

Report to: Executive Cabinet Member for Environmental Services

Date: 16th April 2018

Report of: Phil Green: Assistant Director - Economic Development and Regeneration

Report No: ECMES/55/18

Contact Officer: Ged Gallagher

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Report Title: Procedure for Managing Unauthorised Encampments

Confidential / Non Confidential:
(delete as approp)

(**Non-Confidential**) This report does **not** contain information which warrants its consideration in the absence of the press or members of the public

Purpose:

The purpose of this report is to seek approval for the adoption of a series of revisions to council procedures for responding to unauthorised encampments on land owned by Bolton Council. Where the land is owned by another party (where known) that landowner shall be notified and general advice provided.

Recommendations:

The Executive Cabinet Member is recommended to agree that the proposed procedure revisions are implemented, as follows:

- That only general advice will be offered to private land owners, this to reflect the level of resource available to the council and experience gleaned via land owners utilising their own arrangements when an encampment is present.
- That the Director of Place be given delegated authority to be able to procure the use of bailiffs in cases when the size, behaviour or lack of council or GMP resource dictates it.
- That liaison continues to build a case to ascertain if the use of a pre-emptive injunction to protect agreed locations across the borough is proportionate.
- That the principle is agreed to a contingency for Neighbourhood Services to have an allocation of funds to deal with identified locations. These locations being identified by their existing access arrangements, history of visits or vulnerability.

Decision:

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Background Doc(s):

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(for use on Exec Rep)

Signed:

Leader / Executive Member

Monitoring Officer

Date:

Summary:

The purpose of this report is to seek approval for the adoption of a council wide procedure for responding to unauthorised encampments on land owned by Bolton Council. Where the land is owned by another party (where known) that landowner shall be notified and general advice provided.

A revised, clear and fit for purpose procedure relating to unauthorised encampments will ensure Bolton Council has a proportionate and consistent response. This will give assurance to the Travelling and settled communities about how unauthorised encampments and residents are engaged and communicated with and ensure lawful action which maintains a balance of the rights of all parties concerned.

1. Background Information

- 1.1 Unauthorised encampments on both council and private land have been a national issue for decades so the phenomenon of groups of Traveller caravans arriving unannounced at a location in the town is nothing new.
- 1.2 The reasons for these encampments are varied, complex and numerous – examples include seasonal transit, the pursuit of work, scrap values, family networks and Traveller events / ceremonies and in some cases displacement as a result of other Local Authority enforcement action(s.)
- 1.3 The enshrined nomadic nature of Gypsies and Travellers is well documented. It is estimated that there are some 300,000 in the United Kingdom with up to 25% on the road at any one time.
- 1.4 The number of unauthorised encampments has increased in Bolton over the last 2 years, this combined with issues relating to the length of stay, the size and in some cases the behaviour of these groups has raised concerns amongst local residents and is resulting in increasing costs to the council relating to legal, clean up and staffing costs.
- 1.5 The task of dealing with these unauthorised encampments falls to the Gypsy Liaison Service, this consists of a small team of officers that have the responsibility for the authorised Gypsy site in Little Lever as well as dealing with these encampments.
- 1.6 As cuts in Police resources continue it is evident that GMP resources are increasingly stretched and prioritisation of these resources are often resulting in a lack of officers to support the council in dealing with Traveller encampments.
- 1.7 The above combined with no existing avenues to procure the support of other agencies (such as bailiffs) at the moment and the increased incidence of encampments initiated a review of existing arrangements by the council so as to ensure flexibility and a fit for purpose council response.
- 1.8 The council initiated a process in mid 2017 in response to elected representative and community concerns regarding unauthorised encampment, this subsequently formed part of an agenda item for Neighbourhood and Community Services Policy Development Group. The objective being to address a series of issues and revise procedures. The aim being that a revised procedural position enables
 - Clarity for officers, elected representatives and members of the Travelling and settled communities as to what actions and support the council can undertake in the event of an unauthorised encampment on both council and private land.
 - Appropriate action regarding engagement, welfare, enforcement and clean up (if applicable) is undertaken
 - Timely action to tackle and remove the unauthorised encampments
 - Revision of the menu of tools available to deal with Traveller groups that may visit the town which reflects factors such as their history of visits to the town, the size of the group and their demeanour and actions towards officers and members of the public
 - Ensuring that the council is acting lawfully and proportionately in all matters relating to the unauthorised encampment

