

## **Unauthorised encampments**

### **Equality Impact Assessment Jeremy Beake June 2018**

This is an Equality Impact Assessment of the **Urgent item: Unauthorised encampments**. Under equality legislation, the Council has a legal duty to pay 'due regard' to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

Demonstrating this duty to pay 'due regard' is required within both the decision-making and the implementation processes.

The potential equality impact of proposed actions has been assessed and the recommendation to cabinet is that the proposed actions whilst meeting the community relations concerns of some residents, the resultant 'hostile environment' towards unauthorised encampments may have a number of secondary effects.

#### **The issues**

Gypsy and Traveller communities are an integral part of Milton Keynes. Some committed, forward-looking local authorities have pioneered ways of meeting the needs of these nomadic groups to preserve their traditional lifestyle, while accessing health and education services and maintaining good relations with other communities. This is not easy with the focus on social tensions, when accommodation issues complicate situations.

People living nearby unauthorised encampments often have a number of well-founded objections. They highlight social threats and environmental damage, which cannot always be dismissed as driven by ethnic stereotyping, yet it should be possible to consider a situation of trespass without referring to ethnicity. The key to such a response must be a balanced approach between effectively dealing with unauthorised encampments and providing regulated alternatives for those whose lifestyle is mobile.

Fostering good community relations also requires a balanced approach. Nobody benefits from confrontations that stereotypes people, their motives for objecting or their legitimate lifestyle. However, the council must fulfil its duty to foster good community relations by challenging discrimination and having due regard to the environment their actions might create.

## Legal recognition

In discussing equality and enforcement powers, it is important to distinguish those cases where people do not own/have permission to occupy the land on which the encampment takes place from those where they do. In the former situation, people will be trespassing and cannot have any serious expectation of being allowed to remain indefinitely. It is therefore a legitimate aim to use a variety of eviction powers vested in local authorities and the police, in addition to the power of the landowner, to recover possession of land.

Romany Gypsies and Irish Travellers are legally recognised as ethnic groups, and protected from discrimination by Equality Act 2010. The Department now known as the Ministry of Housing, Communities and Local Government, recognised the difficulties around the concept of 'settled' Travellers; and it included the concept in Circular 1/2006. A statutory Instrument was implemented, in order to resolve the definition of Gypsies and Travellers in relation to the duties under the Housing Act 2004. This said:

For the purposes of section 225 of the Housing Act 2004, "gypsies and travellers" means: (a) persons with a cultural tradition of nomadism or of living in a caravan; and (b) all other persons of a nomadic habit of life, whatever their race or origin, including –

- (i) such persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently; and
- (ii) members of an organised group of Travelling Show people or circus people (whether or not travelling together as such).

This definition is inclusive and supports the council taking seriously the cultural background of a number of people who live in Milton Keynes: be they Roma, "Irish Traveller", Somali or "New Traveller".

In terms of health and education, the Gypsy and Traveller community is one of the most deprived groups in the Britain.

- Life expectancy for Gypsy and Traveller men and women is 10 years lower than the national average.
- Gypsy and Traveller mothers are 20 times more likely than the rest of the population to have experienced the death of a child.
- In 2016, less than a quarter of Gypsy and Traveller children obtained five GCSEs and A\*- C grades, compared to a national average of over half.

However, data is difficult to gather as the estimated 58,000 Gypsies and Travellers is coherently argued to be an undercount, additionally the needs of the younger generation and how this community fits into the growth of the Borough has been little considered.

### **Local Engagement**

Previous studies in Milton Keynes have included:

- A comprehensive EqIA in 2012: This recommended, “an adequate solution to the provision of future needs of gypsies and travellers, beyond those in “priority need”, should be considered”. That Gypsy and Traveller preference was “to live in sites and not in houses”: and that this is “more than a housing preference” but a need that forms part of homelessness consideration.
- A Citizens Jury with local Gypsy and Traveller community members in 2014, reporting in 2015, found that participants felt that the council is not doing enough to get the promised sites built, in particular transit sites.

Their understanding of the situation was that the housing contractor had promised to build the site in addition to a new housing development, but had not done so. Participants were concerned that once people start moving into the houses, it would become impossible to build the site, due to the impact that this will have on house prices, and due to anticipated opposition from new residents. Participants argued, “that the council needs to be much more forceful at this stage in forcing the contractor to start work on the site before it is allowed to continue work on the houses”.

- A 2017 Gypsy and Traveller demographic digest published by the Equality & Diversity Officer outlined that data was not been routinely collected in Council contacts and engagement and that the resident Gypsy and Traveller community is much smaller than surrounding districts.

**Table 1: Number and rank of the number of resident Gypsy and Travellers in the region**

Area name	Number	Per 10,000 people	Rank (%) (out of 348)
South Northamptonshire	11	1	333
<b>Milton Keynes UA</b>	72	3	307
Bedford UA	115	7	207
Northampton Borough	149	7	216
Aylesbury Vale	134	8	196
Wellingborough	89	12	113
Central Bedfordshire UA	478	19	48
South East	14,542	17	-

- National reports produced by the Equality and Human Rights Commission demonstrated how a lack of authorised sites for Gypsies and Travellers perpetuates many of the problems.

In 2011, the Government required all local authorities in England “to increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision”. However, recent draft guidance has changed this to a requirement to “assess and understand the accommodation needs of people residing or resorting to their district”

### **The Assessment**

This assessment is requires that cabinet have due regard to the following:

1. The solutions outlined in the report to Cabinet highlights measures necessary to take combat unauthorised encampments. The aim of these is to produce a hostile environment to unauthorised encampments. However, these must implemented fairly and not be actions, which put those of particular ethnicity at a disadvantage compared to other trespassers. This means that action against any encampment, for whatever reason, where a person does not own/have permission to occupy the land on which the encampment takes place, must follow the same methodology.
2. The needs of the resident, and visiting, Gypsy and Travellers have been highlighted on a number of occasions in the past. Cabinet will need to have due regard to these needs, considering whether Milton Keynes - without the largest resident Gypsy and Traveller community of any Local Authority in the region – may need to do more in realising more pitches and more transit provision. As stated in the Fenny Lock EqIA in 2012, this plan will only promote the advancement of equality if actions are completed.

3. The Council's duty to "foster good community relations" is not easy in light of the considerable community tension in some wards around this issue. The cabinet must consider how it can challenge any anti-traveller sentiment to address any racial discrimination towards the wider community – such action could be considered truly brave.

The Council has committed to undertake specific measures to protect sensitive sites and work towards minimising the impact of unauthorised encampments, as well building confidence in local communities of the Councils commitment to resolve this issue. These solutions though need to be fair and permanent, if the Council is to foster good community relations.

This assessment recommends that the Cabinet proceed with the recommended decision mitigating for the assessment of this report.