

## STATEMENT OF POLICY IN RELATION TO UNAUTHORISED ENCAMPMENTS

This document will apply to all unauthorised encampments and the occupation of land by persons without the consent of the Council.

All references to Gypsies and Travellers in this policy document refer to a generic term to denote the whole population of those groups, families and individuals who subscribe to Gypsy/Traveller culture and/or lifestyle. The term encompasses ethnic Gypsies and Travellers and those who fall within the legal definition of a 'Gypsy' (s24 of the Caravan Sites and Control of Development Act 1960 as amended by s80 of the Criminal Justice and Public Order Act 1994).

“Encampment” includes the unlawful occupation of land by persons without the consent of the Council whether or not they are Gypsies or Travellers.

- 1.1 This policy is intended to provide a framework to ensure the Council reaches a decision on unauthorised encampments in a balanced and transparent process. The policy also provides guidance on when the Council should consider the repossession process to return vacant possession to the Council on land in their ownership or land to which they are entitled to possession.
- 1.2 All unauthorised encampments will be assessed on the individual circumstances of such occupation and consideration given to the personal circumstances of the occupants. Due regard will always be given to the health, welfare and specific duty the Council has to the individual occupants under the Human Rights Act 1998 (balanced with the human rights of others). Further the Council will take account of its duty under the Equality Act 2010 to eliminate unlawful discrimination, harassment and victimisation and advance equality of opportunity and good relations between people of different groups.
- 1.3 The Council is committed to act as fairly, openly and promptly as possible, with due regard to public safety and the protection of the rights and freedoms of others and to consider all matters raised by both the travelling and settled communities before arriving at a decision regarding possible action by the Council.
- 1.4 Where the unauthorised encampment is located on Council owned land, the Director of Regulatory and Democratic Services will be the officer designated to make decisions as to the manner in which the encampment is managed under this policy. In consultation with Southampton and Fareham Legal Services partnership and having regard to any welfare assessment by Hampshire County Council, the Director of Regulatory and Democratic Services or in his absence the Head of Community Safety and Enforcement will decide upon an appropriate course of action which may include the following:-
  - a) To allow the encampment to remain for a certain period of time;
  - b) To commence eviction proceedings forthwith;
  - c) To request the police to exercise their powers under s 61 of the Criminal Justice and Disorder Act 1994.
  - d) To serve a Direction under s. 77 of the Criminal Justice and Disorder Act 1994.
  - e) To exercise the right to possession under the common law

21 March 2013

- 1.5 The officer responsible for ensuring the practical steps are taken in accordance with this policy shall be the Head of Community Safety and Enforcement or in his absence, the Council's Enforcement Officer. The Southampton and Fareham Legal Services partnership shall be instructed in relation to the commencement of any legal proceedings or when seeking legal advice.
- 1.6 Hampshire County Council Gypsy Liaison Officer will be responsible for carrying out Welfare checks on behalf of Fareham Borough Council, on illegal encampments on land belonging to Fareham Borough Council
- 1.7 Private landowners have no welfare responsibilities towards Gypsies and Travellers or others unlawfully on land and are not expected to take unauthorised campers welfare needs into account when deciding whether to evict. It is for the landowner to decide what action to take but the landowner will generally be encouraged to take action and reminded that acquiescence to residential use of land may be contrary to planning guidance and may lead to the service of an enforcement notice.
- 1.8 Hampshire County Council's Gypsy and Travellers Unit will deal with any unlawful encampments on their land including the highway.
- 1.9 Subject to any unusual, individual or special circumstances, possession proceedings through the courts will normally be instituted against unauthorised encampments occupying land owned or controlled by the Council in the circumstances outlined below, that is to say where the encampment in the opinion of the Council:-
  - a) Creates a hazard to road safety or otherwise creates a health and/or safety hazard;
  - b) Causes a significant nuisance to the general public by reason of its size, location, nature or duration;
  - c) Causes a significant impact on the enjoyment, use or habitation of adjoining or nearby property or interferes with the effective operation or management of that property;
  - d) Causes or is likely to cause damage to the Council's land or property or prejudice to its employees;
  - e) Prejudices or is likely to prejudice the use of land for its intended purpose by legitimate tenants or occupants; or
  - f) Is too large for its location or is causing a significant impact on the local environment;
  - g) Would for some other reason be detrimental to the interests of the public if allowed to remain for an extended period.

- 2.0 Every effort will be made to avoid moving gypsies and travellers unnecessarily from place to place particularly where this would create unwelcome disturbances to family life. In this respect, particular regard will be paid to the schooling and welfare of children and the wellbeing of the aged and infirm. This will be balanced against impact upon local residents and the land and/or property of the Council.
- 2.1 Except in the case of emergency, occupiers will be given reasonable notice to vacate the land prior to the institution of possession proceedings or the issue of a direction to leave the land, taking into consideration the individual circumstances of the occupation. The length of time considered to be reasonable notice will depend on the individual circumstances of each case.
- 2.2 Should the decision be made to tolerate the encampment for a period of time, officers will keep in regular contact with the encampment and officers may issue black refuse sacks to occupiers to ensure the site is kept clean and free from rubbish. Welfare checks will be carried out regularly by Hampshire County Council whilst the encampment remains on the land such that they are sufficient to ensure that the council is aware of the health, welfare and educational needs of those upon the site when it is making its decisions.
- 2.3 Any decision to tolerate the encampment for a limited period of time will be subject to the occupants of the site behaving in an acceptable manner and in particular occupants will be expected to :-
- a) Respect the environment, the surrounding land and property and the reasonable expectations of the local settled community;
  - b) Ensure that the size of the group is appropriate to the location and agreed with the designated officer;
  - c) Not to dump waste of any sort, including trade, nomadic or human waste;
  - f) Be accountable for their behaviour towards the local community and each other;
  - g) Keep all animals including dogs, goats and horses under proper control at all times;
  - f) Dispose of all human waste on site in a safe and hygienic manner;
  - h) Adhere to any date of departure once agreed with the appointed officer

Any breach of these conditions may result in the commencement of legal proceedings against the encampment for its removal.

Note that the continuous occupation of the same site by consecutive groups will not be acceptable.

- 2.4 All complaints about an encampment from members of the public will be logged and investigated so far as is reasonably practicable by the appropriate Council department eg Regulatory and Democratic Services for complaints regarding infestations etc.

- 2.5 In considering the matters set out in 1.9 (a) to (g) above and any other relevant matters peculiar to an individual case, consideration shall be given to the various statutory duties and powers of the Council, both in relation to land in its ownership or under its control. The following matters may be taken into account by the Council when determining whether and if so when, to take action to recover possession of the land:-
- a) The health, welfare, housing and education requirements of members of the encampment and any responsibilities which the Council may have to the occupiers in this regard.
  - b) The extent of any alternative available accommodation;
  - c) Any statutory responsibilities to the public eg the Highways Act 1980, the Open Spaces Act 1906, the Wildlife & Countryside Act 1981 and the Town and Country Planning Act 1990.
- 2.7 In the circumstances listed below, the Council may issue a direction under s 77 of the Criminal Justice and Public Order Act 1994 where to do so is judged to be in the public interest and
- a) Where land ownership cannot be ascertained and/or
  - b) When an encampment is adjudged to be otherwise unmanageable and/or
  - c) Possession of the land is required urgently and/or
  - d) The police are unwilling or unable to exercise their powers.
- 2.8 If time is critical and the police are unable or unwilling to assist consideration may also be given to using the common law (through a firm of certified bailiffs) to regain possession of land in the Council's ownership or under its control.