

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Scrutiny Panel A

Date: **Tuesday, 13th November, 2018**

Time: **7.00 pm**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

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SCRUTINY PANEL A

Membership

Chairman: Councillor Rachel Madden
Vice-Chairman: Councillor Joanne Donnelly

Councillors:
Tony Brewer Don Davis
Lachlan Morrison Nicolle Ndiweni
Phil Rostance

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SUMMONS

You are hereby requested to attend a meeting of the Scrutiny Panel A to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.
3. To receive the minutes of the meeting of the Panel held on 31 July 2018 5 - 8
4. Scrutiny Consideration of Unauthorised Encampment Protocol 9 - 24

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SCRUTINY PANEL A

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Tuesday, 31st July, 2018 at 7.00 pm

Present: Councillor Lachlan Morrison in the Chair;

Councillors Tony Brewer, Don Davis, and
Nicolle Ndiweni.

Apologies for Absence: Councillors Rachel Madden and Phil Rostance.

Officers Present: Mike Joy and Julie Robinson.

In Attendance: Councillors Paul Roberts and
Robert Sears-Piccavey.

SA.4 Appointment of Chairman

Councillor Lachlan Morrison was appointed as Chairman for the duration of the meeting.

SA.5 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

There were no declarations of interest made.

SA.6 Minutes

RESOLVED

that the minutes of the meeting of the Panel held on 7th June, 2018 be received and approved.

SA.7 Council Tax Exemptions for Care Leavers

The Chairman introduced the item and reminded Members that at the last meeting the Panel considered the introductory report in relation to the new review topic namely, Council Tax Exemptions for Care Leavers.

He informed Members that the Council's Service Manager for Revenues and Benefits was in attendance at the last meeting to provide the background to this issue and assist the Panel with the review process.

Members were advised that the definition of a Care Leaver was a person leaving Nottinghamshire County Council care provision at the age of 18. The exemptions proposed had been recommended to assist Care Leavers as they transitioned back into society and to give them a level of support whilst they established appropriate living arrangements and work opportunities.

In readiness for this meeting the Service Manager – Democratic and Scrutiny Services was requested to ascertain the Council's level of involvement with other agencies offering support and advice to Care Leavers within the County and, obtain data from the County Council regarding Care Leaver numbers to assist with the evaluation of costings.

Unfortunately, the Service Manager for Revenues and Benefits was not able to attend this meeting to provide an update however, Members were asked to consider and discuss the report presented to them, and in particular the draft proposed scheme as appended.

The Service Manager – Democratic and Scrutiny Services proceeded to outline the preparatory work undertaken to date in respect of the proposed scheme and in doing so referred Members to the original proposals which were set out in the Children's Society report in November, 2017, which would ensure that Care Leavers receive support and protections in light of the additional vulnerabilities they may face.

The report "A National Offer for Care Leavers – Preventing them from falling into financial difficulty" included a list of recommendations to shape the National Offer as follows:-

1. Make sure that Care Leavers are exposed to a less severe sanction regime to better support them into work.
2. Allow low-income working Care Leavers to claim the same in-work benefits as older adults without children to boost their income in recognition that they may have greater financial responsibilities than other young people of their age.
3. Extend the higher rate of housing benefit they may receive until the age of 25 to promote stability.
4. Exempt all Care Leavers under the age of 25 from Council Tax in recognition of the corporate parenting role of the local authority.

The Service Manager – Democratic and Scrutiny Services emphasised that recommendation 4 falls within the powers of local government. Consequently, in order to determine whether the recommendation should be adopted this Council should consider what help is already available within Ashfield.

Members were reminded that at the last meeting detailed information was still awaited from Nottinghamshire County Council. A joint meeting between the County and District Councils has now taken place and the County Council have agreed to supply monthly figures to the District Councils to allow them to apply the exemptions.

The Service Manager – Democratic and Scrutiny Services clarified that the task for the Panel was to consider approval of the move to apply exemptions to Care Leavers up to the age of 25, in line with the National Offer and the draft scheme, which was to be adopted by all the Nottinghamshire Councils.

