

Ward: [All]

## Arrangements for the Enforcement of Unlawful Encampments

### Report by the Director for Communities

#### 1.0 Summary

- 1.1 At Joint Strategic Committee on 7 January 2014, the Committee delegated authority to officers to agree details of a multi-partnership arrangement with counterparts across West Sussex, in order to facilitate the development of a Transit Site located in Chichester District, with West Sussex County Council (County Council) being responsible for its management.
- 1.2 The multi-agency partnership has evolved from developing the transit site, to now providing for the County Council to take the lead in managing and carrying out all of the enforcement and legal work in connection with all unauthorised encampments across West Sussex. To facilitate this, Adur and Worthing Councils' Enforcement Procedure for Unauthorised Traveller Encampments and Standard Operating Procedures for Unauthorised Encampments will need revising, the enforcement work will need outsourcing to the County Council, and the associated legal work will need to be delegated from each Council to the County Council to carry out this work on behalf of Adur and Worthing Councils.

#### 2.0 Background

- 2.1 A report to Joint Strategic Committee entitled "A County wide approach to improving the management of Unauthorised Encampments" dated 7 January 2014, provides detailed background information. Pursuant to that report, the Committee approved Adur and Worthing Councils entering into a multi-partnership arrangement to manage unauthorised encampments across West Sussex. This would be facilitated by a Transit Site being located in Chichester District with the County Council being responsible for the management of that site. Adur and Worthing Councils agreed to contribute £15,000 per annum each towards the running costs of that Transit Site from 2015/16 onwards.
- 2.2 Planning permission for the Transit Site was approved in April 2014. Chichester District Council are currently tendering for the construction of the site and four companies have indicated that they will be submitting tenders, which are due at the end of July. Work is due to commence on site by 22 September 2014.

- 2.3 At a meeting of the County's Chief Executives, the Multi-Agency Enforcement Protocol (the Protocol) (Appendix 1) was agreed. This provides for the County Council to manage and co-ordinate all enforcement and legal work in connection with unauthorised encampments. A draft of the Multi-Agency Agreement (the Agreement) is currently being circulated and discussed by all of the Councils in the County, this provides details of all of the services that the County Council will be providing, and proposes that the costs are split equally between all West Sussex Councils.
- 2.4 The proposals follow the East Sussex Councils approach, which has proved successful in reducing the number of unauthorised encampments in that County.
- 2.5 The Committee are asked to consider approving the Protocol and Agreement that will facilitate the partnership, and outsource the enforcement work and delegate authority to carry out legal work to the County Council in connection with unauthorised encampments.

### **3.0 Proposals**

- 3.1 The Protocol provides that when an unauthorised encampment is first reported, details are sent to the County Council's Gypsy and Traveller Team who will visit the site as soon as possible, but in any event within one working day of notification, and will undertake health and welfare enquiries.
- 3.2 The County Council will contact Adur and Worthing Councils' Legal Services for a decision whether or not to tolerate the trespassers. The County Council will liaise with the Police and all other relevant agencies and co-ordinate a response. Where a decision is to not tolerate the trespassers, the County Council will serve papers and take relevant legal action.
- 3.3 Adur and Worthing Councils will continue to be responsible for communicating the updated position to Members and the public; clearing and securing the site after it has been vacated; and be responsible for the County Council's enforcement and legal costs and disbursements.
- 3.4 At present the County Council does not have capacity, and is not authorised, to take legal action on behalf of Adur and Worthing Councils. It is envisaged that the County Council will have capacity when the Transit Site is operational. Until then, the Protocol provides that if the County Council is unable to take action for resource reasons, then they will advise Adur and Worthing Councils within one working day, so that they may take direct action.
- 3.5 Joint Strategic Committee authorised Adur and Worthing Councils to enter into a Multi-Agency Agreement to facilitate the management of the Transit Site. The draft Agreement however goes further than this, providing that the Councils shall be responsible for the travel, court, solicitor/barrister costs and

any other reasonable costs incurred by the County Council in performing the 'services'.

- 3.6 Whilst the Protocol provides for all enforcement and legal work to be carried out by the Council, this is contrary to the Multi-Agency Agreement. The 'services', according to the Multi-Agency Agreement, include all matters relating to the running of the Transit Site and, provides for the additional services of both enforcement action and legal work to be carried out by the County Council, at the discretion of each Council in West Sussex. The enforcement and legal work would include: conducting site visits and welfare enquiries, issuing legal proceedings, obtaining and collating evidence, arranging court hearings, attending court, liaising with agencies, instructing Counsel and/or external solicitors, employing bailiffs and process servers.
- 3.7 The Agreement sets out that the costs of providing the 'services' will be £15,000 for each Council in the first year, and thereafter as agreed at each bi-annual meeting preceding payment. It is not clear from the draft Agreement how this figure has been derived at, or whether this figure is simply for the costs of the Transit Site, and does not include the costs of enforcement and legal work. There is currently no information as to costs after the first year, no clarity as to the costs of enforcement and legal work and no way of assessing or ensuring best value.
- 3.8 The costs of the services are to be split equally between all of West Sussex Councils, irrespective of the amount of unauthorised encampments in each Council's area, and irrespective of the amount of times the County's legal services are utilised. There is a risk that some authorities could effectively end up subsidising the enforcement and legal work of others, depending on the demand for the service. It is not clear how this represents best value for Adur and Worthing Councils.
- 3.9 Historically, Adur and Worthing Councils' Legal Services have arranged for process servers to attend the site to carry out welfare assessments with the trespassers, having obtained quotes from various process servers to ensure best value. Where court hearings are held at Worthing Magistrates' Court, travel time and costs are minimal, due to the proximity of the Councils' legal Officers to the Court. Legal Services' Officers prioritise dealing with unauthorised encampments over other Council work, rather than instructing and incurring the cost of external solicitors or Counsel. Training has been provided to all of the Councils' lawyers to ensure there is a robustness in the service provision, and not dependency on one individual. Given these factors it is difficult to provide an assessment as to whether the new model will provide best value in relation to the provision of Legal Services.
- 3.10 There is a risk that the provisions of these services by the County Council may be more expensive, given travelling time from Chichester to Worthing / Brighton Magistrates' or County Courts, and the additional costs should the County Council appoint an external solicitor or barrister to attend a Court hearing.

