

# HASTINGS BOROUGH COUNCIL

## UNAUTHORISED CAMPING POLICY

August 2004



*...Making the Difference...*

## **1.0 The Council's Guiding Principles**

- 1.1. Hastings Council considers that all members of the community have the right to protection under the law from nuisance, harassment, discrimination and harm from others and that the standards of behaviour that flow from this should apply to settled and Traveller communities.
- 1.2. The Council recognises that demand for sites for Travellers exceeds the supply and that this situation is not likely to be ameliorated in the short term.
- 1.3. As a predominantly urban authority set in a rural county the Council has to balance the needs of the Traveller communities with those of settled communities that often face their own hardship and need. Additionally, the Council is responsible for a number of fragile ecologically important sites that need to be protected.
- 1.4. The Council takes the view that Travellers and their families have the right to have their needs for services assessed and addressed upon an individual basis.
- 1.5. The Council has therefore adopted a policy which allows for:
  - responsible provision of temporary provision for camping
  - a sensitive approach which allows conditions for limited toleration
  - effective and transparent procedures for eviction
  - links to other strategies of the Council and its partners
- 1.6. There are three main strands to the Council's Policy:
  - (a) The establishment of some limited provision for short term camping by Travellers within the Borough; where this can be achieved with minimal disruption to others.
  - (b) Working with neighbouring Councils to ensure countywide provision is managed in a co-ordinated way.
  - (c) To work with other Councils and organisations for an effective national system of permanent sites with Councils receiving the funds and powers to provide this.

## **2.0. Position with Regards to Unauthorised Camping**

- 2.1 Within Sussex as a whole there are currently about 160 pitches for Travellers, only 40 of which are in East Sussex. Most of the pitches in East Sussex are on permanent sites with little turn over. There are no official sites within Hastings or its environs. The nearest official transit site, which groups who are moving through the area can use, is at Southerham, near Lewes.
- 2.2 The Home Office has been encouraging Councils not to evict travellers where their presence is not causing any nuisance. Circular 18/94 advised councils to tolerate unauthorised encampments in these circumstances and consider the provision of basic services like water and refuse collection. Recent ODPM guidance has amended the Good Practice Guide and revised the guidance on toleration and eviction.
- 2.3 The ODPM published a revised good practice guide for managing unauthorised camping in February 2004 which recommends:
- Councils should have a strategy which would include needs assessment, site provision and service provision. An eviction process should be included in the strategy following development with the local police.
  - All local authorities experiencing unauthorised encampments should provide either transit sites or stopping places to cater for Gypsies and Travellers moving within or passing through their area.
  - Planning aspects should be introduced into Local Travellers Strategies.
  - Education and Health services should be included in a Local Authority Gypsy and Travellers Strategy.
  - Councils should have a written statement of policies towards unauthorised encampment that should be available to gypsies and travellers.
  - Standards of behaviour expected should be those expected of the settled community.
  - Local policies should make clear the circumstances in which gypsies and travellers staying on unauthorised sites would not result in eviction action.
  - Evictions should follow a route which requires a Court Order.
  - That local crime reduction strategies should be used to deal with problems of crime and disorder arising from unauthorised camping.

### **3.0 Relevant Legislation**

- 3.1 The Race Relations Act 1976 makes it unlawful to treat someone less favourably on the grounds of colour, race, nationality or ethnic or national origins. A racial group is a group of people defined by one or more of these characteristics and is protected by the Act. Romany Gypsies have been recognised in law as a separate racial group since 1988. Irish Travellers were recognised in law as racial group in 2000. Race Relations legislation does not extend to other travellers, as they do not constitute a separate racial group.
- 3.2 The Race Relations Amendment Act 2000 places a general duty on public bodies to promote racial harmony between different racial groups.
- 3.3 The Human Rights Act 1998, amongst other things, protects the right to family life, to education and to be free from discrimination. The Council will need to demonstrate:
- Respect for a persons home – even if unlawfully occupied.
  - The balance of interest between the community’s rights and that of the individual.
  - A fair decision making process, with decisions taken being in proportion to the issue or problem involved around an encampment.

### **4.0. Hastings Borough Council’s Approach to Unauthorised Camping**

4.1. Hastings is an urban area with a high density of housing and supporting recreational facilities. There is little Council land available which is either unused or geographically suitable for camping. The ODPM guidance recommends that unauthorised camping be considered for toleration where it does not present major problems. Consideration of this will take into account the following:

- a) The suitability, nature, or obtrusiveness of the encampment.
- b) Size of group and their behaviour and the level of nuisance.
- c) The number, validity and seriousness of any complaints.

The criteria for making any decision will always be applied consistently.

4.2. When a decision is taken to tolerate an unauthorised encampment, the period for which the campers are allowed to remain should be determined by the specific circumstances of the site and specific needs of the campers. The following issues need to be considered:-

- a) Welfare grounds including the need for hospital treatment, education of children, weddings and funerals.
- b) Whether it is necessary for the whole group to stay or only those families with a specific need.