Panel Members took the opportunity to ask questions and in doing so discussed a number of issues including:-

- the financial implications for Ashfield District Council and other Preceptors to implement such a scheme;
- acknowledgement that the exemption, if applied until 25, would not be means tested due to the resource implications and capacity to administer this process;
- how the exemption would apply to Care Leavers moving into hostels, as opposed to fully independent living accommodation;
- the Council being mindful of an individual's change in circumstances and the means by which this information is communicated;
- the importance of providing care and support to Care Leavers up the age of 25 as they are vulnerable individuals who are more likely to experience financial and life management difficulties;
- a strong commitment from the Council is required to ensure that effective signposting measures are put in place to assist and support individuals;

The Chairman also welcomed to the meeting Councillor Robert Sears-Picavey, the Cabinet Member with portfolio responsibility for the revenues and Benefits function, who was in attendance to listen and contribute to the debate accordingly.

To conclude, the Service Manager – Democratic and Scrutiny Services emphasised that for the purpose of this review, Members were asked to consider the details of the proposed scheme and note that additional areas associated with this review relating to support (outside of Council Tax Exemptions) should be considered as a possible separate workplan item.

RESOLVED

that the following recommendations be submitted to the next available meeting of the Cabinet for consideration:-

- a) Cabinet be requested to support the implementation and details of the proposed scheme, due to the social benefits far outweighing the financial cost;
- b) Cabinet be requested to review the position in approximately 12 months' time to consider any changes in the number of claimants, the impact on Council tax collection and, the costs of managing such a scheme;

- c) the Council consider circulating an annual change of circumstances form to recipients of the exemption, to ensure that the Council's position is effectively monitored;
- d) the Council be encouraged to make a strong commitment to providing a holistic support system to ensure that effective signposting measures are put in place to assist and support individuals;
- e) delegated authority be granted to the Director of Resources and Business Transformation, to award the reductions as deemed appropriate, to enable the Council Tax Team to deliver a fast and efficient process for implementing the reductions.

The Chairman thanked everyone for their attendance and valuable contributions towards the Panel's review.

The meeting closed at 7.25 p.m.

Chairman.

Report To:	SCRUTINY PANEL A	Date:	13 NOVEMBER 2018
Heading:	SCRUTINY CONSIDERATION OF DRAFT UNAUTHORISED ENCAMPMENT PROTOCOL		
Portfolio Holder:	CABINET MEMBER (OUTWARD)		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

In accordance with the Scrutiny Workplan, this item was agreed to consider the detail and potential impact of unauthorised encampments on parks and open spaces in the District. The draft Unauthorised Encampment Protocol is attached as Appendix A.

Recommendation(s)

- Note the information contained in this report;
- Review the draft Unauthorised Encampment Protocol attached as Appendix A
- Consider any areas for improvement
- Consider the potential impact of the draft Protocol on Local Communities, Travellers and other stakeholders

Reasons for Recommendation(s)

Unauthorised Encampment was added to the Scrutiny Workplan in October 2018.

Alternative Options Considered

No alternative options considered at this stage.

Detailed Information

As set out in the draft Unauthorised Encampment Protocol; an unauthorised encampment is a group of people trespassing on land with the intention of residing there, either permanently or temporarily, without the permission of the landowner. An unauthorised encampment occurs when people in moveable accommodation, such as vans, trailers, and caravans move onto land that is owned, either

publically or privately. Unauthorised encampments often include Gypsy and Traveller sites, protest camps and squatter sites.

Unauthorised Encampments Nationally

Nationally, unauthorised encampments remain a significant issue, with many sites concerning the encampment of Gypsies and Travellers. In July 2017, it was found that the total number of Traveller caravans throughout England stood at 22,792, an increase of 33% over the past decade.¹ In July 2017, 16% of those Traveller caravans resided on unauthorised encampments.² Unauthorised encampments are often a source of high tension between travelling and settled groups, leading to significant community distress and disruption.

Issues that unauthorised sites can cause include:

- Trespassing on private land
- Damaging property
- Extensive litter and waste
- High public and private cost of cleaning and/or protecting unauthorised sites
- Increased noise and antisocial behaviour
- Development without planning permission

To deal with unauthorised encampments, the issues that follow them, and to protect green spaces, the Government grants local authorities extensive and robust powers to take enforcement action against illegal sites.³

The powers that local authorities can utilise include:

- Temporary Stop Notice
- Injunctions to protect land
- Caravan site licensing
- Tent site licensing
- Possession orders
- Local Byelaws
- Power to direct unauthorised campers to leave
- Planning contravention notices
- Enforcement notice
- Stop Notice
- Breach of Condition Notice
- Powers of entry onto land

Local authorities are advised to consider the range of powers available to them and any site specific factors when deciding which course of action to take.