- 3.11 Should more than one unauthorised encampment take place at the same time in West Sussex, the County Council will have to prioritise which encampment to deal with as a matter of priority. This may cause delay for Adur and Worthing Councils in dealing with an unauthorised encampment locally. Alternatively, where there is a conflict, the County Council may employ external process servers and Counsel to avoid delay, but this will be at a greater cost, that will get passed on to all Councils regardless of the location of the encampment.
- 3.12 The Agreement is for a period of 60 years; it is difficult to terminate the Agreement; and the Councils would remain liable for any obligations remaining unfulfilled should we terminate. During that 60 year period the Councils would have to pay contributions pursuant to the Agreement which the County Council are contractually bound to pay. In addition, the Councils must indemnify the County Council for all costs and claims in damages arising out of the County Councils performance of the Agreement.
- 3.13 In relation to the Transit Site, the Agreement contains an operational policy that limits access to the site to the hours of 9am - 5pm Monday - Friday. It is not clear if this includes bank and public holidays. This also means that travellers cannot be directed to the site outside of those hours Monday - Friday or at the weekends.
- 3.14 Site licenses for the Transit Site will be renewed on a weekly basis for a period of up to 12 weeks at the discretion of management. No returns will be allowed for 6 months from the date of departure. There is clearly friction here between the Transit Site being a short term stay against the need to be able to direct travellers to the Transit Site when they are trespassing on land.
- 3.15 The report to Joint Strategic Committee in January 2014, set out the benefits of the Transit Site, and identified that for this to be effective in reducing the number of unauthorised encampments, there needed to be a consistent multi-agency approach to managing both the Transit Site and unauthorised encampments. That report endorsed the East Sussex Councils' approach, based on the County Council taking the lead role in both the management of the site and enforcement.
- 3.16 Given the considerable success of significantly reducing unauthorised encampments using this model enjoyed by East Sussex Councils, West Sussex Councils' Chief Executives are keen to secure the same results by entering into the Protocol and Agreement.
- 3.17 Revisions have been made to the Councils' Enforcement Procedure for Unauthorised Traveller Encampments (Appendix 2) and Standard Operating Procedures for Unauthorised Encampments (Appendix 3) to facilitate and reflect the transitional phase of the County Council commencing enforcement activities where they have capacity, with Adur and Worthing Councils retaining the legal role.

- 3.18 In order to give full effect to the Protocol, the Councils will need to consider if they wish to outsource and delegate all of the enforcement and legal work to the County Council, when the County Council has the resources to undertake this work.
- 3.19 The Standard Operating Procedure for Unauthorised Encampments (Appendix 3) has also been amended to provide at paragraph 4.4 for planned events to go ahead on sites occupied by trespassers where possible, in order to minimise the adverse impact of unauthorised encampments, and to enable the Police to take the planned events into account when considering the use of their powers pursuant to Section 61 of the Criminal Justice and Public Order Act 1994, to direct trespassers to leave the land.

#### **4.0 Legal**

- 4.1 Section 101(1)(b) Local Government Act 1972 provides that a local authority may arrange for the discharge of any of their functions by any other local authority.
- 4.2 Section 77 Criminal Justice and Public Order Act 1994 provides a local authority may give a direction to trespassers to leave the land and remove their vehicles and property from the land. Section 78 of that Act provides that a local authority may apply to a Magistrates' Court for an Order requiring the removal of any vehicle or property or persons remaining on the land in contravention of the direction served under Section 77.
- 4.3 Part 55 of the Civil Procedure Rules provides that a possession claim against trespassers may be issued in the County Court in order to secure vacant possession of the land.

#### **5.0 Financial implications**

- 5.1 The financial implications of the Transit Site have already been considered and approved by this Committee in January 2014. The Agreement refers to the costs of the services being £15,000 per annum per Council. This sum was approved by Committee in January 2014 in respect of the Transit Site costs. However, it is unclear whether the £15,000 includes enforcement and legal services costs, or if those costs are at present unknown and in addition to the £15,000.
- 5.2 The costs of the services will be reviewed annually, with each Council being responsible for one eighth of the total costs, irrespective of the number of unauthorised encampments in their respective areas, and irrespective of the legal costs incurred securing their own land.

## **6.0 Recommendation**

### **Joint Strategic Committee is asked to:**

- 6.1 Consider whether or not to outsource the enforcement work and delegate the legal work to West Sussex County Council in respect of unauthorised encampments in Adur and Worthing (save for the decision to tolerate or not tolerate the trespass, which will remain the decision of the Solicitor to the Council at Adur and Worthing Councils).
- 6.2 If the Committee consider the enforcement work should be outsourced and legal work should be delegated to West Sussex County Council in respect of unauthorised encampments in Adur and Worthing:
- i) to approve the Multi-Agency Enforcement Protocol (Appendix 1);
  - ii) to delegate to the Director for Communities in consultation with the Solicitor to the Council to enter into the Multi-Agency Agreement for West Sussex County Council to carry out enforcement and legal services relating to unauthorised encampments in Adur and Worthing;
  - iii) to approve the revisions to the Councils' Enforcement Procedure for Unauthorised Traveller Encampments (Appendix 2) and Standard Operating Procedures for Unauthorised Encampments (Appendix 3) to facilitate and reflect the transitional phase of the multi-agency arrangement; and
  - iv) to delegate to the Director for Communities in consultation with the Solicitor to the Council to make further revisions to the Councils' Enforcement Procedure for Unauthorised Traveller Encampments and Standard Operating Procedures for Unauthorised Encampments to reflect that West Sussex County Council should be undertaking the legal role when they have the resources.

