

Legal

Uninvited guests

by Matthew Knight of Knights Solicitors

GAMEKEEPERS ARE OFTEN EXPECTED TO HELP with access and land use issues both by estates and shoots on which they are regularly employed and by neighbours who see gamekeepers as a volunteer emergency service.

These issues include terminating trespasses on estate or shoot and third party land both where those trespasses disrupt game and other wildlife and more generally. The position is simple enough where the trespass is temporary, but what if it is more enduring?

Gypsies and travellers are a long-standing feature of the British countryside and many have an established but itinerant way of life, which is quietly conducted without bothering anyone very

much, and certainly without involving gamekeepers on any level. Others have a more forward approach: pitching caravans and tents on accessible land without permission and aiming to stay there for as long as possible without making any payment or contribution and often grazing horses and ponies, dumping rubbish (their own and other peoples' for reward) and generally being a serious nuisance. Some gypsies and travellers are enthusiastic and effective poachers and so their presence on or near estates or shoots is an unwelcome development.

If on estate or shoot land for which the gamekeeper is responsible, a sensible first step will be to call the Police. Police forces have statutory powers: in

particular via the Criminal Justice & Public Order Act 1994, and if the Police are prepared to use those powers and do so then that ought to be the end of the problem. If the Police decline involvement, what next?

The best approach is probably to drive or walk down and challenge the gypsies and travellers to leave the land by a reasonable deadline: say 12 noon tomorrow or the day after. If the response is positive and the site is vacated then again that is that. If the response is negative, hostile or threatening then a tactical but dignified withdrawal is indicated and the gamekeeper needs

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For estates and shoots, a traditional romantic view of gypsies and travellers is not usually realistic.



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to look to organise a Common Law Eviction as soon as possible. In theory, the gamekeeper or other estate staff can effect this. In practice, unless there are very few gypsies or travellers and at least twice as many gamekeepers and other estate staff, it will usually be sensible to retain specialist Bailiffs, such as GRC Bailiffs.

Common Law Eviction is only available if the initial entry was unlawful: if the gypsies or travellers sought and obtained permission in the first instance but have merely over-stayed, it is not available and a Court Order must be sought.

If residential property is involved the Protection From Eviction Act 1977 requires a Court Order to evict most former tenants and some former licensees although it is technically possible for a homeowner to eject squatters who were not given permission to enter as long as the homeowner was resident in the house or cottage until displaced by the trespassing squatters.

If you are doing the Common Law Eviction yourself, remember that it is an offence to use or threaten violence to secure entry into any premises (but not otherwise open land) if to your knowledge there is a trespasser present who is opposed to the Eviction unless the ultimate beneficiary is a “displaced

residential occupier” or a “protected intending occupier” under the Criminal Law Act 1977 Section 6(1). The use or threat of violence could also expose you to a civil claim. The Home Office advises that the Police should be notified before any Common Law Eviction so that they can be present to prevent any breach of the peace. This is usually helpful, but on occasions the Police have been known to arrest the bailiffs rather than the gypsies, travellers or squatters and whether you actually notify the Police is a matter for you or for the estate or shoot to decide upon in all the circumstances. On balance it will usually be sensible.

Certificated Bailiffs like GRC Bailiffs will be familiar with the law and if there are premises involved (ie. anywhere other than open land) it will be best to rely on their judgment.

Speed of response is important. As a general rule, it is unwise to leave trespassing gypsies and travellers undisturbed for any longer than is possible and they certainly ought not to be left where they are for more than a long weekend or a day or so if the incursion happens during the working week. Delay risks registration with Social Services, with GPs, entry of children into schools and the like, after which

things become much more complicated and expensive. In a worst case you may find yourself with a lot of new semi-permanent neighbours!

There is also the issue of less enduring trespasses. All gamekeepers will be familiar with walkers who have strayed from footpaths or other public rights of way. A firm but friendly request to return to the nearest footpath and, if necessary, showing the walker where it is and perhaps leading the walker to it is usually sufficient. If you have a firearm with you it is best to put it in your vehicle before making the approach if that is possible. If you have no vehicle with you and have nowhere safe to leave the firearm, it is best to unload it and carry it in such a way as to make it clear that it is unloaded.

Just as gypsies and travellers tend to be more active in the summer months there is also a risk of your estate or shoot being affected by a rave. These events are often highly organised and involve large numbers of people, some of whom are of a confrontational disposition by nature; others are confrontational as a result of drink or drugs taken as part of the rave experience. It will seldom be sensible for a gamekeeper to confront ravers alone or with other estate staff and the best approach is to call the Police and leave it

NOTE IT!**KNIGHTS SOLICITORS**

Matthew Knight is the Senior Partner of Knights Solicitors. He has over 20 years' experience of dealing with disruptive trespassers including Gypsies, Travellers and Squatters. Tel: 01892 537311, www.knights-solicitors.co.uk. Ask for Matthew Knight, Richard Atkins, Peter Burfoot or Joshua Quinn.