Local authorities are also granted post site clean-up powers, which include:

- Removal of waste from land

¹ Gypsies and Travellers Briefing Paper, *House of Commons Library*, May 2018.

² Gypsies and Travellers Briefing Paper, 2018.

³ Dealing with Illegal and Unauthorised Encampments: A Summary of Available Powers, *Department for Communities and Local Government, Home Office, Ministry of Justice*, March 2015.

- Remove anything abandoned without lawful authority
- Clearing of land
- Power to deal with accumulations of rubbish in the open air
- Power to seize a vehicle

Unauthorised Encampments in Ashfield

As the issue of illegal encampments has grown in significance nationally, the issue has intensified in Ashfield. Locations such as Sutton Lawn, Leamington Twitchell Park, and Strawberry Bank Huthwaite have been site to numerous unauthorised encampments over the past year.

In response to this, Ashfield District Council have been working to revamp their approach in dealing with unauthorised encampments. This new approach includes:

- Conducting regular security checks on parks and open spaces
- Changing, reinforcing, and adding locks
- Considering potential deterrents
- Working collaboratively with neighbouring authorities
- A new Unauthorised Encampment Protocol

Draft Unauthorised Encampment Protocol

The draft Unauthorised Encampment Protocol, included as Appendix A, spearheads Ashfield District Council's work to revamp the procedure of evicting unauthorised campers. The Protocol aims to expedite the steps taken to evict unauthorised campers and minimise community disruption, damage.

Included within the draft Unauthorised Encampment Protocol:

Principles:

This section sets out the manner in which ADC will manage unauthorised encampments. This refers to:

- Treating groups or individuals illegally encamping with respect and fairness, including welfare checks and civil negotiation
- Coordinated partnership with the Police
- Compliance with legislation
- Maintaining communication
- Intention to pursue the criminal justice route

The Protocol Process:

This section details the default procedure Ashfield District Council will employ for unauthorised encampments, with considerations made on a case by case basis. Included within this:

- Establishing the ownership of land
- Procedure for private land and Council land
- Consideration of welfare needs
- Management of encampments
- Out of hours reporting process
- Communication procedure

Next steps

To progress consideration of this topic Members will be required to:

- Consider any additional information required;
- Timelines for review;
- Consideration of Officers that may be able to add value to the review.

Implications

Corporate Plan:

Ensure the foundations for a good quality of life are in place; reducing crime and anti-social behaviour and facilitating cleaner and more attractive neighbourhoods.

Legal:

The draft Protocol has been developed in collaboration with Legal Services.

The power to issue a Direction to Leave Notice derives from the Criminal Justice and Public order Act 1994.

The Power to seek possession derives from the part 5 of the Civil Procedure Rules.

Powers in relation to planning enforcement derive from the Town and Country Planning Act 1990. Police Powers relating to unauthorised encampments derive from the Criminal Justice and Public Order Act 1994.

Finance:

None at this stage, costs associated with actions contained within the draft Protocol will be considered as part of this review process.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
Unauthorised encampment can	

often cause social tensions within communities.	The draft Protocol is aimed at working with communities and travelling communities to set out processes for management, welfare needs, environment and communication.
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Human Resources:

None at this stage of the review

Equalities:

The Equality Act 2010 defines Romany Gypsies and Irish Travellers as ethnic groups within its protected characteristics. Consideration of equality issues will be undertaken as part of the review process.

Other Implications:

To be considered as part of this review. These may include:

- Community Safety
- Waste and Environment
- Place and Communities

Reason(s) for Urgency

None.

Reason(s) for Exemption

None.

Background Papers

Draft Unauthorised Encampment Protocol attached as Appendix A.

Report Author and Contact Officer

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Appendix A

Ashfield District Council Draft Unauthorised Encampment Protocol (Sept 2018)

1. About this Protocol

This draft Protocol sets out Ashfield District Council's approach to dealing with any illegal unauthorised encampments. That is, any persons who trespass on land owned by someone else (public or private) with an intention to reside, either on a temporary or permanent basis.

An unauthorised encampment occurs where any person camps (in vans, trailers or any other moveable accommodation) or moves on to land that they do not own and where they do not have permission to reside. This includes, but is not limited to traveller sites, protest camps and squatter sites with the exception of tents.

