

# Report

## Cabinet Member for Regeneration and Housing

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### Part 1

Date: 19 February 2019

**Subject** **Gwent Regional Protocol for the Management of Unauthorised Encampments**

**Purpose** To approve the attached Gwent regional protocol for the management of unauthorised encampments by gypsies and travellers.

**Author** Housing & Assets Manager  
Housing Strategy & Development Manager

**Ward** All

**Summary** In accordance with Welsh Government guidance a Gwent regional protocol for the management of unauthorised encampments has been developed. This formalises existing arrangements and ensures a consistent approach is taken to the issue of unauthorised encampments.

**Proposal** **To approve the attached Gwent regional protocol for the management of unauthorised encampments by gypsies and travellers**

**Action by** Head of Regeneration, Investment & Housing

**Timetable** Immediate

This report was prepared after consultation with:

- NCC Senior Leadership Team
- Strategic Director - Place
- Head of Regeneration, Investment and Housing
- Housing & Assets Manager
- Head of Finance – Chief Finance Officer
- Head of Law and Standards – Monitoring Officer
- Head of People & Business Change
- Newport Norse

**Signed**

## Background

An unauthorised encampment is an encampment of caravans and vehicles by Gypsies or Travellers on land they do not own or have permission to occupy. During the financial year 2017/2018 there were 14 unauthorised encampments recorded in Newport. Many were on sensitive land owned by the local authority such as, but not limited to, parks and the adopted highway.

Welsh Government has issued guidance on managing unauthorised camping which recommends that local authorities develop protocols for responding to unauthorised encampments when they occur. As the Police are major stakeholders in dealing with the issue the decision was taken to develop a joint protocol that covers all the local authorities within the Gwent Police area.

The protocol formalises many of the existing arrangements that are already in place for managing unauthorised camping in Newport. It ensures that all partners are clear about their roles and responsibilities. It establishes a consistent approach to the issue of unauthorised camping that is compliant with Welsh Government guidance. The protocol provides a decision making framework for agreeing a course of action in respect of individual encampments.

The protocol, and the decision making framework, will be used to show that the local authority has complied with its duties under the Human Rights Act 1998. This requires the local authority to demonstrate that a decision to require the cessation of an unauthorised encampment is justified, proportionate, and takes into account the occupant's rights to home, family and private life. It is vital that the local authority and their partners have this evidence before using their powers under legislation such as the Highways Act 1980 and the Criminal Justice and Public Order Act 1994.

Information gathered through the implementation of the protocol will be used to inform Newport's Gypsy and Traveller Accommodation Assessment (GTAA). Section 225 of the Housing Act 2004 places a statutory duty on local authorities to produce a GTAA and act on its findings.

If a decision is not made to sign up to this Gwent wide protocol the Welsh Government would expect the Council to develop its own protocol. This would be a lengthy and time consuming exercise and would require the co-operation of many of the organisations already participating in the Gwent wide protocol.

As the protocol is formalising an existing arrangement there is not expected to be any implications in terms of staffing. It is expected the protocol would be implemented as soon as it is approved by the Cabinet Member.

## Financial Summary

	<b>Year 1 (Current) £</b>	<b>Year 2 £</b>	<b>Year 3 £</b>	<b>Ongoing £</b>	<b>Notes including budgets heads affected</b>
<b>Costs (Income)</b>					As this is the formalisation of an existing process there are not expected to be any additional financial implications.
<b>Net Costs (Savings)</b>					
<b>Net Impact on Budget</b>					

## Risks

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>
Decisions related to unauthorised encampments are challenged	M	L	The protocol contains a decision making process which compiles evidence in support of any decision.	

## Links to Council Policies and Priorities

The Newport Community Well-being profile makes specific mention of Newport's Gypsy and Traveller population and their distinct needs. The Council's Corporate Plan outlines the priorities for Newport over the next five years and contains a number of objectives. Wellbeing objective number four refers to building cohesive and safe communities. The protocol ensures that unauthorised encampments are managed in a consistent manner that considers the needs of both the occupants and the community.

## Options Available and considered

Option 1 - To agree and approve the attached Gwent regional protocol for the Management of Unauthorised Encampments; or

Option 2 - To request amendments are made to the current protocol; or

Option 3 - To develop a stand-alone protocol for Newport City Council for the Management of Unauthorised encampments.

## Preferred Option and Why

Option 1 - To agree and approve the attached Gwent regional protocol for the Management of Unauthorised Encampments. This will ensure the local authority is acting in a way that is compliant with legislation and national guidelines on managing unauthorised camping.

