

**CRIME AND DISORDER (OVERVIEW AND SCRUTINY)  
COMMITTEE  
26 July 2017**

**RESPONSE to UNAUTHORISED ENCAMPMENTS [Draw-Down]**

1. Summary

1.1 This report provides an overview of Dartford Borough Council's and Kent Police's responses to Unauthorised (Traveller) Encampments in the Borough. It includes an explanation of the Legislative context and how the Council and the Police operate in partnership within the context of a bespoke Memorandum of Understanding (attached as Appendix A to this report).

2. RECOMMENDATION

2.1 That the Committee note the contents of the report and the Memorandum of Understanding between the Council and Kent Police as attached at Appendix A to the report.

3. Background and Discussion

- 3.1. The issue of Unauthorised Encampments (UE's) has been a challenge for Local Authorities, the Police and Private Landowners across the country for many years. Few, if any, local authorities would welcome a UE on their land. However, many tolerate the incursions, either as a matter of policy where the impact on the community is assessed as being low, or because of a lack of capability/capacity to tackle the issue. A period in the early 2000's where Dartford experienced significant numbers of UEs led directly to the Council's stance of not tolerating UEs and to the formation of the Enforcement Team within Enforcement & Regulatory Services, to provide the capability to follow proper process and effect prompt removal of UEs from Council land.
- 3.2. The team had an immediate impact and has generally been able to deal effectively with most UEs since. However, more recently, differences in approach between this Council and other partners, specifically Kent Police and KCC had led to a mismatch of expectations. A report from the EARS Manager was submitted to the Police Deputy Chief Constable outlining concerns regarding Police policy which, at the time, suggested that the 'problem' of UE's was a matter for the local authority to resolve. This led to a change in Kent Police Policy to reflect a more pragmatic, collaborative approach to UE's in Kent.
- 3.3. With co-operation from the local Police Inspector at Dartford a Memorandum of Understanding (MOU) was drawn-up and agreed at Director/Senior Police Officer level and is attached as Appendix A to this report.

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3.4. With the appointment of a new Enforcement Manager and a renewed, unambiguous DBC / Police approach to ALL UE's in the Borough, the numbers of UE's subsequently reduced and the processes for 'dealing' with each respective UE was refined according to the circumstances.

**4. What is an Unauthorised Encampment?**

4.1 Unauthorised encampments (UEs) are defined by the Government as "encampments of caravans and/or other vehicles on land without the landowner or occupier's consent and constituting trespass". Unauthorised camping is not a *criminal* offence. It is a civil offence (trespass), giving landowners the right to repossess their property using the due process of law. The prevention of trespass is the responsibility of the landowner.

**5. Who deals with Unauthorised Encampments?**

5.1 It depends on who owns or controls the land. Private landowners, Local Authorities and the Police all have powers to deal with UEs.

5.2 All UEs on Dartford Borough Council (DBC) land will be dealt with by DBC Enforcement Team Officers. If the UE is on Highways land or land owned by parish councils within the borough of Dartford, Kent County Council (KCC) and Parish councils have provided authority to DBC Enforcement Officers to take the necessary action on their behalf.

5.3 If the UE is on privately owned land it is for the landowner to resolve. DBC Enforcement Team will liaise with the landowner and offer advice and guidance as necessary.

**6. Who should be informed about Unauthorised Encampments?**

6.1 The below table illustrates the issue and who should be called:

ISSUE	WHO TO CALL
Encampment has already occurred	Dartford Borough Council – 01322 343434 Kent County Council Unauthorised Encampment 03000 414141
Encampment about to take place	Kent Police – 101 Dartford Borough Council – 01322 343434

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DBC ensures that all reports of UE's are logged and dealt with appropriately.

**7. Unauthorised Encampments on Dartford Borough Council Land**

7.1 The Council must follow a process based on legislation and Government guidance to show that the UE is on the land without consent, make enquiries regarding general health, welfare and children's education, ensure that the Human Rights Act 1998 has been fully complied with and assess a UE's effects on the local area. The Council can then serve notices and summonses that will enable authority to be obtained from the courts to order the travellers to leave the site. DBC ensures that a consistent, balanced but robust approach to UEs is taken and that decisions are made objectively, based on all relevant factors.