- Effective communication and engagement with all key stakeholders particularly Achievement, Cohesion and Integration Service (ACIS), Fire Service, Health colleagues, Environmental and Legal services, Trading Standards and the Police
- A protocol with GMP which is consistent with all other councils in Greater Manchester
- An effective balance between the rights and welfare needs of all the individuals affected

2. Process and Consultation

- 2.1 A group of officers from Housing including Gypsy Liaison, Environmental and Trading Standards and Legal formed a project group to work in this area, building upon existing partnership arrangements and forums linking GMP, Fire Service, Community Safety, Achievement, Cohesion and Integration Service (ACIS) and Health colleagues.
- 2.2 Representatives from the group also linked into a GM forum working on a city region protocol between the 10 Local Authorities and GMP, this served 2 purposes; the first to review arrangements across the 10 Local Authorities and existing protocols to glean best practice and the second as a networking opportunity with other council officers.
- 2.3 Officers considered all areas under review against relevant Government publications: *Dealing with illegal and unauthorised encampments a summary of available powers (2015)* and *The Association of Chief Police Officers Guidance on Unauthorised Encampments (2011)* and utilised benchmarking research.
- 2.4 The group presented updates to Neighbourhood and Community Services Policy Development Group (PDG) meetings in July and November 2017, at the latter the following proposals were suggested by PDG as a way forward:-
 - Implement new operational arrangements for the Gypsy Liaison Service;
 - Revise processes with regard to a range of enforcement options/tools based upon benchmarking exercises;
 - Complete local GMP protocol;
 - Consider further target hardening works at agreed locations within constraints of available resources

3. Progress

- 3.1 *Implement new operational arrangements for the GLO service.* A root and branch review of operational processes has been carried out to reflect good practice and to ensure full information and awareness by all parties involved in an unauthorised encampment. This has looked to the most effective use of resources within the council and partners, to ensure effective communications, better intelligence gathering and greater awareness of standards of behaviour and conduct on all parties behalf for the duration of an encampment.
- 3.2 A working group drawn from Housing, Environmental, Trading, Legal and Neighbourhood services is now in place alongside other partnership forums to continuously review responses to unauthorised encampments. This enables clearer lines of decision making when considering legal action, enforcement, securing locations and post clear up arrangements. This arrangement has proven very effective in resolving a number of the more problematic encampments in the summer of 2017.

3.3 A number of operational procedures have been created or revised to reflect changing circumstances and best practice in dealing with unauthorised encampments. Copies of the revised arrangements can be found in Appendices 1 - 6 , these include the following:-

- *Procedure for dealing with an unauthorised encampment* – concise guide to actions undertaken
- *A new code of conduct for unauthorised encampments* – details of expected behaviour and conduct on all parties behalf, distributed for local and Traveller community
- *A new checklist for unauthorised encampments* which details pre and post encampment condition – revised checklist to ensure accurate assessment of group, location and circumstances pre and post encampment
- *A new information leaflet which is distributed to the local community should an encampment arrive on council land* – concise guide to what is the process in this event
- *A new information leaflet which is distributed to the local community should an encampment arrive on private land* - concise guide to what is the process in this event. It will be procedure going forward that only general advice will be offered to private land owners, this to reflect the level of resource available to the council and experience gleaned via land owners utilising their own arrangements when an encampment is present.
- *A new guidance note from the Trading Standards Service for Traders who visit a consumer's home* – in light of some recent unauthorised encampments and issues reported relating to works being undertaken by some Travellers a leaflet will be distributed to the group to make them aware of their obligations when visiting potential consumer's homes locally.
- *Revisions to the Gypsy Liaison Service webpage* are being undertaken as part of the council's website redesign project and will direct people to a dedicated location which details FAQ, key contacts and advice for private landowners as to what they need to do.
- *A revised communications plan* is in place which details the arrangements for contact with elected members, key stakeholders and the community. A single point of contact arrangement is proposed to ensure consistent messages and look to mitigate negative press coverage.