## Comments of Chief Financial Officer

The proposal to approve the Gwent regional protocol formalises existing arrangements and as such has no further financial implications. The management of unauthorised encampments of gypsies and travellers is dealt with through existing budgets so approval of the protocol adds no further pressure to these budgets.

## Comments of Monitoring Officer

The Welsh Government Guidance on Authorising Unauthorised Camping 2013 requires that local authorities develop strategies for managing unauthorised encampments in their areas, in conjunction with other partners such as the Police and the Health Board, and be responsible for overseeing and monitoring its implementation. This draft protocol meets the requirements of the statutory guidance and provides a uniform and consistent approach for dealing with unauthorised encampments throughout the Gwent area. The protocol is intended to strike a balance between the rights of landowners (including the Council) to evict trespassers from their land and the equalities, Human Rights and housing needs of the illegal occupiers of these sites. It provides a framework for determining the most appropriate and proportionate means of dealing with unauthorised encampments, and to ensure that relevant statutory duties are complied with. The protocol requires the Council and the Police to demonstrate that a decision to remove an unauthorised encampment is justified and proportionate, having regard to the occupiers' rights to home, family and private life, before exercising their enforcement powers under the common

law, the Highways Act 1980 or the Criminal Justice and Public Order Act 1994. Welsh Government guidance requires that, where there are no official transit sites to which gypsy and traveller encampments can be directed, then their presence should be “tolerated” for a reasonable time, provided that they do not cause any nuisance and the sites are not regarded as sensitive.

## **Comments of Head of People and Business Change**

There are no staffing implications for this report.

The sustainable development principle of the Well-being of Future Generations (Wales) Act 2015 has been fully considered in the development of the protocol which contributes towards meeting adopted well-being goals.

## **Local issues**

N/A

## **Scrutiny Committees**

N/A

## **Equalities Impact Assessment and the Equalities Act 2010**

Both Gypsies and Irish Travellers are recognised ethnic minorities, which falls within the protected characteristic of race under the Equalities Act 2010. Gypsies and Irish Travellers are also, proportionately, more likely to suffer from poor health or a disability than other ethnic groups and to live in households containing dependent children.

The protocol will have a differential impact on Gypsies and Irish Travellers, aimed as it is, on addressing the issue of unauthorised encampments. There are provisions within the protocol for carrying out welfare assessments that take into account the health and wellbeing of encampment occupants. It will also take into account any pregnant women, persons with mental health issues or newborn children present.

The protocol also includes an information leaflet that provides details of services including advocacy groups in the local area. Having a clear process in place for dealing with unauthorised encampments may also lead to an improvement in relations between Gypsies and Travellers and the settled community. Both parties will be able to understand the rationale behind decisions which could counteract accusations of bias and lead to greater mutual understanding.

## **Children and Families (Wales) Measure**

As part of the welfare assessment process children present on unauthorised encampments are recorded and their needs considered. The protocol also contains provisions around safeguarding and ensuring children are safe from potential harm.

## **Wellbeing of Future Generations (Wales) Act 2015**

Well-being goals and the approval of the protocol will meet the goal of **a resilient Wales** as it contains provisions to ensure encampments are not tolerated in ecologically significant areas such as SSSIs. The protocol meets the goal of **a Wales of cohesive communities** as both Gypsies and Travellers and the settled community will be able to understand how decisions are made on unauthorised encampments.

Well-being plan interventions highlights how the protocol fits with the **strong and resilient communities** intervention as it considers the needs of both Gypsies and Travellers and the settled community. It also fits with the **green and safe spaces** intervention as it intends to protect public open space from harmful unauthorised encampments.

Well-being objectives and the approval of the protocol will make a positive contribution to the objective **to build cohesive & safe communities**. As previously mentioned it is anticipated that the protocol will lead to an increased understanding between Gypsies and Travellers and the settled community. It also

ensures that any safety risks of unauthorised encampments to both the occupants and the neighbouring communities are identified and addressed.

Approval of the protocol will mean the implementation of a **long term** policy that aims to **prevent** unauthorised encampments from causing issues for both the occupiers and neighbouring communities. The protocol is a **collaboration** between the local authorities, Gwent Police and health board partners who have all been **involved** in developing the protocol. This **integrated** approach ensures that the protocol is making a significant contribution towards meeting adopted well-being goals.

### **Crime and Disorder Act 1998**

The protocol is compliant with the local authority's duties under Section 17(1) of the Crime and Disorder Act 1998. It puts in place a clear process for addressing the issue of unauthorised camping for the benefit and safety of both Gypsies and Travellers on unauthorised encampments and the settled community.

### **Consultation**

Comments received from wider consultation, including comments from elected members, are detailed in each application report in the attached schedule.

### **Background Papers**

Gwent Regional Protocol  
FEIA

Dated: 19 February 2019