## **Local Government Act 1972**

### **Background Papers:**

A County wide approach to improving the Management of Unauthorised Encampments Report to Joint Strategic Committee 7 January 2014.

### **Contact Officer:**

John Mitchell  
Director for Communities  
Worthing Town Hall  
01903 221049  
[john.mitchell@adur-worthing.gov.uk](mailto:john.mitchell@adur-worthing.gov.uk)

## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 Provide and develop customer driven and cost effective services;
- 1.2 Adopt more sustainable ways of delivering services.

### **2.0 Specific Action Plans**

- 2.1 The proposals set out in the report are thought to be consistent with the aims and objectives of the work undertaken by the Adur and Worthing Gypsy and Traveller Strategic Working Group.

### **3.0 Sustainability Issues**

- 3.1 Matters considered and no issues identified.

### **4.0 Equality Issues**

- 4.1 Travellers are an ethnic minority group and Equalities Legislation is applicable and their Human Rights must be taken into consideration.

### **5.0 Community Safety Issues (Section 17)**

- 5.1 The proposals set out in the report have a positive impact on community safety in Adur and Worthing.

### **6.0 Human Rights Issues**

- 6.1 In dealing with unlawful encampments both the Human Rights of the travellers and of the settled community must be taken into account and balanced against each other. Any action taken must be proportionate and reasonable.

### **7.0 Reputation**

- 7.1 Currently arrangements for dealing with unauthorised encampments have significant detrimental impact on the reputation of the Councils. The proposals set out in the report will improve the reputation of the Councils significantly.

### **8.0 Consultations**

- 8.1 Matter considered and no issues identified.

### **9.0 Risk Assessment**

- 9.1 Matter considered and no issues identified.

## **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 The Proposal requires partnership working with West Sussex Councils, Sussex Police and the HCA.



## Unlawful Encampments - Multi Agency Enforcement Protocol

### 1. Aim and Scope

- 1.1 The aim of this protocol is to set out the working practices between West Sussex County Council, Chichester District Council, Worthing Borough Council & Adur District Council, Arun District Council, Horsham District Council, Crawley Borough Council and Mid Sussex District Council in respect of the management of unauthorised encampments which occur on land owned by or managed by these authorities.
- 1.2 The Leaders of all of the Authorities are committed to the development of multi-agency arrangements led by the County Council. It is recognised that the recurring nature of unauthorised encampments in recent years has created a need to work together to reduce the number of encampments and mitigate their impact on local communities
- 1.3 It is intended that this protocol will set out the actions of the County Council and the Districts and Boroughs to mitigate the impact on their residents and on their land of unauthorised encampments.
- 1.4 This protocol only concerns the authorities in 1.1 above but is supported by a multi-agency protocol with Sussex Police.
- 1.5 This protocol relates to unauthorised encampments which are trespasses by gypsies & travellers on public land and not to the development of private land without the necessary planning permission.
- 1.6 All authorities using this protocol will act to ensure that resources and arrangements are deployed and that proper authorisation is given to ensure the effective working of the protocol.
- 1.7 All District and Borough Councils will make Parish Councils aware of this protocol. The Authorities will work with Parish Councils to develop arrangements for effective joint working in line with the aims of this protocol.

### 2.0 Initial Action at New Sites by local Districts and Boroughs

- 2.1 When a new encampment comes to the notice of a District or Borough Council, they will email the Gypsy & Traveller Team at West Sussex County Council, giving as much information as possible about the encampment including:
  - Full details of the location
  - Full details of the extent of the land ownership for the site preferably with a marked boundary plan
  - Details of how the unauthorised encampment became known .
  - Details of any Police Reference.

Email and telephone contact details for a single point of contact from the District or Borough Council

- 2.2 The County Gypsy and Traveller team will confirm whether they are able to undertake action in respect of the specific site. If the County is unable to take action - for resource reasons - then they will advise the relevant single point of contact officer as soon as possible but in any event within 1 working day. It is expected that most encampments will be managed by the County Council as anticipated by Leaders..
- 2.3 In the event that the County Council is unable to undertake the action the District or Borough Council will then be responsible for undertaking the actions in this protocol in respect of the unauthorised encampment . The remainder of this protocol must be read bearing in mind the effect of this paragraph. In such a case the County Gypsy and Traveller Team will provide such advice and support as may be required.

### 3.0 **Initial Action by the County Council.**

- 3.1 When a new encampment is reported to the County Council direct the County Council will liaise with the appropriate District or Borough to clarify any details needed to process the matter and will notify the Police if urgent Police attendance is required.
- 3.2 The County Council or its agents will visit the encampment as soon as reasonably practical but within 1 working day of notification of the encampment by the relevant District or Borough.
- 3.3 The County Council will undertake Health & Welfare enquiries of the occupants of the encampment and carry out appropriate checks of any issues that are raised. They will provide occupants with clear advice on their expected conduct whilst on site, issue occupants with a 'Code of Conduct' and provide details of nearest essential services. The County Council will ensure that it complies with the "Guidance on Managing Unauthorised Camping" published by the Department for Communities and Local Government and any successor or amended guidance by any successor or amending body ("the Guidance").
- 3.4 The County Council, or its agents, will liaise with Sussex Police and arrange to attend a joint site visit, together with a representative of the landowner, to the site in order for the police to assess whether the discretionary power to remove trespassers under part V of the Criminal Justice and Public Order Act 1994 ("the 1994 Act") applies in the circumstances.
- 3.5 The County Council, or its agents, will report by email to the nominated contact of the instructing authority with full details of the encampment,

including the completed welfare audit form, the impact on the local community of the encampment and provide information to the authority in order for that authority to undertake an assessment, following the Guidance, as to whether to tolerate the encampment for a limited period or proceed with action to effect an eviction.