It is a recommendation based upon the work undertaken that only general advice will be offered to private land owners, this to reflect the level of resource available to the council and experience gleaned via land owners utilising their own arrangements when an encampment is present.

3.4 *Revise processes with regard to a range of enforcement options/tools based upon benchmarking exercises.* Officers held a number of discussions with colleagues from Wigan, Rochdale and Salford alongside debates held at the GM forum tasked with creating a GM protocol with GMP.

3.4.1 Legal service colleagues engaged the services of a barrister in November 2017 to discuss the range and appropriateness of the enforcement tools that Bolton Council employed.

All of the above being undertaken with due regard to Government publications and compliance with the Human Rights Act demonstrating legality, necessity and proportionality.

- 3.4.2 Bolton's arrangements with regard to the use of Sections 77-78 Criminal Justice and Public Order Act 1994 are deemed to be fit for purpose based on the circumstances albeit Counsel noted the reactive nature of these powers with regard to individual encampments and having to be judged on the merits of each case and resources available at that time.
- 3.4.3 The Police use of Sections 61-62 Criminal Justice and Public Order Act (CJPOA) 1994 were still pertinent but were impacted upon by resource issues of the Police. This factor combined with the determination of proportionality and the rights of all parties has meant this power has not been used as much as previously and is a primary factor in some of the increased lengths of unauthorised encampment in Bolton.
- 3.4.4 Part 55 of the Civil Procedure Rules which can be utilised by Local Authorities allows the land owner to regain possession of their land using County Court procedures. In reality this power would take significantly longer than Section 77-78 CJPOA action and utilises the County Court Bailiff to carry out the eviction. Like Section 77-78 it is a reactionary action and would cost substantially more than section 77 action.
- 3.4.5 Common Law Powers (Tort of Trespass) – used by private land owners and is not supported by guidance as there is no reference to the court under common law rules and there are statutory provisions in Part 55 referenced above.
- 3.4.6 Counsel Advice on the use of Pre-emptive Injunction. The initial view is that the only likely remedy which would be of assistance to the Council beyond existing procedures is an Injunction (either under s 222 of Local Government Act 1972, Section 187 (b) of the Town and Country Planning Act 1990 or under the Anti- Social Behaviour Crime and Policing Act 2014.)
- 3.4.7 The process is not without risk – the action may be defended, receive press and other media exposure and will require a great deal of officer input / support and co-ordination. There are also officer personal safety issues as the GLOs will be key witnesses as part of this process. The response would have to be proportionate to the scale of the issues in the location.
- 3.4.8 The costs of pursuing an injunction would be high, estimated at £50,000 upwards. Any remedy would be time limited to a maximum of 3 years.

It is a recommendation from this research that delegated powers are given to the Director of Place to be able to procure the use of bailiffs in cases when the size, behaviour or lack of council or GMP resource dictates it.

It is a recommendation from this research that liaison continues to build a case to ascertain if the use of a pre-emptive injunction to protect agreed locations across the borough is proportionate.

- 3.5 *Complete local GMP protocol* – The GM Illegal Travellers Group tasked with pulling together this protocol tasked Bolton K Division to work with council officers to tweak this arrangement to reflect the local nuances around Bolton with regard to Travellers. The last meeting took place in October 2017.

