

IN THE MATTER OF POTENTIAL LEGAL ACTION

Persons unknown

v

Milton Keynes Council

Instructions to Counsel

To:

From: Katrina Hulatt
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Milton Keynes Council
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Date: 25 June 2018

Introduction

1. Counsel is instructed by Katrina Hulatt, solicitor for Milton Keynes Council. Should you have any questions regarding these instructions please contact Mrs Hulatt on 01908 253582.
2. Ms. Hulatt has been instructed by the Council to facilitate the lawful moving on of caravans and their occupants (unauthorised encampments) from Milton Keynes land and further preemptory action preventing such incursions in the future.
3. Such unauthorised encampments are causing distress to residents. In some cases they have been reports of antisocial behaviour, crime and also flytipping.
4. The Council specifically requests legal advice on the use of injunctions, however any other remedies that may be recommended by Counsel would be gratefully received.
5. The Council would request advice on a number of approaches;
 - i. The possibility of a pre-emptory 'whole council area' injunction
 - ii. The possibility of specific pieces of land that are affected being subject to a pre-emptory injunction
 - iii. The possibility of an injunction against named individuals to prevent them residing in caravans upon the land.
6. With respect, the Council is aware of the alternative powers available under s77/s78 of the Criminal Justice and Public Order Act 1994; the powers under the common law of trespass and Part 55 possession but feels that despite their use, the problem continues.

Evidence

7. The Council has an evidential picture but it is currently incomplete.
8. We are aware from complaints of arrivals on the land and our officers visit the site, in some circumstances names can be obtained but not on every occasion.
9. The Council serves a landowners notice on the unauthorised encampments (informing the encampment that they are trespassing) and sometimes the encampment moves off at this stage.
10. The Council does record service of s77 notices and can evidence that there are a number of recognised groups moving from place to place around the borough, avoiding the place for which the s77 notice was served for 3 months before potentially returning.

11. We do have some police information as to crime and ASB per site which can be linked to specific unauthorised encampments.
12. The Council does not currently provide sufficient permanent pitches to meet the assessed need for pitches nor are any transit pitches provided.
13. The contractor, Serco, cleans up any debris left behind however does not attach a cost to particular sites and dates. We have asked that this information be collected from now on.
14. Could Counsel please advise on the best approach to an injunction, including;
 - The area or areas of land it should cover (borough wide or specific to certain areas)
 - Whether it can be against persons unknown or named individuals or just pre-emptory to protect specific areas of land
 - The evidence that the Council would need to obtain injunctions of the above type.
 - Whether the matter could be heard in the High or County Court
 - The process of enforcement and likely success of the enforcement process
 - Potential article 8 and s149 Equality Act 2010 considerations
 - Potential challenge based on needs, welfare, static site provision and any expectation on the council regarding tolerance.
 - The likelihood of securing an injunction.
15. I would be grateful, if appropriate, if Counsel could provide advice on the application of Public Space Protection Orders and Community Protection Notices in respect of the bullet pointed queries above.

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