantly this means the landowner has protection against additional claims."

Mike says that no notice is required to enforce a writ and this is very useful if there's a risk that trespassers will erect barricades to frustrate the process.

"HCEOs need to draw on legal and social expertise – as well as negotiation skills, sound judgement and the capacity to use coercion where appropriate," Mike says. "Even in basic cases vulnerable people, animals and the presence of other issues – drug abuse, for example – generates complexities which can hinder a straightforward eviction.

"The problem's not going to go away. Landowners must accept that it's happening everywhere. And it's a taboo subject in the rural community. Preparation needs to be part of normal business planning. Security is very important to prevent recurrence.

"And you're better prepared once affected. A writ of restitution can be used if the problem returns. This is a writ to support an existing writ – and can be applied by a HCEO without a return to court.

"Finally, don't be shy – tell your neighbours. Your community network is part of your intelligence and defence against the problem." ■

HCE Group's eBook Guide to Possession is free to download from [www.hcegroup.co.uk](http://www.hcegroup.co.uk)



## CLA ADVICE

The CLA argues that greater numbers of authorised sites and resting places could help provide a solution to the wider problem of illegal encampments. Any members affected by these issues can contact the CLA for advice on how to prevent and deal with illegal encampments on your land. In the first instance contact your local CLA office – visit [www.cla.org.uk](http://www.cla.org.uk) go to 'Community' and click on 'In your area' for contact details.