MEMORANDUM OF UNDERSTANDING

Dated 01/04/2020

BETWEEN

Buckinghamshire Council

&

Thames Valley Police

To support the management

of

Unauthorised Encampments

in Buckinghamshire
1. **Context**

1.1 Buckinghamshire experiences regular unauthorised encampments (UAE), which can cause tensions within local communities if not managed appropriately. They can also be expensive and time-consuming to clear. Whilst there are a range of powers available to local authorities, landowners, and the police to tackle encampments, it is not always clear which authority should lead and which powers are most effective. As a result, there is a risk of a perception of inconsistency in response and poor communication between local communities and statutory bodies within Buckinghamshire.

1.2 Additionally, during 2017, Buckinghamshire was targeted by groups of travellers undertaking organised waste crime, which is being investigated at a regional level by the Environment Agency and has significant implications at a local level. The response to these incidences will be most effective where it is co-ordinated and where communication and information sharing is effective.

1.3 This document provides details of the agreed approach between the signatories to managing UAEs, including details about who is the lead authority in specific circumstances and which powers are available to them. It will set out the processes that will be followed for a broad range of encampments, clarify roles and responsibilities and will provide the basis for communication to local communities and interested parties.

2. **What is a UAE and who is responsible for managing them?**

2.1 A UAE is defined as a group of people who are trespassing on land with the intention of residing there without the owner's consent. Historically, UAEs have been considered to involve the use of vehicles and caravans, however there is a growing number of encampments related to homelessness or protests where vehicles are not necessarily involved.

2.2 Importantly, UAEs do not include encampments where no trespass has occurred (e.g. where the landowner has given consent). Such incidences may be unauthorised developments requiring planning permission, and should be referred to the Planning Authority to consider the expediency of enforcement action under provisions of the Town and Country Planning Act 1990.

2.3 The powers available for dealing with UAEs are as follows:
**Landowner**

2.4 The **primary responsibility** for dealing with a UAE rests with the landowner, whether that is the local authority or a private land owner. Landowners are also responsible for clearing fly-tipped waste from land in their possession.

2.5 Landowners have **common law powers** which allow them to evict trespassers from land (using no more force than is reasonably necessary), seek damages for the trespass and/or seek an injunction to prevent the trespass from occurring again. Private Bailiffs may be used to carry out the eviction.

2.6 Where a landowner is considering using common law rights, he/she is advised to notify the police of his/her intentions so that police officers can be present to prevent any breach of the peace. In some circumstances, the police may advise that an eviction should be delayed until it is safe to continue.

2.7 Landowners are also able to obtain a **Possession Order** or **Interim Possession Order** from the County Court under Part 55 of the Civil Procedures Rules.

**Local Authorities**

2.8 Where a UAE includes people residing in vehicles (and/or caravans), the local authority has the power to direct people to leave land under **Section 77 of the Criminal Justice and Public Order Act 1994 (CJPOA)**. If the direction notice is not complied with, the local authority can apply to the magistrate’s court for an order requiring the removal of the encampment under **Section 78 of the CJPOA**. Once a court order has been issued, the local authority may evict the campers using reasonable force. It must be noted that the primary objective of this process is to manage the welfare of those present at the encampment. Should no welfare concerns be identified, enforcement action is taken as a secondary procedure to remove the encampment from Council owned land.

2.9 Sections 77 and 78 of the CJPOA do not apply to campers who are not residing in vehicles (i.e. those sleeping under canvas).

2.10 Where an encampment occurs for longer than 28 days or there is no trespass (e.g. where there is consent from the landowner), or where
CJPOA powers are not applicable, the encampment may be considered to be an unauthorised development that requires planning permission. In such circumstances, Buckinghamshire Council, as Planning Authority may consider the use of its powers under the **Town and Country Planning Act 1990**, including the service of a temporary stop notice (TSN) and/or an enforcement notice (EN) with or without a stop notice.

2.11 Alternatively, it may be appropriate to apply to the court for a prohibitive injunction under S.222 of the Local Government Act 1972 or S.187B of the Town and Country Planning Act 1990.

2.12 It may also be the case that such sites require licensing either as a caravan site (under The Caravan and Control of Development Act 1960) or as a tent site (under Section 269 of the Public Health Act 1936). The Council is able to consider the use of **fines** where a violation of licensing terms has occurred.

2.13 Local authorities are responsible for clearing waste from public land, including the highway. The Environment Agency should be contacted where fly-tipping incidences are linked to criminal business activity or organised waste crime. Local authorities share the power to seize vehicles involved in waste crime as set out in paragraph 2.17 below.

**Thames Valley Police**

2.14 The police have discretionary powers under **Sections 61 and 62 of the CJPOA** to remove trespassers from land, excluding highway land, where the trespassers have failed to adhere to a request to leave the land, and to seize their vehicles.

2.15 **Section 61 of the CJPOA** empowers the police to direct trespassers to leave land where there are more than two people residing and any of the following apply:

- The trespassers have caused damage to land or property;
- The trespassers have used threatening, abusive or insulting words or behaviour towards the occupier; or
- The trespassers have between them six of more vehicles on the land.

2.16 **Section 62A of the CJPOA** empowers the police to direct trespassers to leave land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.
The Environment Agency

2.17 The Environment Agency is responsible for investigating and taking action against incidences of organised waste crime. The Agency also has the power under the Control of Pollution (Amendment) Act 1989, The Environmental Protection Act 1990 and the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015 to instantly seize a vehicle and its contents where it is suspected of being involved in the commission of a waste related offence.