2. Principles

The Council has adopted a coordinated partnership approach to managing unauthorised encampments which is based on the following:

- The protocol is commenced immediately when an unauthorised encampment is identified/reported and this is co-ordinated by Private Sector Enforcement Team and Legal Services.
- All illegal unauthorised encampments will be treated fairly and openly in accordance with our duties and protocol procedures regardless of who the groups or individuals illegally encamping are.
- From the powers available to us, we will work with the Police to determine and utilise the quickest and most appropriate method of dealing with any illegal unauthorised encampments. This will be determined by the nature and conditions of each case.
- The Council will always liaise with the Police who do have more immediate powers available if circumstances are exceptional and where they choose to exercise them.
- The Council is duty bound to undertake a welfare check, this will be undertaken as part of a site visit assessment.

- The Council will continually engage with the encampment to negotiate their move on, this will continue alongside legal action to recover possession.
- This protocol will be carried out in accordance/compliance with the public authority duties and legal requirements set out in the Human Rights Act 1998 and Equality Act 2010.
- The legal process is outside the Council's control and is dependent on the availability of Bailiffs and Court dates.
- The Council will consider other potential sites that the travellers may move to or be directed to, any security/property concerns, plans for future clean up and security of the site once travellers have left.
- Communication will take place with key officers/partner agencies/residents/Councillors/the media etc.
- Gypsies and Travellers are protected by the law from unlawful discrimination.
- The District accepts that the Gypsies and Travellers community have their own needs; however it will adopt a robust approach to managing unauthorised encampments.
- For clarity the default position of Ashfield District Council is to pursue the criminal justice route; this being the most expedient means of vacation if the encampment is on ADC land and unauthorised.

3. The Protocol Process

There are a number of legislative powers available to local authorities and the Police to tackle unauthorised encampments, these are detailed in the Government publication 'Dealing with illegal and unauthorised encampments'.

The remainder of this section will detail the default procedure for the Council. That said, each encampment will be considered on a case by case basis and changes to the procedure will be considered as appropriate. Changes to the default procedure will be agreed and approved by the Director of Housing & Assets.

- **Establish the ownership of the land**

New encampments will be reported to the Private Sector Enforcement (PSE) Team who will work with Legal Services to determine the ownership of the land.

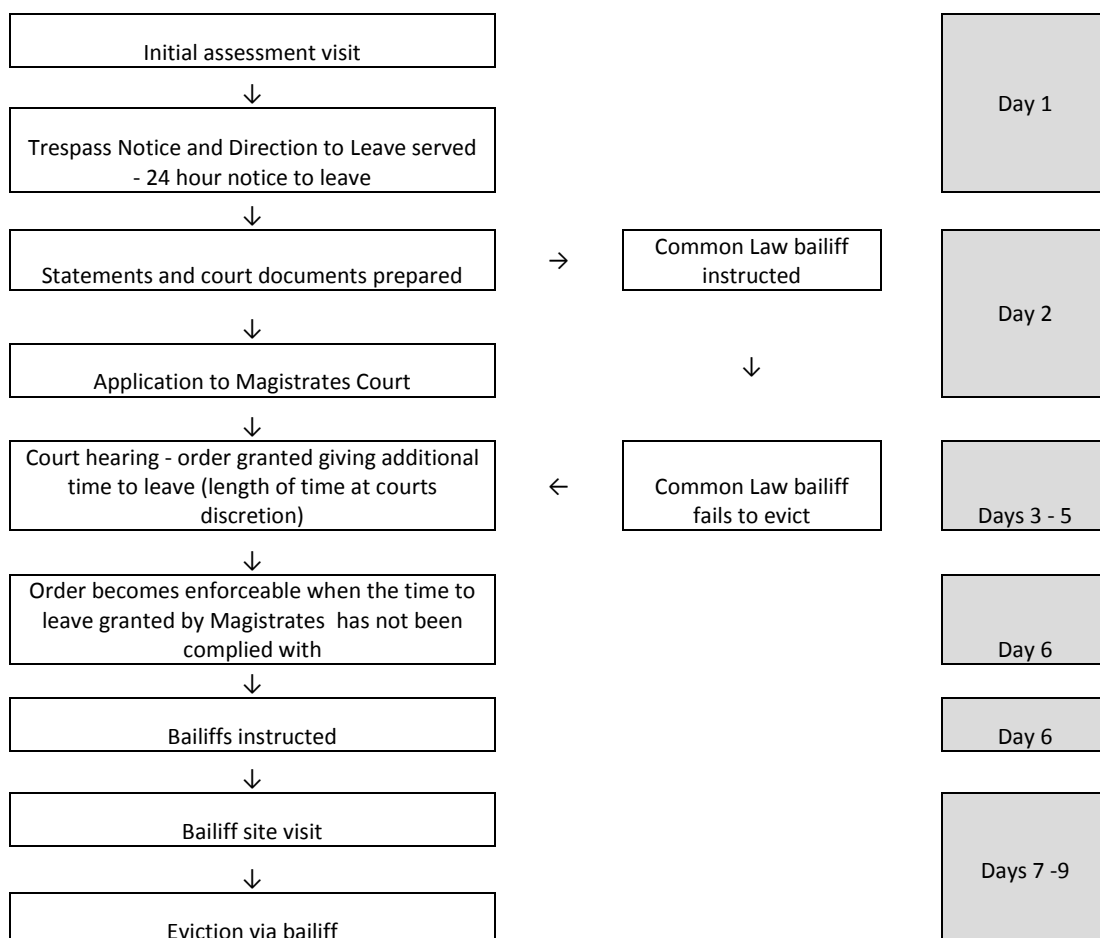
- **Unauthorised encampment on private land**