- 3.6 The County Council may, where considered appropriate and usually within 24 hours of the initial visit, arrange a discussion with the appropriate agencies whose responsibilities may be engaged by the particular encampment. This could include but not be limited to Sussex Police, Environment Agency, Environmental Health, Adults/Children's Services, Public Health, Trading Standards and local authority representatives. The purpose of the discussion will be to share information and agree further actions required and establish a timeline for those actions. The agencies will agree a means of on-going communication with the occupants of the encampment and adjoining or affected settled community in order to monitor and manage any potential community tensions.
- 3.7 Once a decision not to tolerate an unauthorised encampment has been taken by the instructing authority, or when a period of agreed toleration has ended the County Council will commence legal action and prepare papers for service. The County Council will advise the occupants of the encampment of the decision and if required serve all appropriate Notices and court documents on the occupants of the site. This will be undertaken as soon as possible after receiving notification from the instructing authority that documents are ready for service.

#### 4.0 **On going Action by Districts & Boroughs.**

- 4.1 Each Authority will be responsible for ensuring that its own Members and local residents are updated as to the current situation with any encampment in accordance with their normal procedures e.g Street Surgery with representatives from Sussex Police and the District/Borough
- 4.2 Each Authority will provide the County Council with any updates received regarding an unauthorised encampment including the result of any Court hearing including any evidence that persons at the site are failing to meet the standards of the Code of Conduct for the site as described in paragraph 3.3.
- 4.3 Where officers of a District or Borough can provide evidence in support of Court action they will prepare and supply witness statements and/or attend Court as requested by the County Council.

4.4 Once a site has been vacated each authority will be responsible for the clearance of any rubbish and for re securing the site and consideration of the future security of the site.

4.5 Where a District or Borough Council has taken action it will provide a copy of the relevant Travellers Audit form to the County Council for record keeping purposes. District or Borough Councils will also provide details of any costs incurred in relation to dealing with the unauthorised encampment.

### 5.0 **On Going Action by County Council**

5.1 The County Council or its agents will:

- Prepare any written statements as may be required to support any on-going court action
- Attend court and give oral evidence as required
- Undertake service of all court documents and provide certificates of service in a suitable format.
- Undertake any enforcement action to secure compliance with any court orders made ensuring that all authorities are notified of any pending eviction.
- Ensure that the instructing authority is kept fully up to date with site issues by emailing the single point of contact officer on a regular basis.
- Liaise with instructing authority single point of contact officer to ensure site clearance arrangements have been made to enable the site to be returned to its original condition as soon as possible.

5.2 Each individual Authority will be responsible for the County Councils reasonable costs in undertaking the above.

5.1 The County Council will record details of unauthorised encampments, sharing information with partners to ensure effective management of unauthorised encampments and to do so in accordance with information sharing protocols.

### 6.0 **Other Public Land**

6.1 The County Council will also give advice and assistance to any local Parish Council seeking support in dealing with an unlawful encampment on Parish Council land.

6.2 The County Council has discretion to undertake Court action at the request of a Parish Council but the Parish will be responsible for the County Councils reasonable costs in undertaking this on their behalf.

7.0 **Review**

7.1 This protocol will be reviewed at regular intervals by the West Sussex County Council and the West Sussex District and Borough Councils.

**ADUR DISTRICT COUNCIL**

**And**

**WORTHING BOROUGH COUNCIL**

**ENFORCEMENT  
PROCEDURE FOR  
UNAUTHORISED  
TRAVELLER  
ENCAMPMENTS**

**ENFORCEMENT PROCEDURE FOR UNAUTHORISED TRAVELLER  
ENCAMPMENTS**

### 1 INTRODUCTION

This statement summarises the general approach which Adur District Council and Worthing Borough Council's ("the Councils") Legal Officers take in respect of enforcement action against unauthorised encampments of gypsies and travellers in the areas of the Councils.

### 2. PROCEDURE

#### 2.1 First Steps

When the Council is notified of an unauthorised encampment, the first step is to ascertain whether the land is owned by the Council or not. The client department, Parks and Foreshore, Leisure, Estates or Car Parks, will be asked to carry out a brief site visit to confirm the presence of an unauthorised encampment, its the precise location, size and other information needed to confirm land ownership. No Officer should attend alone. If appropriate, photographs can be taken at this stage.

If the land is Council owned, the Solicitor to the Council will contact the Gypsy and Traveller Team at West Sussex County Council (the Traveller Team) when this is up and running, with instructions as to the:

- Full details of the location of the group
- Full details of the extent of the Councils ownership
- Details of the member of the public reporting the encampment , if available.
- Details of any Police Reference.
- Details of single point of contact who should be available as a representative of the Council as Landowner to attend any subsequent multi agency meetings.

Generally, if the incursion is on privately owned land the Councils will not deploy resources in attempting to remove the travellers. If a landowner does approach the Council for assistance, this is a decision for the Solicitor to the Council, as to whether the Councils would act on behalf of the landowner. A decision to do so would usually only be made in exceptional circumstances, and either an undertaking to repay costs

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incurred, or payment on account of costs, would be required. Further advice, provided by the Council and Sussex Police, for private land owners facing unlawful encampments on their land can be found on the Councils' website.

The Solicitor to the Council will be responsible for notifying other departments and external bodies as to the presence of an unauthorised encampment in the area, as necessary.

