

<b>Report to</b>	<b>Communities Scrutiny</b>
<b>Date of meeting</b>	<b>11<sup>th</sup> March 2021</b>
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<b>Title</b>	<b>Gypsy and Traveller – Resource Implications and Unofficial Encampments Draft Procedures</b>

## **1. What is the report about?**

The report provides background to Denbighshire Council's approach to dealing with Unofficial Gypsy and Traveller Encampments, reviews the processes in place in other councils and provides options and makes a number of recommendations about how we should go forward with a robust structure and processes to improve the response.

## **2. What is the reason for making this report?**

The purpose of the report is to provide an update to Scrutiny about recent decisions and developments aimed to improve the way the Council responds to unofficial encampments by Gypsy and Travellers. The Senior Leadership Team (SLT) and Cabinet have supported the proposals.

## **3. What are the Recommendations?**

3.1 That Scrutiny considers and discusses the recent developments and decisions relating to the way the Council responds to unofficial encampments by Gypsy and Travellers.

## **4. Report details**

### **BACKGROUND INFORMATION**

#### **4.1 Regional Work**

Clearly this issue not only impacts on a number of services within the Council but also other Local Authorities and partner organisations across the region. As such a regional North Wales Joint Protocol on Managing Unauthorised Encampments was agreed in 2015. A copy of the protocol is included as Appendix E. The meetings were convened and hosted by the Welsh Government equalities team. Unfortunately, these have now been discontinued due to inconsistent attendance, lack of ability to prioritise the work required to support the meetings and a change of personnel in Welsh Government.

#### **4.2 SLT Report**

Within Denbighshire County Council (DCC) a paper was presented to SLT in September 2019 which summarised the current arrangements (see Appendix F) and made the following recommendations:

1. Review Welfare Assessment Process
2. Separate the welfare assessment process from the serving notice process
3. Where appropriate, commission bailiffs to serve notice and deal with all subsequent documentation and court appearances, rather than use DCC officers
4. Establish a corporate budget to deal with costs associated with incursions

No final decisions were made and progress was obviously impacted by the pandemic in early 2020. However, as part of this review a code has been set up in Corporate Contingencies to allow services to code direct expenditure relating to encampments. Also Lisa Atherton, Senior Practitioner, Children's Social Care, has undertaken a lot of work over the past 3 months in developing the welfare assessment process. This has informed the process maps within this report.

#### **4.3 Legal Framework**

The Council has a power (not a duty) under s77 Criminal Justice and Public Order Act 1994 to issue a direction to those who are part of the unauthorised encampment requiring

them to leave and to remove their vehicles. If a direction is made then it is an offence, punishable by fine, for any person to whom the direction applies to fail to leave. The Council can, where it has issued a direction under s77 and people and vehicles remain on the land in contravention of the direction, apply to the Magistrates Court for an order requiring the removal of any vehicle or other property which is present on the land, and any person living in it. It is an offence to obstruct anyone acting to exercise the power contained in the order. The issuing of a direction or the application to Court for an order under these provisions are powers of the local authority and not duties. The Council does not have to take this action but may decide to do it. In taking that decision the Council should have regard to the usual public law considerations, i.e. take account of all relevant considerations, equalities duties and human rights considerations.

However, in response to the Covid19 Pandemic Guidance has been issued by the Welsh Government in June 2020 which was last updated in September entitled 'Guidance for those supporting Gypsy and Traveller Communities: COVID-19'. It is right to say that it is not a directive and that it is guidance. It is true that the guidance is not statutory guidance, in other words, there is no section in the 1994 Act that says that the Council must have regard to guidance in respect of these powers. The guidance is however a relevant consideration and should be taken into account.

***The guidance says that local authorities should not evict, relocate or disperse unauthorised encampments unless there are immediate and substantial risks to public safety and public health arising from continued occupation.***

The guidance goes on to say that where eviction is considered necessary, ***an alternative suitable location should be identified by the Council where possible.***

#### **4.4 Welsh Government Guidance**

Welsh Government's [Guidance on managing unauthorised camping 2013](#) states the following on approaches to resolving unauthorised Encampments:

Effectively, if an unauthorised encampment arises and there are no alternative authorised pitches in the area, local authorities have three clear paths relating to how they can resolve the encampment. Each option should be carefully considered:

- **Path 1** – To seek and obtain possession of the occupied site (eviction proceedings).

- **Path 2** – To ‘tolerate’ the Gypsy or Traveller occupiers, if only for a short time, until an alternative site can be found or the occupiers move on voluntarily.
- **Path 3** – To find an alternative site, if only on a temporary basis, and offer the Gypsy or Traveller occupiers the chance to move onto it.

It is recommended that local authorities undertake an initial visit to the encampment before deciding which option is the most appropriate. This will enable the gathering of key information about why the encampment has occurred, if there are any urgent welfare concerns and how long the occupiers plan to stay.

