

Teignbridge District Council
Executive
3rd May 2022
Part I

Teignbridge District Council Unauthorised Encampments Policy

Purpose of Report

To seek the adoption of an Unauthorised Encampment policy for Teignbridge District Council

Recommendation(s)

The Committee RESOLVES to:

1. Adopt the proposed Unauthorised Encampment Policy

Financial Implications

There are no financial implication please see section 8

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Legal Implications

There are no specific legal implications arising out of this report. However, to adopt such a policy will reduce procedural misunderstanding and error and mitigate the risk of challenge.

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Risk Assessment

Please see section 9

An EIA has been produced and is included with the report

Community Safety and Safeguarding Manager

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Environmental/ Climate Change Implications

The Policy does not have a direct climate or environmental impact. Any identifiable environmental impact will be assessed on a case by case basis

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1 Definition

An unauthorised encampment (UE) is where any person camps without permission (in vans, trailers or any other moveable accommodation) on land that they do not own.

The Rough Sleeper Unauthorised Encampment Policy relates to any tent, shelter, temporary structure and/or collection of bedding and belongings on a specific area of council owned land. This includes both small and larger encampments.

2 Roles and responsibilities

The Council considers its responsibilities in relation to UEs under three broad areas:

- Equality and human rights
- Welfare and liaison
- Being a landowner

The Council will ensure that work in relation to UEs is undertaken as swiftly as possible, address any welfare and safeguarding concerns, treat people with respect and communicate with all relevant stakeholders.

3 Policy aims

- Clarify the roles and responsibilities of council officers in managing unauthorised encampments on council owned land
- Ensure that a formally prescribed approach to enforcement takes place
- Ensure that welfare and safeguarding concerns are addressed
- Ensure that we recognise that people and their circumstances are unique
- Ensure that anti-social behaviour and health and safety issues are managed appropriately.
- Ensure that appropriate measures are in place to manage any clean up following the site being vacated
- Ensure that the safety of staff and all concerned is paramount

4 Equality and human rights

Everyone has a right to respect for their private and family life which means a right to a live how they choose which must be respected (i.e., to live a nomadic or settled life), provided it does not interfere with other rights or laws.

There is nothing unlawful in following a nomadic lifestyle, although there is no legal right to stop on someone else's land without consent.

Under the Race Relations Act 1976, the courts decided that Romany Gypsies and Irish Travellers are racial (ethnic) groups, entitled to the full protection of the anti-discrimination legislation, whether or not they travel. This protection continues under the Equality Act 2010.

People are protected from discrimination where they are perceived to be, or are associated with, someone who is Romany Gypsy or Irish Traveller or any other protected characteristic.

New Age Travellers are not currently defined as a racial or ethnic group but are included in the Housing Act definition.

Under the Equality Act 2010, a Public-Sector Equality Duty places a duty on the Council to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between persons of different groups. Also, it is unlawful to treat someone less favourably because of the protected characteristic of race.

5 Welfare and liaison

In terms of access to services, Gypsies and Travellers have the same entitlements as any other member of society. When travelling or living on an unauthorised encampment, access to health, education and social care services can be more challenging. The Council has a role in facilitating access to services but will not act on behalf of another service or individual.

The Council will ensure that a welfare visit is made to any unauthorised encampment on Council land. If safeguarding concerns are identified, the safeguarding team will be notified.

Where the presence of an encampment generates concerns from the neighbouring members of the housed community, the Council will liaise with the Police to share concerns regarding those community tensions.

6 Applications and Inquiries for Housing and Homelessness Assistance

Guiding Legislation:

- The Homelessness Reduction Act 2017
- The Homelessness Act 2002 (as amended)
- The Housing Act 1996 (as amended)

Housing authorities must give proper consideration to all applications for housing assistance, and if they have reason to believe that an applicant may be homeless or threatened with homelessness, they must make inquiries to see whether they owe them any duty under [Part 7 of the 1996 Act](#). This assessment process is important in enabling housing authorities to identify the assistance which an applicant may need, either to prevent them from becoming homeless, or to help them to find another home. In each case, the authority will need to first decide whether the applicant is eligible for assistance and threatened with or actually homeless. Certain applicants who are 'persons from abroad' are not eligible for any assistance under Part 7 except free advice and information about homelessness and the prevention of homelessness.