- c) Whether travellers might be referred to a more suitable, nearby site or informal/emergency site.
  - d) Negotiating a departure date beyond which could trigger an eviction. Precise time of eviction could for example be delayed until the end of the school term, provided there was evidence of regular attendance at school.
  - e) Encampments will be kept under review, visited regularly and complaints monitored.
- 4.3. In line with ODPM guidance the Council will consider tolerating unauthorised camping for periods of up to 28 days where the following criteria are met:
- The site is not in a recreational facility like a sports pitch, playground or picnic site or required for another use;
  - The site must be a reasonable distance from housing;
  - The site must not require special protection, to wildlife, landscaping etc.
  - The site must not by its nature give rise to risks to health and safety (e.g. through pollution) to campers;
  - The site must not cause problems of traffic or access;
  - Occupants must adhere to an Acceptable Behaviour
  - The Council will not tolerate occupation where it would give rise to substantive and justified complaints from other members of the community.

## **5.0 Use of Legal Powers in Seeking Possession of the Council's Land**

- 5.1 Where a decision to evict is taken, the Council will, normally, use either section 77 of the Criminal Justice and Public Order Act 1994 or the summary procedure for possession under Civil Procedures Rules Part 55 of the County Court.
- 5.2 Where a decision is made to move campers to another site, either transit or informal/emergency stopping place, the Council will consider requesting the Police to use their powers under section 62 of the Criminal Justice Act as amended by the Anti Social Behaviour Act 2003.
- 5.3 Before a decision to commence proceedings is taken, appropriate welfare checks will be carried out and the outcome of the inquiries considered.
- 5.4 The welfare checks will be carried out using a pro-forma questionnaire. The officer carrying out the welfare checks will certify the result of

his/her inquiries and ask the Borough Solicitor for a decision as to whether proceedings should be commenced.

- 5.5 Where appropriate, attempts will be made to persuade unauthorised occupiers to leave voluntarily.

## **6.0 Service Provision During Occupation of Sites**

### 6.1 Visits by HBC Officers

Where a site is subject to continued occupation the Ranger Service will make visits on a daily basis, liaising with other agencies as and when appropriate

### 6.2. Education Services

The Traveller Education Service of the County Council is jointly funded by Central Government and the Council and exists to support the educational needs of all Traveller children 'residing in or resorting to' the area. This includes supporting children from visiting fairs and circuses. The Traveller Education Service will help families new to the area to find a school place and can support both children and schools to achieve successful integration of Traveller children into the new school. The Traveller Education Service can provide some on site pre-school activities and will support distance learning arrangements when appropriate. When children move on the Traveller Education Service may liase with a new Education Department to provide continuity of provision if requested by the parent(s).

### 6.3. Health Services

Travellers have an equal right to mainstream health services and an information leaflet to be prepared for Travellers will give details of how to access local health services.

### 6.4. Social Services

- 6.4.1. The County's Social Services Department provides a wide range of services both for adults and for children and their families from a number of locations.

This Department is not a universal service provider but a service which responds to requests from for example –

- \* professional colleagues
- \* individuals in need of a service
- \* members of the public, e.g. relatives/neighbours

Travellers have the same eligibility for services as people in settled communities.

6.4.2. Details about contacting the relevant service will be available in the Council's information leaflet given out to all Travellers arriving in Hastings.

6.4.3. Advice about accessing services may also be obtained from primary health care workers such as Midwives, Community Psychiatric Nurses or G.Ps. Most Services will be provided in conjunction with or following liaison with other professionals.

#### 6.5. Utilities

The Council will normally provide basic rubbish collection, temporary toilets and water supply where possible. It will not normally provide additional services.

#### 6.6. Housing Services

Housing Services will provide housing advice to Travellers seeking assistance. The Council will give a fair and impartial assessment of the needs of Travellers claiming to be homeless or threatened with homelessness.

### **7.0. Unauthorised Camping on Private Land**

7.1 Hastings Council will take no action in respect of occupation of private land. It is recommended that this should continue to be the case except where:

- (a) The behaviour of campers is causing substantive problems to the settled community;
- (b) Planning law has been infringed by the site being used as a traveller site without permission being sought or obtained;
- (c) Where there is evidence of persistent unauthorised occupation of land in the Council's area by the same person(s) or there is serious nuisance or disturbance.

### **8.0 Unauthorised Camping on the Public Highway and Highway Land**

8.1 Where campers have encamped upon the public highway or highway land such as road verges, it will be the responsibility of the Highways Authority to deal with the encampment. Hastings Borough Council will not normally act unless the encampment is causing substantive problems to the settled community and it is in the public interest for the Council to act.

### **9.0 Links with other Strategies**

#### 9.1. Local Plan

The Local Plan identifies the need to keep the position regarding sites for Travellers in the town under review.

## 9.2. Community Safety Strategy

The current Strategy does not contain reference to the safety of Travellers. This will be drawn to the attention of the Safer Hastings Partnership for inclusion in subsequent strategies.

## 9.3 Equalities Strategy

The Council is reviewing its Equalities Strategy and the needs of Travellers will be considered as part of this.

## 9.4 Homelessness and Housing Strategy

Issue relating to Gypsies and Travellers have been included in these strategies.

## **10.0 Future Work**

### 10.1 The Council will seek for local authorities to work together in order –

- to exchange information about the pattern of Traveller movements within the area so as to be able to make a reasoned assessment of local need;
- to adopt a Countywide Strategy for the management of Unauthorised Camping within East Sussex;
- to discuss and develop best practice to be commonly adopted over as wide an area as possible;