In general, the presence of an unauthorised encampment should always be communicated to the following:

The Chief Executive

Directors

Heads of Service

All Members of each Council

MPs (Sir Peter Bottomley and Tim Loughton)

Police, including Chief Inspector, Inspector and Gypsy & Traveller Liaison Officer

West Sussex County Council (Travellers Advice Line)

Parks & Foreshore Manager

Leisure Centres General Manager

Estates Manager

Car Parks Manager

Community Wellbeing Manager

Environmental Health Manager

Housing Services Manager

Corporate Safety Manager

Contact Centre / Help Point Manager

Public Relations Officer

Business Services Manager

All neighbouring authorities (to include Arun, Horsham, Brighton & Hove, Chichester, Mid Sussex)

### 2.2 Initial Assessment



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It is recognised that unauthorised gypsy and traveller encampments can have a significant impact on the environment and on local communities and the Council will use the powers at its disposal to protect its landholdings, subject to the welfare needs of the travelling community. There is a legal obligation upon a local authority to undertake appropriate welfare checks and give due consideration to the information obtained, and if the Council fails to do so, any enforcement action could be challenged by way of judicial review proceedings, and rendered unlawful.

The Traveller Team (or process server) will carry out the assessment visit, the purpose of which is to establish:

- Basic information from the travellers (including the number of families present, number of children and young persons present, vehicles involved, past and future intended movement, anticipated length and reasons for stay).
- The Travellers wishes and intentions as to further travel and the availability of lawful alternative campsites in the area.
- Any adverse impact from the encampment on the welfare of persons other than the travellers and the local environment and how (if at all) this could be mitigated.
- The existence of any perceived welfare, social care, health or educational needs. Where information is refused, it is recorded, together with reasons for the refusal to provide information.
- The present state of the encampment, including general appearance, damage and rubbish accumulation.
- Particular features of the encampment, its location and impact on the community.

The Traveller Team (or process server) will seek to assist those on an unauthorised encampment by providing information about the availability of local health, education and housing services, as well as any alternative authorised sites within the area, or neighbouring areas. Information will be given at this assessment visit concerning access to appropriate local services.

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The Traveller Team (or process server) will report back to the Solicitor to the Council with full details of the encampment, including the completed welfare audit form, the impact on the local community and provide recommendations for the authority to consider.

Following the visit, there will be effective liaison by the client department, with other relevant departments such as Education, Social Services or Health Authorities, as necessary and in accordance with the Multi Agency Enforcement Protocol.

### **2.3 Decision to Tolerate or Not**

Once the basic information has been obtained, the Councils will need to assess the situation and decide whether to tolerate the travellers and / or gypsies, and if so, for what time period, or whether to take enforcement action to seek their removal.

Responsibility for deciding whether to tolerate the presence of gypsies / travellers, or to use the legal enforcement powers available to the Councils, is delegated to the Executive Head of Corporate & Cultural Services and further sub-delegated to the Solicitor to the Council and certain Legal Officers. The Solicitor to the Council will therefore consider information gained from the initial assessment visit, the welfare audit and the client department and taking into account all relevant matters and no irrelevant matters, to comply with the Councils' statutory obligations, will make a decision as to whether to tolerate the traveller / gypsy incursion or not.

The response to any unauthorised encampment on Council land will be a proportionate one, determined on a case by case basis by taking into account the individual circumstances of the unlawful occupiers, the rights and interests of the local community, any statutory obligations, and any other relevant factors. In determining the most appropriate course of action the Councils' Legal Officers will consider the welfare needs of the travelling community and their way of life, and balance these against any impact caused to members of the settled community and / or the environment.

Legal Officers will have regard to:

- The Councils' right to protect its land and its assets.
- Any potential loss of amenity to the public.
- Any relevant statutory obligations.
- Whether the land in question is required for operational or development purposes.
- Whether there is a risk to public health or safety.
- Highway safety.
- Whether the site is causing or is likely to cause nuisance to nearby residents and / or businesses.
- The impact of the site on the environment.
- The health and welfare of those on the site.

The decision as to whether to tolerate the travellers or alternatively, to take enforcement action, will be conveyed, in writing, together with written reasons, by Legal Officers to the client department and the Traveller Team.

Where a decision not to tolerate is made, the Traveller Team will liaise with the Duty Inspector from the local Police and establish whether the Police intend to evoke their powers under section 61 Criminal Justice and Public Order Act. In general, the Police have a specific power under this legislation to remove travellers from an unauthorised encampment where it presents a risk to those on the site, the land itself is of a particularly sensitive nature, or the presence of the encampment is seriously disrupting the ability of the settled community to make use of facilities or conduct their business.

### **3 LEGAL ACTION**

If Legal Officers decide not to tolerate the unlawful insurgence, they will then go on to consider and determine which legal route to use to seek their eviction and will commence the appropriate legal proceedings.

If the Councils' Legal Officers decide to commence court action to seek the eviction of the travellers and / or gypsies, they will consider the two primary legal powers

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available; powers under section 77 Criminal Justice and Public Order Act 1994 and a possession application to the County Court under Civil Procedure Rules Part 55.

### **3.1 Criminal Justice and Public Order Act (CJPOA) Powers**

S.77 CJPOA allows local authorities to direct unauthorised travellers / gypsies to remove vehicles and other property from their land. The Solicitor to the Council will draft such a notice in accordance with s.77, and the Traveller Team (or process server) will attend and personally serve the document. This should be done, with a Police Officer present (where appropriate). A certificate of service must be obtained.

If the travellers fail to comply with the s.77 direction, and do not leave the land and remove their vehicles, they commit a criminal offence, in accordance with s.78. If they have not left within 24 hours of the notice being served, and do not appear to have a legitimate defence, the Solicitor to the Council will lay a complaint to the local Magistrates Court. Once the application has been listed by the Court for a hearing date and a summons issued, the summons will be served personally on the travellers / gypsies, again by the Traveller Team (or process server) in the presence of a Police Officer (where appropriate). A certificate of service must be obtained.

Shortly prior to the court hearing, the Solicitor to the Council will seek confirmation of instructions from the Lead Officer of the client department, to confirm that the travellers are still present and there has been no known change in their circumstances. The Solicitor to the Council, or another legal Officer, will then attend Court and apply for an Order for the travellers' eviction, which will empower the Councils to enter the land and remove the vehicles or property. If successful, the Order will be served personally on the travellers the same day.