- 3.5.1 The Acting Chief Constable of the Cheshire Constabulary Jeanette McCormick is the nominated national lead Chief Constable. A follow up meeting has been convened for March 2018 to discuss progress with a view to timetabling a GM position by the summer of 2018.
- 3.5.2 The Trafford Joint Protocol is being scrutinised as part of this process – it is felt that this is largely compatible with Bolton’s requirements albeit there are a couple of financial considerations that need to be worked through.
- 3.5.3 Detailing with further input from key stakeholders is being worked through with regard to the Bolton version of the protocol – a further update will be provided accordingly.
- 3.6 *Consider further target hardening works at agreed locations within constraints of available resources* – As part of the on-going operational response to the increased incidence of unauthorised encampments, colleagues from Neighbourhood Services have embarked on a programme of additional works to secure locations that had been vulnerable previously. This will not cover all locations nor will it guarantee location security against a determined group however it signals intent and offers the settled community some sense of added security.
- 3.6.1 Between April 2016 and March 2018 the spend on such works will stand at £72,000. In one instance in Little Lever funds were reallocated from Area Forum budget to target harden Hill Top.

That the principle is agreed to a contingency for Neighbourhood Services to have an allocation of funds to deal with identified locations. These locations being identified by their existing access arrangements, history of visits or vulnerability.

4. Recommendations

- 4.1 A revised, clear and fit for purpose procedure relating to unauthorised encampments will ensure Bolton Council has a proportionate and consistent response. This will give assurance to the Travelling and settled communities about how unauthorised encampments and residents are engaged and communicated with and ensure lawful action which maintains a balance of the rights of all parties concerned.
- 4.2 It is therefore recommended that the proposed procedure revisions are adopted and implemented, the detail of which is as follows:-
- It is a recommendation that only general advice will be offered to private land owners, this to reflect the level of resource available to the council and experience gleaned via land owners utilising their own arrangements when an encampment is present.
 - It is a recommendation that delegated powers are given to the Director of Place to be able to procure the use of bailiffs in cases when the size, behaviour or lack of council or GMP resource dictates it.
 - It is a recommendation from this research that liaison continues to build a case to ascertain if the use of a pre-emptive injunction to protect agreed locations across the borough is proportionate.

- That the principle is agreed to a contingency for Neighbourhood Services to have an allocation of funds to deal with identified locations. These locations being identified by their existing access arrangements, history of visits or vulnerability.

APPENDIX ONE

PROCEDURE FOR DEALING WITH UNAUTHORISED ENCAMPMENT

In the first instance establish whose land it is, where gypsy and traveller community are camping

If it is **PRIVATE LAND** then advice on options available to the landowner including the option of appointing bailiffs.

If it is **COUNCIL LAND** then follow the process set out below

Visit encampment and carry out assessment, establishing any issues Council need to take regard of when evicting.

Inform the communications group, Health, Social Services and Education of encampment, including any particular request for assistance.

Report to police and obtain a log number

If appropriate, i.e. no issues serve "directions" as contained within section 77 of the Criminal Justice and Public Order Act, allowing at least 24 hours for the camp to move.

Provide code of conduct to travellers, including trading standard guidance on traders visiting consumers home.

Provide information to members via the communication group.

If camp not moved, apply for summons by way of complaint via Legal Services for case hearing at Magistrates Court. (usual contacts Cath Waudby, Dianne Mitchell and Lind Tong)

Serve summons on each caravan, 24 hours before date of hearing, requesting Police assistance if necessary.

Attend court and obtain court order for repossession of land.

Serve court order on each caravan and give specified time for them to move.

Carry out any risk factors and plan with the police and the relevant agencies to take action to remove the travellers.

Have Police and Tow Trucks on Standby (At least 24Hrs notice needed).

If not moved by time stipulated, liaise with Police and tow trucks.

Tow caravans off land. Secure land or notify relative person with authority to arrange securement.

Contact Environmental services if clean-up is required (Andy Bolan).

Notify all relevant people of the eviction.