GRC BAILIFFS

GRC Bailiffs have been involved in dealing with the various forms of unwanted guests, unauthorised encampments, fly grazed horses, etc, for 25 years. They are happy to offer advice on dealing with any issues you may encounter and discuss your options. In addition to carrying out around 200 hundred Common Law Evictions each year, GRC can also supply specialist security services and close protection officers for events including shoots. GRC can also provide other security measures to deter trespass such as static guards, security dog handlers, concrete barriers and temporary fencing. GRC can be contacted during normal office hours on their main number 0845 6014307. Out of hours an answering service will take any messages and a member of staff will usually respond within a short period of time.

NGO FREE LEGAL HELPLINE

NGO members in need of emergency legal advice relating to gamekeeping and field sports can call the helplines below. Up to 30 minutes telephone advice is available free of charge as a benefit of your NGO membership.

For those in the South: Matthew Knight, Richard Atkins, Peter Burfoot and Joshua Quinn, Knights Solicitors (Tunbridge Wells), 01892 537311 (24hr line).

For those in the North, Scotland and Wales:
Michael Kenyon, Solicitor (Macclesfield),
01625 422275 or 07798 636460.



to them. The Criminal Justice & Public Order Act 1994 has powers for the Police to deal with raves and ravers but it will be up to the Police to decide whether to use those powers or not.

The 1994 Act contains a couple of powers which are relevant to shooting throughout the year because it effectively criminalised the disruptive trespass of lawful activities on private land for the first time. The relevant provisions are in Sections 68 and 69. Again, the powers are given to the Police rather than to gamekeepers and it is up to the Police whether they use them or not.

The powers are equally relevant to a trespasser interfering with a Larsen trap in the spring or summer, or a walker or saboteur disrupting a drive during a shoot. They are an alternative to Common Law self-help remedies available to gamekeepers and other estate staff in the usual way and ought to be seen as a last resort when dealing with a hostile disruptive trespasser who is not open to firm but fair persuasion to desist.

However, a gamekeeper deals with these problems it will always be sensible to remain reasonable at all times, not to



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Raves can be highly organised involving large numbers of people, so do not be tempted to confront them alone.

act in temper and to ensure that nothing is done or said that jeopardises the

continuation of a Firearms Certificate or Shotgun Licence.



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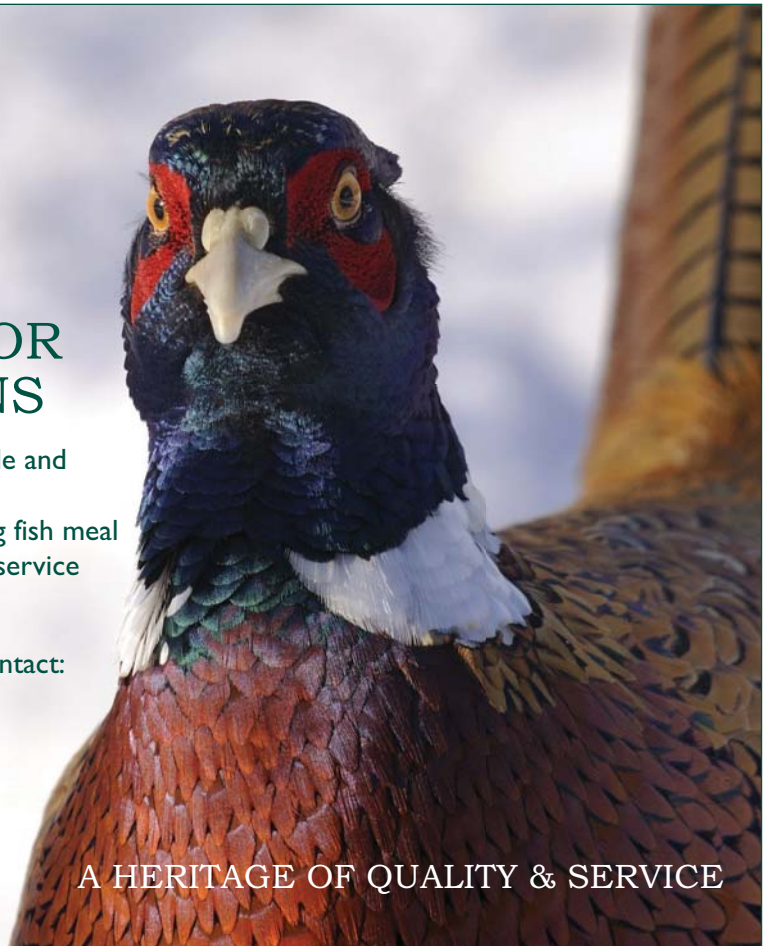
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