The eviction will usually take place on the day following the court hearing. The eviction will be co-ordinated by the Traveller Team. No eviction should take place without a Police presence to prevent a breach of the peace.

### **3.2 Application for possession of the land**

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Alternatively the Council may bring civil proceedings for possession of the land.

If a possession application is sought, the Traveller Team (or process server) will serve a notice to leave on the travellers / gypsies, which provides them with 24 hours to leave the area. If they fail to do so, the Solicitor to the Council will issue a claim for possession in the local County Court; having drafted a claim form, particulars and witness statements and exhibits. The issued documents will be served personally on the travellers / gypsies. The Solicitor to the Council, or another legal officer, will then attend court and seek an Order for possession of the land forthwith. If successful, the Order will be served personally on the travellers on the same day.

If the travellers fail to leave the land, the Council's legal officers will apply to the Court for a warrant for their eviction. Such an eviction will be carried out by the Court Bailiff.

Should the same, or another group of travellers with sufficient nexus to the evicted group, return to the land within a six year period from the date of the Possession Order, Legal Officers will attempt to obtain a warrant for their eviction from the Court. If such a warrant is obtained, the eviction would be carried out by the Court Bailiff.

### **3.3 Seizure of Goods**

If goods are seized at an eviction, a notice should be left in accordance with s.41 Local Government (Miscellaneous Provisions) Act 1972. The goods should be stored for a minimum of 3 months (and 6 months where it is not possible to serve a notice on the owner of the property). An inventory should be prepared and retained by the client department and photographs taken of any goods seized. The Council retains discretion in accordance with the legislation to sell or otherwise dispose of the property.

## **4. COMMUNICATION**

The Lead Officer from the Client Department will be responsible for communication with the public throughout this process. However, the Contact Centre, the Councils' website and social media should be used to field the majority of calls. Each day

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throughout the process, information will be provided by the Traveller Team to the Councils' Legal Officers. Updates will be provided to the Contact Centre. Any calls that cannot be dealt with using this procedure will be directed to the Client Department.

The Councils' Legal Officers will be responsible for communication with internal departments, Police, neighbouring authorities, Officers and Members throughout the process. The Legal Section will keep the Lead Officer, Client Department and Members informed throughout the process on at least a daily basis.

**Adur District Council and Worthing  
Borough Council**

**STANDARD OPERATING  
PROCEDURES FOR  
UNAUTHORISED ENCAMPMENTS**

Version: 4

Date: 22 July 2014

## APPENDIX 3

1.0	<b>Introduction</b>
1.1	The Standard Operating Procedures (hereafter referred to as “procedures”) for dealing with Unauthorised Encampments (UE) should be read in conjunction with the Councils Enforcement Procedure for Unauthorised Traveller Encampments and the Multi-Agency Enforcement Protocol.
1.2	The purpose of these procedures is to provide Staff, Members and members of the public with an understanding of the actions that will be taken in the event of UE’s, including the limits of the powers and options available to the Councils.
1.3	This version of the procedures is not restricted because it does not include the names and contact details of Officers. A separate version of the procedures will be produced for internal use with this information.
2.0	<b>Adur and Worthing Gypsy and Traveller Strategic Group &amp; Multi-Agency Group</b>
2.1	An Adur and Worthing Gypsy and Traveller Strategic Group comprising Cabinet Members and senior officers from the Councils and Police was formed in 2012. Details of the membership; roles and responsibilities of the group; and frequency of meetings are set out in the Terms of Reference of the Group.
2.2	A Multi-Agency approach is being worked towards with West Sussex County Council leading. Currently this is being implemented piecemeal, however it is anticipated that this will be implemented in full when the temporary transit site at Chichester is up and running.
3.0	<b>Unauthorised Encampments: Preventative Measures</b>
3.1	The pattern of UE’s has shown that the Councils experience UE’s during the Summer months – June, July and August in particular.
3.2	The Communications Plan includes:  A reminder to key staff of the content of the Standard Operational Procedures, highlighting any updates the Strategic Group has made to the Procedures in light of there review meetings;  The promotion of West Sussex County Council’s Trading Standards Service to discourage “cold calling” and “doorstep callers”; and to promote the use of services such as Trading Standards approved trader list “Buy With Confidence” among our communities in Adur and Worthing;
3.3	There are a number of Council Sections who are most likely to be involved in dealing with UE’s. Each of these sections will have a nominated officer(s) who will act as the Council Lead Officer for dealing



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	<p>with UE's. This will usually be the Manager of the relevant section:</p> <p><u>Parks and Foreshore:</u></p> <p><u>Leisure:</u></p> <p><u>Estates:</u></p> <p><u>Car Parks:</u></p> <p><u>Adur Homes:</u></p> <p>Managers from these services will ensure that checks are undertaken on the condition of the security measures e.g. locks and barriers on a regular basis.</p> <p>The Community Safety Manager shall carry out the role of the Director for Communities, as set out in this document, in his absence or upon his delegation.</p>
3.4	<p>On receipt of reports of traveller communities in the vicinity of Adur and Worthing the Council Lead Officers listed in 3.3 will arrange for increased monitoring of sites and site security.</p>
3.5	<p>Evidence of sites being scouted or existing security being tampered with should act as a warning sign of site vulnerability and trigger an immediate response in terms of target hardening and potential for patrolling.</p> <p>In terms of physical security, priority should be placed on ensuring that where locks / gates / barriers are in place at main entrances they are operational and effective. Where feasible the Council will consider any additional security measures that can be put in place at main entrances.</p> <p>Council Lead Officers will notify the Solicitor to the Council and Director for Communities of any evidence of sites being scouted and/or site security being tampered with.</p>
3.6	<p>The Councils can engage additional security / patrolling services through the Business Services Manager. It is important that the role of security / patrolling is understood. The aim is to:</p> <ul style="list-style-type: none"> <li>• Provide information and intelligence as to evidence of Council sites being "scouted" in advance of a possible UE's: e.g. tampered locks, barriers loosened / removed.</li> <li>• Act as a potential deterrent to UE's.</li> <li>• Act as a witness to any unlawful activity arising from an UE that can be reported to the Councils and Police (e.g. criminal damage).</li> <li>• Provide a level of reassurance to the public.</li> </ul> <p>It is not the role of patrolling services engaged by the Council to intercept vehicles engaged in UE's or to block entrances to Council land.</p>

