

STRONG AND SUPPORTIVE COMMUNITIES SCRUTINY COMMITTEE	Agenda Item No. 6
20 JULY 2016	Public Report

REPORT OF THE SERVICE DIRECTOR OF ADULT SERVICES AND COMMUNITIES		
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REVIEW OF THE MANAGEMENT OF UNAUTHORISED GYPSY AND TRAVELLER ENCAMPMENTS

1. PURPOSE

- 1.1 To provide Members with details of the management of unauthorised Gypsy and Traveller encampments in Peterborough.

2. RECOMMENDATIONS

- 2.1 Members are asked to scrutinise this report, to challenge where necessary and to suggest ideas and initiatives which will assist with the management of unauthorised encampments and unauthorised fly-grazing of horses.

3. LINKS TO THE CORPORATE PRIORITIES

- 3.1 This report links to the Corporate Priority of delivering safe and cohesive communities.

4. BACKGROUND

- 4.1 The management of unauthorised encampments transferred from Amey to the People and Communities Department in September 2014.

From April 2016 the role of Gypsy Liaison Officer moved into the new Prevention and Enforcement Service (PES). This allows for a more collaborative approach to dealing with unauthorised sites.

A Daily Risk Management Meeting is now in place for the PES which allows council and police officers to review calls for service. In the case of an unauthorised encampment appearing in the city appropriate resources are allocated and all issues discussed to limit the impact of such encampments on residents.

5. KEY ISSUES

- 5.1 Legislation and good practice direct the way in which we deal with unauthorised encampments. The Department of Communities and Local Government have produced a helpful paper which summaries all available powers - 'Dealing with illegal and unauthorised encampments' (appendix 1).

5.2 Section 77 & Section 78

Local Authorities utilise section 77 and 78 of the Criminal Justice and Public Order Act 1994. This act gives local authorities in England and Wales power to give direction to leave the land. It is an offence to fail to comply with such a direction; if the direction is not complied with the local authority can apply to a magistrate's court for a section 78 court order.

The below table details the number of times Peterborough City Council has issued section 77 and section 78 notices over the last 3 years:

	2013/2014	2015/2015	2015/2016	2016/2016 *
Section 77	18	29	38	3
Section 78	1	9	11	1

- From 1st April 2016 to date

5.3 Section 61 & Section 62

The powers of the police to direct unauthorised encampments to leave land falls under section 61 and 62 of the Criminal Justice and Public Order Act 1994, this can be used if certain criteria is met. These are summarised below.

Section 61

The decision to use Section 61 falls entirely to the operational police command. Its early use should be considered where the statutory conditions are met and it is likely to be an effective, proportionate response.

While evidence of:

- unacceptable behaviour by unauthorised campers at the encampment, including individual criminal activity, which cannot be controlled by means other than eviction
- significant disruption to the life of the surrounding community
- serious breaches of the peace or disorder caused by the encampment

May be triggers for such action, care must be taken not to simply displace the behaviour, but to ensure that the action taken achieves a legitimate policing purpose.

The power should be only used for a legitimate police purpose, i.e. to preserve the peace, prevent / detect crime, preserve life, limb or property, or to ensure or promote community safety. Where there is criminal activity, attempts should be made to identify the offenders, rather than penalise all the members of the encampment.

5.4 Section 62

A direct to leave under Section 62A cannot be given until;

- those using the encampment have become trespassers and
- the trespassers are present on the land with the common purpose of residing there for any period of time and
- the trespassers have at least one vehicle on land and
- it appears that the person has one or more caravans in the possession or under his control on the land and
- the occupier of the land has asked the police to remove the trespassers from the land
- there is a suitable pitch on a relevant caravan site for that caravan of each of those caravans.

Where the occupier of the land is a public body, before the police are asked to give a direction under 62A the local authority and other public bodies should have undertaken relevant welfare checks.

5.5 UNAUTHORISED FLY-GRAZING OF HORSES

The Prevention and Enforcement Service responds to calls received regarding grazing of horses on land which owners do not have permission. The Control of Horses Act 2015 along with section 7B and 7C of the Animal Act 1971 allows the council to take action, this includes issuing notices and the removal of horses if required if owners fail to comply with instruction.

5.6 PROCESS OF DECISION MAKING

When a report of an unauthorised encampment is received a set process is followed which includes verification of land ownership, health and welfare assessments, issuing of section 77 through to section 78 if required. (please see appendix 2)

Decisions as to the appropriate course of action in respect of unauthorised encampments are made on the facts of each case and in discussion with police colleagues. Decisions are reviewed daily by investigating calls for service to both the police and the local authority.

5.7 EMERGENCY STOPPING PLACE

The council currently has one emergency stopping place (ESP) which travellers can be directed to. Travellers are permitted to stop for a limited time at the ESP without impacting on the city or surrounding areas. The ESP is located on land between Welland Road/A47, and can be used for a maximum of 28 days per year. Further work is to be undertaken with a cross party working group to explore options of the possibility of further Emergency Stopping Places or Transit sites in the city.

5.8 CURRENT PREVENTION/DEFENCE MEASURE WORK

As part of the process of management of unauthorised encampments, a review of the defence measures in place takes place when we receive a call for service. Defence measures can range from bunding, knee high level fences and bollards depending on the locations and cost involved.

As part of ongoing work a review of current defence measures is taking place at locations which have been occupied on a number of occasions by travellers. Defence measure have recently been installed at Phorpres Close and Old Lincoln Road of the A15.

The Prevention and Enforcement Service also provides advice and guidance around defence measures to private land owners that have experienced problems with travellers.

5.9 FUTURE OPPORTUNITIES

As the Prevention and Enforcement Service develops it will allow for more joined up working not just with partner agencies but also between authorities across the Eastern Region allowing to share information between police forces.

6. IMPLICATIONS

6.1 Legal

The legal implications are contained within the report.

The guidance provides that Local authorities should ensure that, in accordance with their wider obligations, and to ensure that they comply with Human Rights legislation, proper welfare enquiries are carried out to determine whether there are pressing needs presented by the unauthorised campers and that where necessary, the appropriate agencies are involved as soon as possible. This must be done before removal of the unauthorised campers.

Local authorities should also ensure that they follow proper procedures in dealing with an unauthorised encampment, and that their actions are fully documented.

There are no financial implications within this subject matter.

7. CONSULTATION

7.1 Not Applicable

8. NEXT STEPS

8.1 That the committee is briefed as to the management of unauthorised encampments across Peterborough.

That any comment or further recommendation of the committee is duly noted and acted upon.

9. BACKGROUND DOCUMENTS

9.1 None

10. APPENDICES

10.1 Appendix 1: Dealing with illegal and unauthorised encampments – Department for Communities and Local Government
Appendix 2: Flow Chart of process of managing unauthorised encampments