**8. Removal of Unauthorised Encampments from Dartford Borough Council Land**

8.1 The Criminal Justice and Public Order Act 1994 gives Local Authorities in England and Wales powers to make directions to leave land being used by itinerant groups (section 77). It is offence to fail to comply with such a direction. In proceedings for an offence under this section it is a defence for the accused to show that failure to leave or remove vehicles or other property as soon as practicable, or re-entry with a vehicle was due to illness, mechanical breakdown or other immediate emergency. If a direction to leave is not complied with, the Local Authority can apply to the Magistrates Court for an order requiring the removal of vehicles and any occupants from the land (section 78).

8.2 DBC Enforcement Officers, accompanied by Kent Police Officers, will seek to immediately attend the site and carry out a risk assessment. If it is not appropriate for the Police to use their Section 61 powers to order the trespassers to leave the land, DBC Enforcement Officers will then serve verbal and written notice for them to leave, carry out welfare assessments and the requisite notice will be served to vacate the land within a prescribed time, usually 24 hours. A community Protection Warning Letter may also be served on the itinerant groups.

8.3 DBC Enforcement officers will attend at Magistrates Court and lay the information and obtain a summons for the trespassers to attend at court. Once granted, this summons is served the same day for the trespassers to attend at court the following morning. A Community Protection Notice may also be served with the summons.

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8.4 Failure to attend and / or leave land by a time specified on the requested date to vacate, in contravention of Sections 77 and 78 will result in an eviction / controlled removal.

8.5 Following the encampment moving off the site, the DBC Enforcement Manager will notify all relevant partners and interested parties that the site has been vacated. A clean-up operation may then be required along with action to target harden and secure the site if possible.

## **9. Unauthorised Encampments on private land**

9.1 The DBC Enforcement Team will make every effort to contact the landowner to ascertain if the encampment has permission or not. DBC Enforcement Officers will attend the UE and will provide support, advice and guidance to the landowner as required around welfare assessments and removal / eviction of the UE.

9.2 UEs may be dealt with through negotiation but if this is not possible, action can be taken to remove trespassers from the land. Landowners can ask a trespasser to move and, if they refuse, may use reasonable measures to remove them. Landowners may employ bailiffs for this purpose. Alternatively, a landowner can regain possession of their land by pursuing a claim for possession through the County Courts under Civil Procedure Rules 55. County Court bailiffs can be used to remove trespassers from the land once a possession order has been granted.

## **10. The role of Kent Police in dealing with Unauthorised Encampments**

10.1 Kent Police and DBC work together very closely regarding incidents of UEs.

In certain Circumstances a senior Police Officer has the discretion to order the travellers to leave and remove any vehicles and other property they may have with them (sections 61 and 62 of the Criminal Justice and Public Order Act 1994 and Anti-Social Behaviour Act 2003). These powers can be used when two or more people are trespassing on land with six or more vehicles or where they have damaged land or property, where there has been threatening/abusive/insulting behaviour used against the occupier, the family or agent and where the landowner has asked the trespassers to leave (and they have not).

10.2 Subject to the above, the Police may then order the immediate vacation from the site. The Police may consider using their powers when there is disruption to local business, schools or hospitals; where significant damage has been caused to the property, e.g. forced entry; where there is evidence of offences being committed by the trespassers; or where any of the trespassers have used threatening behaviour.

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10.3 The Police have a duty to preserve the peace and prevent offences against people and property and this applies to the whole of the community, including gypsy / travellers.

**11. Conclusion**

11.1 Dealing proportionately, lawfully and appropriately with UE's is a complex and often subjective process which takes a great deal of skill and, often, moral courage from DBC officers who, whilst acting robustly in the interests of the wider public in Dartford, have to act impartially and in accordance with all relevant law.

11.2 Notwithstanding these challenges the DBC Enforcement team, together with local Police partners have established a widely regarded reputation for the manner in which they deal with UE's and are often sought to speak at meetings and conferences and are frequently visited by local authorities for advice and guidance.

**12. Relationship to the Corporate Plan**

12.1 Safer Communities – To create a safer Borough in which to live, work and socialise.

**13. Financial, legal, staffing and other implications and risk assessments\***

Financial Implications	None
Legal Implications	None
Staffing Implications	None
Administrative Implications	None
Risk Assessment	No uncertainties and/or constraints

**14. Details of Exempt Information Category**

None.

**15. Appendices**

Appendix A – Memorandum of Understanding between Dartford Borough Council and Kent Police (Dartford District) – Managing Unauthorised Encampments

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BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
MoU at Appendix A		Mark Salisbury (01322) 343339	EARS Manager	