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3.7	While the Councils can take reduce the risk of UE's through vigilance, deterrence and practical security measures, it cannot guarantee the security of all of its sites all of the time. The nature of parks and recreational spaces are that they often have substantial perimeters that cannot be easily defended from a determined incursion: particularly where there is a willingness to commit criminal damage to access a site.
4.0	<b>Dealing with Unauthorised Encampments</b>
4.1	The enforcement procedures for dealing with UE's are set out in detail in the Councils "Enforcement Procedure for Dealing with Unauthorised Traveller Encampments" and the Multi-Agency Enforcement Protocol. Details of those procedures are not repeated here, other than to emphasise: <ul style="list-style-type: none"> <li>• the co-ordinating role taken by the Councils Legal Officers;</li> <li>• the role of the Councils Lead Officer</li> <li>• the initial assessment visits</li> <li>• the importance of the communications arrangements set out in the procedure.</li> </ul>
4.2	The procedures set out in 4.0 – 7.0 apply in all UE circumstances, i.e. a UE that is not tolerated, and a UE that is tolerated.
4.3	The client department will be asked to carry out a brief site visit simply to confirm the presence of an unauthorised encampment. The Lead Officer from the client department, together with a colleague, should attend the site to establish the precise location of the encampment, its size and other information needed to confirm land ownership. No Officer should attend alone. If appropriate, photographs can be taken at this stage. Legal Services will notify West Sussex County Council (Traveller Team).
4.4	Where events are planned on that land that are due to take place during the period the encampment may be present, the Council's Lead Officer will advise the Director for Communities of the events scheduled. The Director for Communities will consult with the Cabinet Member for Health and Wellbeing (or in their absence the Leader of the Council) before deciding on what action should be taken regarding the events. That decision shall be communicated to the Police. In order to minimise the adverse impact of an unauthorised encampment on the community, the norm will be that the Council would expect the events to go ahead as planned.
4.5	Once a UE is in place and is likely to remain the Traveller Team and Police will agree a specific communications plan for the community affected by the UE.  The Police will identify a Police Lead Officer for the UE.

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	<p>The communications plan will be agreed by the Chief Inspector and the Traveller Team.</p> <p>A Street Briefing will be organised by Sussex Police within 24 hours of the UE. The intention of the Street Briefing will be to:</p> <ul style="list-style-type: none"> <li>• Communicate accurate information on the current position regarding the encampment</li> <li>• Provide accurate information on the role of the Police Gypsy &amp; Traveller Liaison Officer (GTLO) and joint working with the Councils Officer's around site visits, assessments etc</li> <li>• Reinforce the joint communications strategy drawn up between the Councils and Police</li> <li>• Accurate explanation of the powers and legal process that will be followed</li> <li>• Provide point of contact for any matters requiring police attention and point of contact for any matters that the councils need to respond to</li> </ul> <p>The Street Briefing will be attended by:</p> <ul style="list-style-type: none"> <li>• Appropriate officer from Adur &amp; Worthing Council (usually the Council Lead Officer or his/her representative)</li> <li>• An appropriate officer from the police subject to size, location and impact locally. This could be a PCSO or in some cases the Neighbourhood Policing Sergeant.</li> <li>• A member of the Traveller Team.</li> </ul> <p>The Leaders, Cabinet Members for Health and Wellbeing and Ward Members will be notified of the Street Briefing.</p>
4.6	<p>The Council's Communication Officer will update the website and social media on a regular basis (usually daily) to inform members of the public on the action it is taking. The Council's Contact Centre will refer callers to the Council's website for the most up to date information and advice regarding Gypsy and Travellers and UE's.</p> <p>The Council's website will provide regular updates on the action being taken to deal with UE's; general information on Gypsy and Travellers; a link to Sussex Police's website page on Gypsy and Travellers.</p>
4.7	<p>A decision on whether to provide facilities at an encampment (e.g. skips &amp;/or receptacles for rubbish, toilets, water supply) will be made by the Council Lead Officer following consultation with the Traveller Team, Director for Communities, Solicitor to the Council, Police Lead Officer the Leader and/or the Cabinet Member for Health and Wellbeing.</p> <p>Guidance on the provision of welfare facilities has been produced by the</p>

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	<p>Home Office.</p> <p>A decision on the provision of welfare facilities will be made on a case by case basis, with a record made of the decision taken and the reasons for it. The Client Lead Officer will submit the record of the decision to the Solicitor to the Council to ensure a full audit trail of decisions taken is maintained by the Councils Legal Team.</p> <p>Where a decision is made to provide welfare facilities the Council Lead Officer to ensure facilities are put in place and are managed.</p> <p>In some cases the provision of welfare facilities may involve making access available to facilities on site; in others it will involve hiring facilities and bringing them on site for the duration of the UE.</p>
4.8	<p>Site Management needs to take place on daily basis to mitigate any adverse impacts arising from the UE and to provide reassurance to the public that site management is taking place.</p> <p>A site visit will be conducted by the Councils Lead Officer, Traveller Team (if applicable) and the Police Lead Officer. The GTLO will also usually attend site visits.</p> <p>The Council and Police Lead Officers and GTLO will undertake a site inspection having regard to any activity that might be unlawful or anti-social e.g. fly tipping; illegal/rogue trading; noise; anti-social behaviour; damage to property. The Council Lead Officer or Traveller Team will report to the Police any incidents of criminal damage that enabled the UE to occur. The Council Lead Officer or Traveller Team will also monitor the use of any facilities that have been provided by the Councils to ensure their proper use.</p> <p>A daily report will be completed and submitted to the Solicitor to the Council, Director for Communities, Traveller Team and Chief Inspector.</p> <p>In the event of any unlawful or anti-social behaviour being observed, the Council, Traveller Team and Police will gather intelligence and consider the action that needs to take place. The Traveller Team will arrange a multi-agency meeting that will involve the Council and Police Lead Officers, GTLO, Solicitor to the Council, Duty Police Inspector, Director for Communities, Traveller Team and if necessary a representative from a specialist service who may need to provide advice and/or take enforcement action e.g. Trading Standards, Environmental Health.</p>
4.9	<p>The Councils have the right to exercise the option of deploying surveillance resources should it be sufficiently concerned and satisfied that there is evidence of unlawful activity and that the use of surveillance is a proportionate response. Evidence gathered through surveillance may be used in any subsequent criminal and/or civil enforcement action.</p>

