



08/20

# Delegated decision report

## **DECISION UNDER DELEGATED POWERS**

**DECISION CANNOT BE TAKEN BEFORE 12 NOVEMBER 2020**

Title

**MANAGING UNAUTHORISED ENCAMPMENTS PROTOCOL**

Report of

**CABINET MEMBER FOR COMMUNITY SAFETY AND DIGITAL TRANSFORMATION**

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### EXECUTIVE SUMMARY

1. On occasion people may stop and temporarily set up camp on public or private land without the landowner's permission - this an 'unauthorised encampment'. Regulatory Services have led in the development of a partnership protocol on behalf of the gypsy and traveller internal working group.
2. The protocol sets out the overall approach for dealing with unauthorised encampments on the Isle of Wight.
3. Unauthorised encampments and campers could be anyone, and they may use a variety of accommodation such as tents, improvised shelters, caravans, trailers or vehicles.
4. Such encampments can be problematic and may cause animosity from communities, interest from media and requests for authorities to take action. In addition, such encampments rarely provide an appropriate or adequate setting and frequently result in poor living conditions for the occupants or other safeguarding concerns.
5. The responsibility for dealing with an unauthorised encampment lies with whoever is responsible for the land it is on. There are however responsibilities of the local authority around welfare, safeguarding, education and homelessness.
6. This protocol is not a policy on Gypsies or Travellers but details the agreed responses to reports of persons setting up unauthorised encampments. It is, however, recognised that unauthorised encampments may contain those from Gypsy or Traveller communities.

7. The protocol considers the advice and guidance issued by the Ministry of Housing, Communities & Local Government, Home Office and Ministry of Justice 'Dealing with illegal and unauthorised encampments' March 2015.
8. It is recommended that the IOW Council adopt this protocol, which has been created in consultation with all relevant departments involved to serve as a useful guide to best manage unauthorised encampments and formalise existing processes.
9. Officers are also reviewing the provision of a gypsy and traveller liaison officer role.

### BACKGROUND

10. The council does not have any established protocol or policy for dealing with unauthorised encampments. At the current time each case is considered individually by a gypsy and traveller officer group. Various services may get involved depending on the type of encampment and the issues arising.
11. This has led to inconsistencies in approach and can result in delays in proper assessments or actions.
12. The underlying causes of illegal encampments does also link to other council responsibilities and service provision particularly planning and housing needs/homelessness.
13. There is no longer a specific duty on the local authority to set aside land for gypsy sites. The national planning policy framework and the governments planning policy for traveller sites suggests provision for travellers should be considered in the development of local plans and is a material consideration in planning decisions. It should also be considered in the development of accommodation needs.
14. The Ministry of Housing, Communities and Local Government does undertake some statistical gathering each year and requires local authorities to undertake a count on both the number of traveller caravans and the number of rough sleepers in the Local Authority area.
15. How an unauthorised encampment (including tents/shelters) is dealt with will depend both on the land ownership and how the land is used. Unauthorised encampments may set up on land owned by the local authority, privately owned land or on the highway.
16. No action will be taken before partners have established why unauthorised campers are on the land, how long they are intending to stay and whether there are any welfare issues.
17. The protocol explains the Council's initial response to an unauthorised encampment, detailing when they will be visited (normally within 24 hours on

weekdays) and that an initial assessment is carried out and the following basic information gathered:

- numbers of vehicles and families/ individuals involved
- past and intended future movement
- anticipated length of stay
- reasons for stay
- any health, educational or other welfare needs.

The protocol states that the lead agency or relevant council department responsible for the land the encampment is on will undertake the initial response and visit. This is outlined under point 16 within the protocol.

18. The majority of Local Authorities have a designated Gypsy and Traveller liaison officer to undertake the initial contact with travellers to advise and undertake welfare assessments. This role has previously been delivered within property services or children's services however, at the current time there is no dedicated provision or officer assigned to this role within the Isle of Wight Council. In the absence of this role then the initial visit would be undertaken by the lead agency or housing needs if identified as homeless.
19. Information will be shared with partners, including the Traveller Education Service and Health Visitors, as necessary. Health, education and welfare assessments will be carried out by the relevant professionals.
20. If there are any safeguarding concerns referrals will be made to the Multi agency Safeguarding Hub (MASH) for children or the Multi Agency Safeguarding Triage (MAST) for adults. A MARM (Multi agency risk management meeting) may also be called where the safeguarding concern does not meet the required threshold but a multi-agency meeting would be of benefit.
21. The protocol outlines the toleration criteria for unauthorised encampments as in some exceptional circumstances and if deemed appropriate, proportionate and necessary, the Council may tolerate an encampment for a specified period provided that certain criteria outlined in the protocol is consistently observed.
22. Where it is appropriate, proportionate and necessary the council may use a number of enforcement options to move the encampment off the land it is residing on. These options are detailed in Appendix B within the Protocol.