3. Dealing with UAE in Buckinghamshire – Local Agreement

3.1 UAE Management Group & Communication

3.2 The signatories to this document hereby agree to establish a ‘UAE Management Group’, which will comprise key named individuals/email addresses from each organisation as set out below.

Buckinghamshire Council

- unauthorisedencampments@buckscc.gov.uk
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Thames Valley Police

- UAEBucksInspectors@thamesvalley.pnn.police.uk

3.3 On receipt of a report of a new UAE, the signatories agree to notify the UAE management group to agree a strategy for management and communication. The management group will keep all other parties informed, at regular intervals, of the following:

- The location of the encampment and any notable features of the site and nature of the encampment;
- No. caravans/cars and adults/children (if known);
- Key dates including date of arrival;
- Proposed lead authority and intended course of action with timetable;
- Regular updates of progress and key actions/timescales;
- Proposed communications strategy; and
- Confirmation of the encampment’s departure.
3.4 Each organisation is responsible for its own internal communications e.g. with members.

3.5 The parties also agree to the following:

3.6 **Gypsy & Traveller Encampments on Council Land**

3.7 Although CJPOA powers apply to all local authorities, it is agreed that Buckinghamshire Council will lead on the use of Section 77/78 powers in relation to Gypsy and Traveller UAEs within Buckinghamshire where the UAE is present on land owned by the Council, and where CJPOA powers are proportionate.

3.8 Where the following circumstances apply, the Council will seek the support of Thames Valley Police and the use of S61 powers:

a) Local amenities are deprived to communities or there is significant impact on the environment

   *This could include a recreation ground, public park, school field, public car park. There must be evidence that other sections of the community are being deprived of the amenities before action is taken.*

b) There is local disruption to the economy

   *This could include significant disruption to workers or customers using business premises or if an encampment is on agricultural land and it results in loss of use of the land for its normal purpose.*

c) There is other disruption to the local community or environment

   *The would include ASB/criminal activity linked to those present at an encampment, which is so significant that prompt eviction by Police becomes necessary rather than by other means.*

d) There is danger to life

   *For instance where an unauthorised encampment is on the edge of a motorway and there is a danger of children or animals straying onto the carriageway.*

e) There is a need to take preventative action
For instance where a known group of individuals have caused or persistently displayed anti-social behaviour at previous sites and it is reasonably believed such behaviour will be displayed at a newly established site.

3.9 For the avoidance of doubt, all signatories agree that the above criteria are likely to apply where the group occupying the encampment intend to take or are actively undertaking organised waste crime (Operation ANGOLA).

In all instances, Thames Valley Police will follow the steps/process set out in the regional joint protocol. Any rationale negating the use of S61 where it is believed to be suitable by signatories needs to be cascaded to the MoU group. The purpose of this is to facilitate any escalation deemed necessary to the LPA Commander as per section 4 of the Thames Valley Police and Local Authority Joint Protocol for dealing with Unauthorised Encampments.

3.10

3.11 Where CJPOA powers prove to be ineffective, the UAE management group will meet to agree an alternative course of action e.g. tolerance, provision of a permanent/transit pitch, injunction. If a UAE is tolerated for more than 28 days, it may become a matter for management under Planning protocols.

3.12 The agreement in paragraph 3.7 is subject to resource availability and funding. In the event that there is a resource shortage or insufficient funding at the Council, responsibility for the management of a UAE will revert to the landowner. The County Council will advise the UAE management group if this is the case.

3.13 **Gypsy & Traveller Encampments on Other Land**

3.14 Where a gypsy and traveller UAE occurs on other land, Buckinghamshire County Council will use its best endeavours to inform the landowner of the common law powers available to them.

3.15 **Encampments Involving Organised Waste Crime**

3.16 Where the UAE management group identifies an encampment as one involving organised waste crime (Operation ANGOLA), the Council will report the UAE to the Environment Agency’s hotline (0800 80 70 60) with reference to aforementioned Operation.
3.17 It is agreed by the signatories that such encampments will be removed using police powers under S.61 of CJPOA.

3.18 Data, including registration numbers, identities of individuals and evidence from site inspections will be shared with the Environment Agency at ENVCrimeTeam_HNL@ea.gov.uk.

3.19 Evidence of the impact of encampments will be collated and shared with the UAE Management Group to support legal action if this is deemed appropriate and proportionate in the future. Evidence will include:

- The cost of managing the encampment;
- The cost of site clearance; and
- Details of the adverse impact caused to local residents, businesses and communities e.g. complaints/effects; such as ROW closure.

3.20 Other Encampments

3.21 Where CJPOA powers do not apply, the signatories agree that the UAE shall be managed under Planning legislation.

3.22 Where CJPOA powers do apply, and the UAE is not inhabited by members of the gypsy and traveller community, management responsibility will fall to the landowner.

3.23 Site Clearance

3.24 The Council is responsible for clearing sites of waste on Council owned land once the UAE has departed.

4. Review

4.1 The Memorandum of Understanding will be reviewed on a minimum basis of once per annum. More regular reviews may be required to ensure the Memorandum is fit for purpose. A review can be requested by any member of the UAE Management Group.

APPENDICES

Appendix A: Identification of Lead Authority