APPENDIX TWO

A Code of Conduct for Unauthorised Encampments

Standards of behaviour on unauthorised encampments should be the same as those expected of the wider settled community. We have produced a code of conduct which we will expect to be followed in unauthorised encampments. This code will be made available to both the settled and traveller communities.

Intimidation from *and* towards the unauthorised encampment will not be tolerated.

You are occupying this location illegally. You are requested to vacate it as soon as possible/within 24 hours. This council is considering what, if any, legal action to pursue in line with its protocol on unauthorised encampments.

Whilst you are on this location, please:

- Keep groups small and inconspicuous.
- Drive and park vehicles safely and consider your own and others health and safety.
- Do not engage in acts of vandalism or criminal damage.
- Do not create a hazard to road safety or health and safety.
- Look after the land on which you park and do not cause problems for nearby residents.
- Do not allow the site or surrounding areas to become polluted with household, human or trade waste.
- Consider the dangers of fire, electrical cables and generators and passing traffic.
- Do not dump or burn rubbish and leave the land clean and tidy.
- Keep animals, especially dogs, under control.
- Co-operate with those responsible for the land (e.g. Local Authority Officers) and do not park on land needed for another purpose i.e.; Parks and Country Parks, Playing Fields and Playgrounds and areas of special scientific or nature interest.
- Do not block Rights of Way with vehicles, property, clotheslines and cables or block the progress of walkers or riders in any way.
- Do not intimidate or threaten the landowner, his agents or any other persons having legitimate access to the land.
- Once any agreed period of occupation has run out the site must be vacated and not be reoccupied.
- When encamped within earshot of residential properties do not run generators after 10.00pm, or before 7.00am.
- Do not engage in noisy work activities during the hours of darkness.
- Do not go to the toilet in public view, and do clear up afterwards.

- Respect the local community.

If anyone causes a nuisance, or is anti-social or abusive to anyone or identifiably involved in dumping of rubbish we will always seek to prosecute as quickly as possible.

Any crime, disorder and criminal activity will always be reported to the Police.

APPENDIX 3 ASSESSMENT LOG

[illegible]

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UNAUTHORISED ENCAMPMENT CHECKLIST.

PRIMARY INFORMATION.

DATE / TIME REPORTED	
REPORTED BY	
LOCATION	
LAND OWNERSHIP	
IF PRIVATE LAND - OWNER	
ARE WE ACTING ON THEIR BEHALF	
POLICE LOG NO.	
ENCAMPMENT REFERENCE	

SECONDARY INFORMATION TO BE COMPLETED BY GLO.

DATE / TIME VISITED.
FAMILY NAME IF PROVIDED AND WHERE ARE THEY FROM
NUMBER OF CARAVANS MAKE / MODEL
NUMBER OF VEHICLES / VANS / MAKE / MODEL & REG NO. / COLOUR

HOW MANY CHILDREN / AGE RANGE
HOW MANY DOGS / OTHER ANIMALS
THEIR REASON FOR ENCAMPMENT/HOW LONG INTENDED TO STAY.
HAVE WE DEALT WITH THIS ENCAMPMENT BEFORE / WHEN / WHERE
HEALTH / WELFARE INVOLVEMENT / CONTACT NAME / NUMBER
TRAVELLER EDUCATION INVOLVEMENT / CONTACT NAME / NUMBER

ELECTED COUNCIL MEMBERS FOR THE AREA
LOCATION IMPACT LEVEL FOR ENCAMPMENT HIGH / MEDIUM / LOW
DATE AND TIME DIRECTIONS SERVED
DATE AND TIME COURT SUMMONS SERVED
ENVIRONMENTAL IMPACTS: BLACK BAGS PROVIDED? Y/N Evidence of Environmental impacts e.g. Fly tipping, litter, fouling, damage to ground, fences, gates etc. (photos where appropriate) Running Log:
DATE ENCAMPMENT LEFT THE AREA.