## STRATEGIC CONTEXT

23. This protocol meets a number of objectives and values outlined within the Corporate Plan 2017-20 including:
  - Vulnerable people being supported and protected
  - The Community feels safe and the island is resilient
  - Ensuring the safety of the community at all times
  - Being effective and efficient in everything we do

## CONSULTATION

24. Consultation has been undertaken with the following relevant community safety stakeholders including:

- Internal: Planning, Regulatory Services, Legal, Property Services, Children's Services
- External: Police including the Gypsy Roma Traveller SPOC and Chief Inspector, Island Roads

## FINANCIAL / BUDGET IMPLICATIONS

25. There are no specific budget implications for this protocol as any action would be undertaken within the existing budget allocation for the lead service.

## LEGAL IMPLICATIONS

26. Dependent on whether a level of enforcement is required the following powers may be utilised.

- a. Criminal Justice and Public Order Act 1994 Section 77 Direction and section 78 (1) of the Act requiring removal of any vehicle or other property.
- b. Powers under the Anti-social Behaviour, Crime and Policing Act 2014 including Community Protection Notices and Injunctions.
- c. Powers available specifically to Police colleagues which may be required in such circumstances.

## EQUALITY AND DIVERSITY

27. Within the protocol there is consideration for groups with protected characteristics under the equalities act. When assessing an unauthorised encampment Council services and external agencies must work together to manage them effectively, and to achieve the below objectives:

- Support unauthorised campers and encouraging them to behave responsibly and within set guidelines whilst residing on land unlawfully.
- Ensure any inconvenience and disruption to local communities is minimised
- Dispersing the unauthorised encampment having carried out proper investigations and assessments of the unauthorised campers' circumstances and welfare needs and in compliance with agreed legal processes.

28. An Equality Impact Assessment has been undertaken, the protocol could have a positive or negative impact on some of the protected characteristics depending on the case. There is limited data to undertake a full and detailed assessment and it is therefore considered to have a neutral impact.

## SECTION 17 CRIME AND DISORDER ACT 1998

29. S17 implications were discussed and considered by all stakeholders including the Police. The Protocol has been established to better manage unauthorised encampments so that in some circumstances the likelihood of crime or Anti-social behaviour being a factor is far reduced and communities involved are protected. The implications of actions coming out of the protocol is a more effective way of managed unauthorised encampments therefore an increase in safety for all involved.

## OPTIONS

1. It is recommended the IOW Council adopt the protocol appended to the report to enable officers to more effectively manage unauthorised encampments
2. Not to adopt the protocol.
3. To make recommended changes to the protocol prior to it being adopted.

## RISK MANAGEMENT

30. Without a protocol there may be missed opportunities for the authority to fully assess welfare, safeguarding, housing and educational needs of the camp residents.
31. Other risks to the council are wider implications around planning local plans, housing need demands and no designated traveller liaison officer. This does need to be looked at in a wider discussion and decision paper.

## EVALUATION

32. The purpose of the protocol is to ensure that the process of dealing with an unauthorised encampment is fully understood by all parties.
33. The protocol seeks to take a quick response which fully assesses the support needs of the encampment as well as having a pragmatic approach to tolerate an encampment in certain circumstances.
34. To not have a protocol would potentially delay an appropriate response and put individuals at risk.

## RECOMMENDATION

1. It is recommended the IOW Council adopt the protocol appended to the report to enable officers to more effectively manage unauthorised encampments

## APPENDICES ATTACHED

Appendix 1: Protocol for managing unauthorised encampments

## BACKGROUND PAPERS

'Dealing with unauthorised encampments, a summary of available powers' – Home Office, DCLG and MOJ Guidance

<https://www.gov.uk/government/publications/dealing-with-illegal-and-unauthorised-encampments>

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