The guidance also stresses the importance of having a **Single Point of Contact** and states:

**The role of the Single Point of Contact (SPOC)**

*Each local authority should develop its own protocol for responding to unauthorised camping, which will establish the procedure and personnel necessary. However, it is recommended that a lead officer is identified to undertake the following roles:*

1. *Liaise with occupiers and other affected parties.*
2. *Undertake or coordinate the necessary assessments and involvement of relevant officers to ensure needs are addressed.*
3. *Communicate the evidence and provide recommendations to senior officials who will ultimately decide what action to take.*
4. *Ensure that all stakeholders are made aware of the proposed action and disruption to all is minimised.*

## **THE FUTURE**

4.5 SLT received a report on the 7<sup>th</sup> January to agree the best way forward to improve the Council’s response in this area. Following support from SLT a further report was taken to Cabinet Briefing on 20<sup>th</sup> January which also supported the proposed changes set out below. Work had been undertaken to develop a clearly defined process for unauthorised encampments. Further work is required in order to ensure the process is fit for purpose and the correct people have been consulted and are involved in the process going forward. The broad principles in the process map included as Appendix A. Key points of the process are:

- Clear and agreed process with engagement at Strategic and Operational level
- Clear and agreed process distinguishing between encampments on DCC land and those on private land
- Setting up of Strategic Group to undertake oversight role and decisions around the communications requirements and any issuing of Section 77 notices

- Gateway Team set up to co-ordinate the operational aspects
- Specific group e-mail addresses and contact lists to be created and maintained for both the Strategic Group and the Gateway Team.
- Intervention Team within Community Support Services to play a key role in Welfare Assessments (see Appendix A)
- Implement Recommendation 3 of the SLT presentation in September 2019 and set up an agreement with external bailiffs to serve notice and deal with all subsequent documentation and court appearances, rather than use DCC officers.

Two options for the implementation of this process were presented:

### **OPTION A**

Attempt to implement the new process and Welfare Assessment form with the current staffing arrangements. Although this will help with the clarity of the process and the decision making process it would clearly leave DCC short of delivering best practice. In particular, the Single Point of Contact role would not be present. It is clear that the role as identified above cannot be undertaken within existing resources.

### **OPTION B**

Create a new Gypsy Traveller Liaison Officer role that will act as a Single Point of Contact. An example Job Description has been included as Appendix D. The main roles of the post would be:

- To provide a single point of contact on behalf of the council in relation to all matters involving the Gypsy Traveller community which includes a diverse area covering individual support, awareness training, community engagement and advising on related legislation and guidance.
- To provide technical advice to Council decision makers on key legislation and guidance relating to and impacting the Gypsy Traveller community. This can also extend to partners and other stakeholders.
- To Co-ordinate the council's responsibilities in relation to unauthorised encampments which involves site visits, welfare assessments, provision of services, dealing with any community tensions from local residents and evidence preparation for legal purposes.
- To ensure that the processes and contact lists are maintained to ensure they are fit for purpose on a sustainable basis.

- To collate all information relating to unauthorised encampments and complete a Decision Matrix which will include a recommendation to senior managers and the Strategic Group regarding issuing of legal proceedings (example included as Appendix B).
- Provide advice and assistance to private land owners and other stakeholders in relation to encampments on private land.
- If a need is shown for permanent and/or transit sites after completion of the Gypsy and Traveller Assessment (a separate process) it would be hoped that the post would also take an active involvement in the identification and development of suitable permanent and transit sites and introduce appropriate management arrangements for their effective use by the Travelling community. This will involve developing and applying site rules and ensuring any site(s) are managed effectively.
- To complete all official government returns and respond to WG consultations.
- To liaise with other Local Authorities and the wider public sector in order to try and revisit the shared partnership working approach.

#### **4.6 SLT Decision supported by Cabinet Briefing**

SLT made the following decisions, which were subsequently supported by Cabinet Briefing:

- They agreed that Option B was the preferred option and that a new Gypsy Traveller Liaison Officer post would be created.
- It was also decided that the most suitable home for the role going forward was within Community Housing.
- Although eventually the SLT lead for this area would transfer to Liz Grieve, Steve Gadd would continue to lead over the coming months while the post is being designed and recruited to.
- The external bailiff solution was approved.
- The broad principles in the draft process were approved. Although it was recognised that further work, consultation and engagement was required.
- It was also agreed that due to the high profile of this area of work we would need wider member engagement. This report to Scrutiny is the first part of that wider engagement.

## **5. How does the decision contribute to the Corporate Priorities?**

- 5.1. A robust process to deal with unofficial encampments alongside the additional staff resources proposed to engage with communities will contribute to priorities in areas such as housing by contributing to a successful adoption of a new Local Development Plan, improving the resilience of communities and maintaining an attractive environment.

## **6. What will it cost and how will it affect other services?**

- 6.1. The post will need to go through the Job Evaluation process, however it is likely to cost between £40-50k. It would be recommended that the post is fully funded with a base budget allocation from Corporate Contingency. Additional budget may be required to allow the post to carry out their duties which can be assessed at a later date (e.g. access to unmarked pool vehicle).

## **7. What are the main conclusions of the Well-being Impact Assessment?**

- 7.1. The proposals around processes and resources are operational in nature and delegated to Head of Service, therefore it has not been deemed necessary to complete a Well-being Impact Assessment.

## **8. What consultations have been carried out with Scrutiny and others?**

- 8.1. A great deal of consultation was undertaken as part of the development of these proposals across a number of services within the Council. Consultation has also been undertaken regionally to ensure we learn from Best Practice. Following development of the proposals reports have gone to Senior Leadership Team, Cabinet Briefing. This report to Communities Scrutiny Committee is part of the next stage of consultation with the wider membership.

## **9. Chief Finance Officer Statement**

- 9.1. The costs and funding impacts are highlighted in Section 6.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1. Action in this area is aimed at reducing the risk of disruption to residential and business communities while also addressing the risks to the welfare and wellbeing of Travellers.

## **11. Power to make the decision**

11.1 The proposals described in this report are operational in nature and delegated to Head of Service. The wider legislative framework and WG guidance concerning dealing with unauthorised encampments is summarised in sections 4.3 and 4.4.

11.2 Section 21 of the Local Government Act 2000 and Section 7.4 of the Council's Constitution.