

SUBJECT:	UPDATE ON UNAUTHORISED ENCAMPMENTS IN LINCOLNSHIRE
DIRECTORATE:	COMMUNITIES AND ENVIRONMENT/CHIEF EXECUTIVE AND TOWN CLERK
REPORT AUTHOR:	SIMON WALTERS, DIRECTOR COMMUNITIES AND ENVIRONMENT BECKY SCOTT, LEGAL & DEMOCRATIC SERVICES MANAGER

1. Purpose of Report

- 1.1 To update members on recent unauthorised encampments in the city, a proposal as to how to deal with these in the future, and to seek authority to delegate the signing of the revised Joint Protocol for dealing with Unauthorised Encampments in Lincolnshire to the Chief Executive and the Leader.

2. Update on unauthorised encampments

- 2.1 The City Council has had numerous unauthorised encampments since the Joint Protocol was originally approved in 2014. These have included at Birchwood and Yarborough Leisure Centres, Hartsholme Country Park, King George V playing fields and the West Common. More recently at the LN7 site and South Common.
- 2.2 Attached at Appendix 1 is a breakdown of the encampments in the city in the last 3 years, including clean-up costs.
- 2.3 Each encampment takes up substantial officer time and resources to deal with it, often necessitating an application to the court and extensive interaction with third parties. Engagements can be both protracted and confrontational. The protocol has been a very useful document on which to base the response of the Council to any encampments, and in particular has led to improved relationships between Lincolnshire County Council ("LCC"), the police and the city council, and as a result improved consistency of approach.
- 2.4 In respect of the encampment with the most impact, the travellers at Hartsholme Country Park campsite proved the most difficult to manage, with extensive ASB, abuse to officers, and it resulted in campers leaving the site so had a financial and reputational impact on the council. At Yarborough Leisure Centre there has relatively recently been two occasions where the travellers have arrived just before the 10k. During such times, the Council seeks support from the police to invoke their discretionary powers. In order to do this, the police have needed to justify it through their own decision making processes, and therefore CLC is attempting to make this process as clear as possible in the revised document. More recently the encampment in August proved to be the longest we have had for some time, with them being moved on from Yarborough Leisure Centre by the police, and then

going onto the South Common. This necessitated the council instructing bailiffs and involved the police to finally remove them just before the fair arrived.

- 2.5 It should be noted that after each encampment a review of the security of the site is made and as a result numerous changes have been made to deter returns, such as a rising barrier at Hartsholme Country Park and height barriers have been fitted for both leisure centre sites. It should be noted that it is almost impossible to totally prevent access to any site by those who are determined, it is only possible to make it more difficult.
- 2.6 It was felt that due to the number of encampments both for the city and across the county in recent times, it would be appropriate to review the council's approach, which would also include considering the Protocol to ensure it is meeting its objectives and to make changes to strengthen the partnership working during these incidents.

3. Joint Protocol for Dealing with Unauthorised Encampments in Lincolnshire

- 3.1 LCC have previously attempted to achieve a consensus between all districts, the police and themselves on a document to regularise the way in which Councils and the police deal with unauthorised encampments in accordance with the law and best practice. Historically the City Council dealt with encampments on a case by case basis and therefore it was a welcome step to try to agree a protocol countywide. There has been limited support from other districts, however despite this the City Council has benefitted from the protocol being approved and signed in May 2014
- 3.2 The Joint Protocol for dealing with Unauthorised Encampments has been reviewed with the assistance of the Lincolnshire County Council's (LCC's) Traveller Liaison Officer, Lincolnshire Police's Acting Chief Superintendent, the Assistant Director for Communities and Street Scene, and the Legal and Democratic Services Manager, which has resulted in some proposed amendments. The revised document is with Lincolnshire County Council for approval through the relevant senior manager and the portfolio holder and recently we've been advised that there have been some further changes suggested and we are awaiting hearing back about these.

- 3.3 During the course of discussions about the protocol it was clear that both the County Council's officer representative and the Police would prefer the City Council to earmark a site, or sites, which may be considered suitable to move travellers onto temporarily if they arrive on land which is both operational and where there is a substantial impact on the local community or a business, as identified through a Community Impact Assessment. This option needs further exploration due to the limited amount of land available within the city for such a purpose.