The PSE Team will make contact with the landowner as soon as ownership is established, this will normally be on day 1. Advice and support will be provided to assist the landowner recover possession of their land. It is the responsibility of the landowner to take appropriate action and to determine the timescale for recovery.

The PSE Team will conduct a site visit to undertake welfare checks (see section x). If welfare or safeguarding issues are identified appropriate support and assistance will be provided. The landowner will be advised if there is a need to delay possession action whilst welfare issues are dealt with. (If the land is owned by Nottinghamshire County Council they will undertake the checks themselves)

- **Unauthorised encampment on Council land**

- A summary of the steps that will be taken to recover possession of the land and approximate working day timescales associated with this is provided below.



An initial assessment visit will be conducted as soon as possible on the first working day. The purpose of this will be to;

- Establish a positive working relationship with the encampment
- Understand their plans and negotiate their move-on
- Conduct mandatory welfare checks of all occupiers (see sec x)
- Advise about standards expected whilst resident on Council owned land
- Take vehicle and registration number details
- Advise occupants of the process the council intends to follow to recover possession of the land.

A Direction to Leave Notice and Trespass Notice will be served. The Direction to Leave Notice requires vehicles identified in the Direction to Leave Notice to vacate the land. If it is not complied with a complaint may be made to the Magistrates Court under s77/78 of the Criminal Justice and Public Disorder Act 1994. This will be at the Courts earliest convenience, taking into account the need to serve summons and give notice of the hearing (at least half a day). This usually takes 2 – 3 days in total. The magistrates Court will consider the complaint and may make an order requiring the identified vehicles to vacate the land within a specified time period. If the land is not vacated in the specified time a criminal offence is committed by the Owner of the Vehicles. The Council is also authorised to remove the vehicles. The Council will instruct private bailiffs to evict the vehicles. The bailiff will conduct an initial site assessment visit before returning to evict the vehicles.

A Trespass Notice advises unauthorised occupiers of Land belonging to the Council that they are trespassing and should vacate the land within a specified period (usually 24 hours). The Civil Procedure Rules Part 55 permits the Council to commence proceedings in the County Court to recover possession of its land.

Both notices will usually give the occupants 24 hours to leave.

The purpose of serving two notices is so that the Council can change its approach to enforcement if the circumstances of the encampment change.

Running in parallel with the service of the Direction to leave Notice the Council will instruct common law bailiffs to attend site and utilise common law remedies to

recover the land. This common law action is available to the Council as the landowner. Bailiffs are entitled to use reasonable force to evict unlawful occupants.

Alongside legal action the PSE Team will continue to negotiate with the occupiers. Experience has shown that most encampments do move before being evicted.

Welfare needs

The Council is obliged to conduct welfare checks on all occupants.

As part of the checks we must consider pregnancy, ill health, educational needs, child and adult protection and animal welfare. The PSE Team will conduct the checks and will co-ordinate any referrals, signposting or appointments needed.

The Council will not delay the serving of notices but enforcement action through the Court may be put on hold if there are urgent welfare issues that need to be addressed before occupants are moved on. Any delay will be kept to a minimum and will be discussed and agreed with the Director of Housing & Assets.

Management of the encampment (Council owned land)

Whilst action is ongoing to move the encampment on it is important that site is managed effectively.

The PSE Team will maintain regular daily visits in order to deal with issues that occur, to address welfare issues, to advise the occupants of our enforcement action and to continue to negotiate their move on.

The Waste and Environment Team will conduct twice daily site visits, providing refuse materials and removing waste and rubbish.