Occupants of unauthorised encampments should therefore be made aware of their right to make an application for housing assistance, and be provided with contact details for the Housing Solutions Service at Teignbridge District Council. In certain circumstances, it may be advisable for a joint visit to be conducted to an unauthorised encampment involving a member of the Housing Solutions Service.

Broadly speaking, a person is threatened with homelessness if they are likely to become homeless within 56 days. An applicant is to be considered homeless if they do not have accommodation that they have a legal right to occupy, which is accessible and physically available to them (and their household) and which it would be reasonable for them to continue to live in.

Housing authorities have a duty to carry out an assessment in all cases where an eligible applicant is homeless or threatened with homelessness. This will identify what has caused the homelessness or threat of homelessness, the housing needs of the applicant and any support they need in order to be able to secure and retain accommodation. Following this assessment, the housing authority must work with the person to develop a personalised housing plan which will include actions (or 'reasonable steps') to be taken by the authority and the applicant to try and prevent or relieve homelessness.

7 As a landowner

In relation to all its land and property interests, the Council has responsibilities to service users, staff and visitors, as would any other landowner. However, in the case of an unauthorised encampment, the Council cannot trigger possession proceedings in the same way that private or commercial landowners can, but the process is described below.

The Council solicitor is responsible for making and implementing decisions in respect of unauthorised encampments on Council owned land. Decisions in respect of unauthorised encampments is delegated to the Solicitor.

If an encampment meets the legal tests and is necessary, proportionate and compliant with human rights, then formal repossession procedures will normally be undertaken.

This policy should be read in conjunction with The Rough Sleeping Unauthorised Encampments Policy

8 Financial Implications

There are no direct financial implications associated with this policy but where there may be work undertaken in relation to unauthorised encampments the costs will generally be covered within existing budgets.

9 Risks

An EIA has been produced and can be found at the end of the report.

Risks are mitigated by having a clear policy and procedure which Officers can follow.

10 Procedure

Unauthorised Encampments Flow Chart

Notification of a UE (online reporting to be developed).

Clarify with reporting person if it is an Unauthorised Encampments or single unit.

Single units to be referred to housingoptions@teignbridge.gov.uk



Information submitted regarding the encampment is shared with the following inboxes

legal@teignbridge.gov.uk
communications@teignbridge.gov.uk
customerservices@teignbridge.gov.uk

Legal team to clarify land ownership.

If it is on TDC land the relevant department is notified (i.e. Car Parks, Assets etc) and a Lead officer appointed



Where practicable a Teams meeting is held with relevant officers to share intelligence. To be called by the Lead officer and to include legal, communications and community safety



Lead officer then notifies stakeholders including relevant ward members and Town/Parish Council and Devon County Council UE lead.

Lead Officer to discuss with Community Safety team about any community tensions to enable Police liaison



A dynamic risk assessment is carried out and a visit to the site is then arranged to ensure there is accurate information about the inhabitants and their vehicles and make initial welfare enquiries. Two people to attend site who are directed by the Lead officer based on the risk assessment. The welfare needs assessment form and information leaflet for unauthorised occupants will be provided. Occupants are provided with contact details and opening times for the Housing Solutions Service in the event that they wish to make a statutory homelessness application. After visit Lead officer to contact refuse and cleansing service to arrange refuse collection.



Visiting officers prepare statement and evidence



Any safeguarding or welfare concerns should be reported to

Safeguarding@teignbridge.gov.uk

Any anti-social behaviour concerns should be reported to

communitysafety@teignbridge.gov.uk



Information from site visits to be provided to the legal team and discussion with the Lead officer to agree if enforcement action will be taken.

Lead officer to undertake risk assessment and arrange site visit to issue any relevant notices



If notice is served, Lead officer to arrange visit to site 48 hours after notice deadline expires.

If site not vacated, then notify legal team.

If site has been vacated and clean-up is required, Lead officer to notify cleansing.

Lead officer to notify all concerned (i.e., anyone appearing somewhere in this process) that UE incident is finished.

All stakeholders to be kept informed throughout the process by lead officer under the guidance of the Communications Team department