4. Proposed Changes to the Protocol

- 4.1 The proposed revised Protocol being considered by LCC includes the following main changes:-
- To include a precedent Community Impact Assessment to be completed in the initial visit to capture information in a consistent manner and enable a full assessment of the impact to inform decisions about actions to be taken

- To include a standard report to be completed by a local authority to present to the police, with relevant documents attached, to cover all actions taken regarding the encampment and suggested justifications for the police to exercise their discretionary powers to evict trespassers in an unauthorised encampment
 - To include powers of the LCC in respect of taking action against encampments on highways
 - To firm up definitions, expand on general requirements
- 4.2 The suggestions have been discussed at length with the Acting Chief Superintendent and the County Council's Travellers Liaison Officer and we await the outcome from the LCC on the draft protocol.
- 4.3 Given that we have been assured that the changes will be minor, it is proposed that delegated authority be granted by the Executive to the Chief Executive and the Leader of the Council to sign the document on it's behalf. The officers who deal with encampments would prefer there be as little delay as possible in the signing of the document to ensure the council gets the benefit as soon as possible.

5. The Wider Approach to Unauthorised Encampments

- 5.1 Whilst not all those who chose to establish unauthorised encampments on public land have any special protection in law, the Council needs to bear in mind its role in respect of such people and in particular its duties under the Equality Act 2010. In order to ensure that informed decisions are reached concerning the appropriate responses to unauthorised encampments, not only on the City's own land but also on private land.
- 5.2 The terms "Gypsies" and "Travellers" describe different and distinct groups, including Roma Gypsies, Scottish Travellers, Irish Travellers, New Age Travellers and Occupational Travellers. Gypsies and Travellers can be nomadic, partly nomadic or settled. Whether settled or nomadic, Gypsies and Travellers can often be isolated from settled communities and from mainstream service provision, and viewed with suspicion wherever they live.
- 5.3 Romany and Scottish Gypsies and Irish and Scottish Travellers are recognised ethnic groups under the Equality Act 2010 under the protected characteristic of race.

- The Equality Act 2010 makes it unlawful for any public authority or a person carrying out a public function of that body to discriminate against anyone with a protected characteristic and has a duty to eliminate unlawful discrimination, harassment or victimisation.
- 5.4

- Therefore officers must not treat members of the Gypsy or Traveller communities in a way that differs from action taken against members of the settled community or it will be unlawful.
- 5.5

5.6 The Equality Act also places a general duty on public bodies to:

- advance equality of opportunity, between racial groups;
- foster good relations between racial groups.

6. Gypsy and Traveller accommodation needs assessment

6.1 The 2013 Central Lincolnshire Gypsy and Traveller accommodation needs assessment identifies the need for 11 pitches in Lincoln, however a surplus of 4 pitches has been identified in years 0 to 5 (2013-2018) meaning that there is a need for 7 pitches in the city.

6.2 The assessment also highlighted the need for a number of temporary stopping places across central Lincolnshire which should assist in alleviating unauthorised encampments from gypsies and travellers. It should however be noted that not all unauthorised encampments are as a result of Gypsies and Travellers and therefore additional pitches and temporary stopping places will not solve the problem completely. Undertaking this assessment and making the necessary provision is a County Council function.

6.3 There is currently just one site in the city designated as a site for 'travellers', which is owned by Lincolnshire County Council and is partially occupied. A site directly adjacent to this site has been identified in the Central Lincolnshire Local Plan for possible expansion, should it be required. A recent assessment highlighted an element of dissatisfaction with the existing facilities and current condition of the site. This is being looked at by the County Council.

7. Availability of alternative sites

7.1 During the course of discussions the police representative and the County Council's Travellers Liaison Officer both raised the possibility of the City Council reviewing its options regarding offering travellers alternative sites where encampment might be tolerated short term while the legal process is undertaken.

7.2 Pursuit of this idea would mean a review of each encampment on a case by case basis and if an alternative site were to be identified then liaise with all relevant parties, including members, as to whether it would be appropriate to offer that site.

7.3 Enforcement action for the alternative site would be commenced regardless, as if they had encamped unauthorised, to ensure that any such site did not become a regular or permanent site.

7.4 Liaison with neighbouring authorities would also be required to consider sites on Lincoln's immediate boundary.

8. Consideration of alternative legal powers

8.1 There has been a review of available powers and other authority's approaches to their encampments. In particular we have been linking with the Lincolnshire Shared Services legal team and their involvement in obtaining a city wide injunction in Boston from the High Court. This has included various areas of land which have been targeted by unauthorised encampments and it was granted in 2014. Since

that time, whenever a group of travellers who meet the requirements of the Order arrive, the police serve upon them the Injunction Order. So far, it appears to have had the desired effect and the group have moved on relatively quickly and without the need for further legal action.