APPENDIX 4

UNAUTHORISED ENCAMPMENT IN YOUR AREA.

The Equality Act 2010 makes it unlawful to treat someone less favourably because of a range of protected characteristics, including colour, race, and nationality, ethnic or national origins. The following of a nomadic lifestyle is lawful, it is a culture that is recognised and protected through legislation. Romany Gypsies and Irish Travellers have been granted protection under the previous Race Relations Acts.

The decision to adopt a travelling lifestyle where Housing need is met through living within a vehicle either on a long or short term basis is made by a wide variety of people for various reasons. It is therefore important that Gypsies and Travellers are not denied the right to mainstream services that the council provides.

What we will do

- Visit the unauthorised encampment to conduct an assessment and issue a code of conduct, including trading standards guidance leaflet
- Serve direction under section 77 (1) of the criminal Justice and public order act 1994, stating they have to vacate the land within 24 hours.
- If they do not leave as requested we will apply to have this listed in court, once we have a court date we will serve the encampment a court summons under section 78 of the criminal Justice and public order act 1994, informing them of the court date.
- Attend court for removal of trespassers on council Land.
- When the order is served they must leave the land in a reasonable time (typical period is 7 days)
- If they do not comply, we will liaise with the police to assist and enforce the court order.
- Once the travellers have left the site will be cleaned and restored as soon as possible.

What you can do

- Any criminal Activity or anti-social behaviour must be reported to the police.

If you require any further information please contact the Gypsy Liaison Officer on 01204 335217 / mobile 07789031464

APPENDIX FIVE

THERE IS AN UNATHOURED ENCAMPMENT ON PRIVATE LAND NEARBY

WHAT WE WILL DO:

The Equality Act 2010 makes it unlawful to treat someone less favourably because of a range of protected characteristics, including colour, race, and nationality, ethnic or national origins. The following of a nomadic lifestyle is lawful, it is a culture that is recognised and protected through legislation. Romany Gypsies and Irish Travellers have been granted protection under the previous Race Relations Acts.

The decision to adopt a travelling lifestyle where Housing need is met through living within a vehicle either on a long or short term basis is made by a wide variety of people for various reasons. It is therefore important that Gypsies and Travellers are not denied the right to mainstream services that the council provides.

- We will visit the encampment and carry out an assessment. Issue a code of conduct issue information from trading standards of illegal trading and penalties.
- We will notify the landowner of the encampment and notify the police if not already aware.
- We will liaise with the landowner to advise them off their options.

What you can do:

Report any Anti-Social behaviour to the police using the **101** number.

If you require anymore assistance please call the Gypsy Liaison Officer on 01204 335217 or Mobile 07789031464.

APPENDIX 6

Guidance for Traders who visit a Consumer's home

If you visit consumers' homes then you need to read this.

You commit a criminal offence if you:

- Fail to provide a consumer with written details of their 14 day right to cancel
- Make false claims about the need for work to be carried out at the consumer's property
- Ignore a request to leave someone's home
- Display logos of, or in any way indicate that you are a member of, a trade association or other body when you are not
- Say that your job or livelihood will be in jeopardy unless the consumer buys the product or service
- Engage in any unfair, misleading or aggressive trading practice, for example:
 - o taking a consumer to the bank to get money to pay you
 - o starting work before a consumer has given you permission to do so
- Make inaccurate claims about risk to personal security if the consumer doesn't buy the product or service
- Falsely claim the product or service will be available for a limited time only
- Invite consumers to buy one thing with the intention of selling them something else

While you are in the Bolton area officers from the Trading Standards Service may carry out unannounced visits to inspect your paperwork, your vehicles and your business practices. Further action may be taken where any breaches of the law are identified.

How can I get further advice?

If you require further information please the Trading Standards Service at:

Tel no: 01204 336586
Email: trading.standards@bolton.gov.uk
Web: www.bolton.gov.uk

In offering the above advice, this Authority wishes to make it clear that only the Courts can interpret the Law