Police and Community Protection Teams will receive daily updates and will conduct regular patrols. The frequency and visibility of these will be determined and agreed on a case by case basis and will be based upon the number and nature of reported incidents, including anti-social behaviour (both by and against occupants) and alleged criminal activity.

A 'What we expect from you while you are here' leaflet (appendix 1) will be given to each household so they understand the expectations of the Council.

When the encampment moves the PSE team will ensure there is a coordinated response from officers and other relevant agencies so the site is tidied, secured and returned back to its normal use. Consideration will also be given to any additional measures that can be taken to secure the site against a future encampment.

Out of hours reporting

If the encampment arrives at the weekend or overnight the Council's out of hours' operative will take details and email the PSE Team inbox. They will also advise the on-call Community Protection Officer.

Monitoring will be conducted but the formal process to recover possession will not commence until the start of the working week.

Communications

Unauthorised encampments create a great deal of media interest. It is important that Councillors and residents are regularly informed of any actions / progress which are on-going.

Likewise, it is important that there is effective internal communication to ensure officers understand and are able to respond to the circumstances in a prompt manner.

The principles of the Protocol must be applied in relation to all communication with illegal site/land occupants. In particular, Gypsies and Travellers are protected by law from racial discrimination.

Day 1 – notification of unauthorised encampment

- The Leader will be advised by phone call and email, and an email also sent to Deputy(s) other Cabinet Members, Ward Member(s), the CEO and Director of Housing and Assets to notify them of the encampment.
- Email sent key officers/partner agencies (as per agreed list) to notify them of the encampment and to
- Email sent to Leader, Deputy and Ward Member post initial assessment visit.

- Message added to website (Unauthorised encampment pages) to advise residents we are aware of the encampment and we are taking appropriate steps to deal with it.

Day 2 onwards

- Daily email to Leader, Deputy(s) other Cabinet Members and Ward Member to advise them of any issues and action being taken
- Ad-hoc email to Leader and Deputy(s) to advise of any emerging information or intelligence.
- A letter (appendix 2) will be posted to properties in the immediate vicinity of the encampment to advise residents that the Council is aware of the encampment and that action is being taken to resolve the issue. The letter will encourage residents to contact the Council if they are experiencing any issues. the content of the letter will reflect if the land is Council owned and we are taking enforcement action or if is privately owned.

The Council will maintain a Question and Answer Section on its website relating to unauthorised encampments.

Appendix 1 – What we expect from you

Unauthorised Encampments WHAT WE EXPECT FROM YOU WHILE YOU ARE HERE

YOU MUST

- Put all rubbish in the black bags provided.
- Keep numbers of trailers and vehicles to a minimum.
- Use toilets if provided and advise us on the number listed below if they need emptying.
- Be cooperative with our staff and other agencies.
- Keep the site in the condition you found it.
- Keep your animals under control.

YOU MUST NOT

- Leave any waste on the site or break other rules about fly tipping.
- Make noise between 10pm and 7am.
- Damage any of the facilities provided.
- Be aggressive, rude or unhelpful to our staff or other agencies.
- Damage this site.

If you break any of these conditions you could be evicted immediately. You may also be liable to fines.

We may use monitoring methods to ensure that the land you have stopped on is clean and tidy and that you are not breaking any laws. If you have any information about anyone else bring waste onto this site or you have any trouble with people being rude or racist towards you please contact us on 01623 457xxx.

Appendix 2 – Letter to residents (Council land)



To all local residents

Contact: **insert**
Direct Line: **insert**
Email:
Our Ref:
Your Ref:

Date: **Insert date**

Dear Sir/Madam

Unauthorised Encampment – **INSERT LOCATION**

I write to advise you that the Council is aware of the unauthorised encampment on INSERT LOCATION and is taking appropriate action to move the occupants on as soon as possible.

This process is not instant, it can take a number of days to bring to a conclusion as there are legal steps we have to follow. For more information please visit our website www.ashfield.gov.uk/INSERT.

If you do experience problems relating to the encampment please report them to us on tel 01623 457345

Yours sincerely

Phil Warrington
Service Manager – Strategic Housing & Lettings

Address: Council Offices, Brook Street, Sutton-in-Ashfield, Nottingham. NG17 1AL
Tel: 01623 608888 **Fax:** 01623 608889 **Web:** www.ashfield.gov.uk
If reasonable adjustments are needed to fully engage with the Authority - contact **01623 450000**

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