- 8.2 The advantage of such an injunction is that an unauthorised encampment can be served with the Order immediately to advise them of the fact that they are trespassing on the land, and that will start the legal process to enable the council to obtain authority from the court to remove them without the need for substantial evidence to be gathered as they are breaching the Order just by being on the land. The relevant welfare checks will still need to be made, however an application to the court will be made quickly and if found to be in breach of the Order, enforcement action can commence. Anyone illegally occupying the protected sites could be arrested and imprisoned, fined or have their assets seized. It is also proving to be a deterrent factor in other areas, and it appears that encampments are less likely to be set up in areas where an injunction is in place.
- 8.3 This approach is also being taken by the City of Wolverhampton Council who have now obtained an Injunction Order covering 60 sites in their area

9 Requirements for a city wide Injunction Order

- 9.1 The council will need to present evidence of unauthorised encampments across the city and in the areas which it is seeking to get covered by the Order. This needs to show the impact on the residents/visitors to the area as well as the financial and reputational impact on the council itself. There needs to be a site set aside in the boundary to offer to the travellers as well which there is, however over the past few years, no members of any of the encampments have chosen to move to the Washingborough Road site as it is occupied mainly by one family whom the traveller community would not want to share a site with.
- 9.2 Support for the Injunction Order has been given by the police, through Chief Inspector Stewart Brinn and also the LCC's traveller's Liaison Officer as well.
- 9.3 The Council is also working in partnership with the LCC and hoping to be able to include any areas of their land in the application within the city boundary which they have encampments on, such as the land at Yarborough Leisure Centre
- 9.4 Members views on taking this approach are sought as these proceedings are serious and have been considered as a last resort given the rising numbers of encampments which are unauthorised, and the escalating associated costs. It is recognised that the implementation of the Order would need to be mindful of the rights of the individuals involved.

10. Policy Scrutiny Committee

- 10.1 This committee considered this report on 9 October 2018 and the minutes of that meeting are attached at Appendix 2.

11. Organisational impacts

11.1 Land, property and accommodation

The Property Services Manager has considered whether there is any land which could be used as an alternative site over and above the Washingborough one. It has been concluded that, particularly in view of the current new build programme, there are no non-operational sites which could be earmarked as a permanent alternative site. However, during the course of any review of an unauthorised encampment, a view taken as to whether there are any sites available at that time which could be used. This will continue to take place as part of the process and will be kept in mind in the future

11.2 Finance

The cost of dealing with unlawful encampments has risen over the years and are outlined on the attached. These costs include for the direct court/legal costs, cleaning up, reparations and installation of deterrents to deter further encampments. The signing of a revised protocol does not itself add to costs, and arguably reduces costs by ensuring effective use of resources. However, should the council agree to designate a site for temporary use, then there would be a cost to setting this up (which is currently unfunded) and it would not necessarily mean any reduction in operational costs.

The above takes no account of the significant impact on staff time and disruption to other services and projects. As a relatively small authority, undertaking the necessary operational and legal duties required to deal with unlawful encampments means disruption to a wide range of programmed work across several departments.

11.3 Equality, Diversity & Human Rights

As outlined in the attached Equality Assessment at Appendix 3. This is very similar to the one completed during the course of introduction of the Protocol. There are no negative impacts on individuals which cannot be mitigated and on balance the potential harm to individuals far outweighs the risk of not implementing this Protocol. The Policy supports the promotion of the welfare of Travellers and Gypsies and will increase tolerance by the settled communities and understanding of these groups if a change of policy is able to reduce confrontation

12. Risk Implications

12.1 (i) Options Explored

If the Council did not take action to resolve this issue, costs and resources will be taken up by each encampment which unlawfully arrives on city council land, and to not sign up to the revised Protocol risks there being an ad hoc reaction to unauthorised encampments countywide. The potential benefits of partnership working would not be maximised

12.2 (ii) Key risks associated with the preferred approach

There is a risk that the council are not successful with its application to the High Court. Every attempt will be made to ensure that all the evidence required will be included in the application. There are no key risks with the approach above to the changes in the Protocol. There may be a community impact if a site is identified to be a short term alternative, which would be managed during each incident of an unauthorised encampment.

13. Recommendation

13.1 To approve the proposal to apply for a city-wide Injunction Order, and the delegation of authority for the changes to the Joint Protocol dealing with Unauthorised Encampments in Lincolnshire being signed off by the Chief Executive and the Leader.

Is this a key decision? No

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? 3

List of Background Papers: None

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