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4.10	Once enforcement action has been commenced Travellers may begin to scout for potential new sites to relocate to. For this reason pro-active steps to secure other local sites is essential as is vigilance in identifying where scouts may be visiting and or evidence of tampering with security at other sites (see 3.0).
4.11	<p>A final site visit should be made by the Council and Police Lead Officers and the GTLO on the day of departure from the site. The visit will assess:</p> <ul style="list-style-type: none"> <li>• damage to the site;</li> <li>• repairs necessary to secure the site;</li> <li>• repairs necessary to permanent site facilities;</li> <li>• evidence of unlawful activity;</li> <li>• clean up measures necessary;</li> <li>• arrange the removal of temporary welfare facilities (if applicable).</li> </ul> <p>On the basis of the final site visit, the Council and Police Lead Officers will take necessary actions and will liaise with the Chief Inspector, Solicitor to the Council and the Director for Communities if any issues relating to unlawful activity are identified.</p>
4.12	Clean up operations and the repair to site security will take place immediately on obtaining possession of a site. The Council Lead Officer will estimate how long this will take and provide a communications update so that members of the community can be advised.
5.0	<b>Out of Hours</b>
5.1	Travellers will frequently scout and commence a new UE's at times outside of the Councils normal operating hours i.e. evenings / weekends, anticipating that this is more likely to lead to a slower response and a successful UE taking place.
5.2	<p>All aspects of the Councils Out of Hours Services will be subject to a Service Review. Currently there are two principle means of contacting the Councils;</p> <p>Adur DC Duty Supervisor Service          Worthing Out of Hours Superintendants service</p>
5.3	<p>With immediate effect the following guidance is in place for Out of Hours Services at Adur and Worthing:</p> <p><b>Unlawful Occupation by Travellers</b></p> <p>If you are advised that Gypsy and Travellers are occupying council land, firstly determine what land they are on and then contact the following:</p> <p><u>Parks and Foreshore:</u></p> <p><u>Leisure:</u></p>

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	<p><u>Estates:</u></p> <p><u>Car Parks:</u></p> <p><u>Adur Homes:</u></p> <p>Director for Communities: In the absence of Director for Communities please contact the Chief Executive.</p> <p>No action can be taken regarding travellers on WSCC and private land by the Councils.</p>
5.4	The Councils Lead Officer and/or the Director for Communities should contact the Business Services Manager, to deploy patrolling services.
5.5	<p>The Solicitor to the Council and Traveller Team must be notified of the UE by the Councils Lead Officer and/or the Director for Communities at the start of the first working day following the UE.</p> <p>The Solicitor to the Council will then trigger the Councils Enforcement Procedure for Unauthorised Traveller Encampments and Multi-Agency Enforcement Protocol, and the actions set out in 4.0 will commence.</p>
6.0	<b>Costs</b>
6.1	<p>Following the UE the Traveller Team will invoice the Councils. The Councils Lead Officer will report on the costs incurred by the section dealing with the UE to their Head of Service and the Director for Communities.</p> <p>The Solicitor to the Council will report separately on the legal costs associated with the UE to the Director for Communities.</p> <p>The Director for Communities will report the costs of UE to the Strategic Group.</p>
7.0	<b>Challenging Unacceptable Behaviour and Racist Incidents</b>
7.1	Gypsies and Travellers are a recognised ethnic minority group and Equalities legislation is applicable and their Human Rights must be taken into consideration.
7.2	<p>When the public become aware of reports of Gypsy and Traveller movements and/or UE's the Councils will receive comments and expressions of opinion about the Gypsy and Traveller communities. Occasionally these opinions may be perceived to be offensive or racist.</p> <p>The Councils Contact Centre staff will be provided with a script to deal with such calls, including guidance on the termination of calls.</p>

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	<p>The Councils work in partnership to encourage the reporting of hate crime. Anyone, including members of staff, who witness a hate incident, can report it using an online reporting form. Guidance on reporting hate crimes is set out on the County Councils Website at:</p> <p><a href="http://www.westsussex.gov.uk/living/being_safe_and_secure/personal_safety/hate_crime/hate_crime_incidents.aspx">http://www.westsussex.gov.uk/living/being_safe_and_secure/personal_safety/hate_crime/hate_crime_incidents.aspx</a></p>
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<b>Document Version Control</b>		
Officer Responsible for updates to Procedure: Strategic Director (JM)		
<b>Version</b>	<b>Date</b>	<b>Agreed by:</b>
1	5/9/12	Adur and Worthing Gypsy & Traveller Strategic Group
2	27/9/12	Adur and Worthing Joint Strategic Committee
3	18/8/13	<i>Change of staffing arrangements in Parks – SOP amended &amp; approved by Adur and Worthing Gypsy &amp; Traveller Strategic Group in September 2013</i>
4	22/7/14	