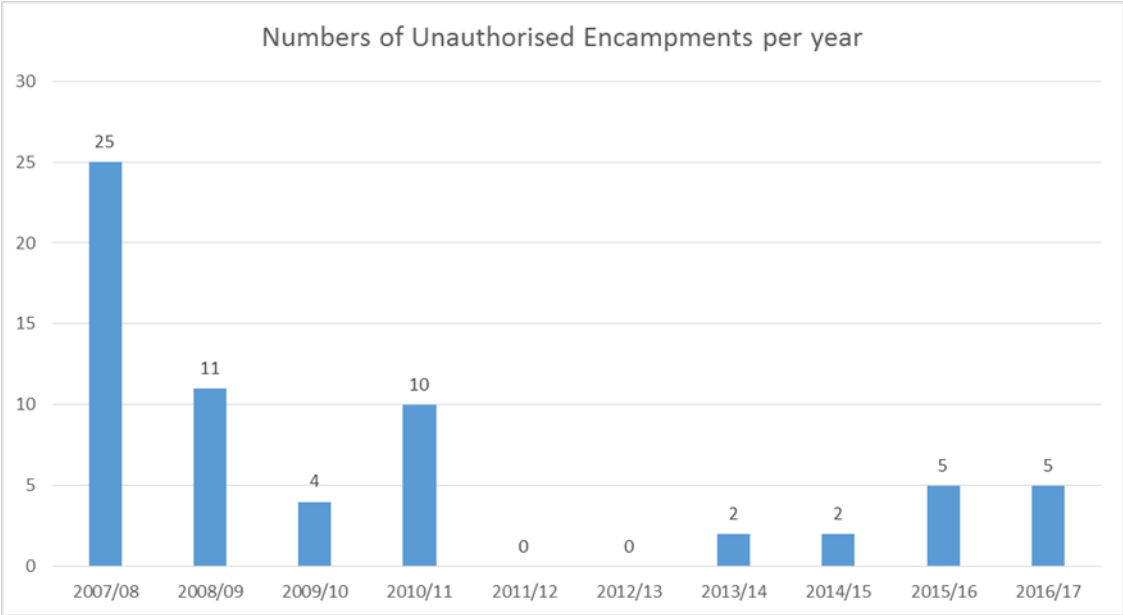


<b>DECISION-MAKER:</b>	<b>Cabinet</b>		
<b>SUBJECT:</b>	<b>Management of Unauthorised Encampments Policy</b>		
<b>DATE OF DECISION:</b>	<b>19 December 2017</b>		
<b>REPORT OF:</b>	<b>Cabinet Member for Health and Community Safety</b>		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	<b>Felicity Ridgway, Service Lead – Policy, Partnerships and Strategic Planning</b>	<b>Tel: 023 8083 3310</b>
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<b>STATEMENT OF CONFIDENTIALITY</b>			
None			
<b>BRIEF SUMMARY</b>			
<p>The council’s current Management of Unauthorised Encampments Policy was published in September 2005. Since this time there have been a number of legislative changes, as well structural changes in the council. The current policy therefore requires updating to ensure legislative compliance and an accurate representation of Southampton City Council’s approach to managing unauthorised encampments.</p>			
<p>The proposed updated policy is included at Appendix 1. This paper sets out the reasons for updating the policy and the relevant amendments to the 2005 policy.</p>			
<b>RECOMMENDATIONS:</b>			
	<b>(i)</b>	To review and agree the updated Management of Unauthorised Encampments Policy.	
<b>REASONS FOR REPORT RECOMMENDATIONS</b>			
1.	Since the publication of the existing policy in 2005, there have been a number of legislative changes and updates to national guidance relating to the management of unauthorised encampments. Southampton City Council has a responsibility to ensure that unauthorised encampments are managed in line with relevant legislation, and the policy requires updating in order to reflect this.		
2.	There have been a number of structural changes within the council which affect the internal processes and teams dealing with the management of unauthorised encampments. The policy should be an accurate reflection of the way that unauthorised encampments will be managed by Southampton City Council.		
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>			
3.	One option would be to not update the policy and retain the current one, published in 2005. This option was considered and rejected as an outdated policy creates a risk to the council and to residents/customers affected by the		

	policy.																						
4.	A further option would be to rescind the existing policy and rely solely on national guidance. This option was considered and rejected as it is important for the council to have a clear policy in relation to the management of unauthorised encampments.																						
<b>DETAIL (Including consultation carried out)</b>																							
	<b>Background</b>																						
5.	The draft updated Management of Unauthorised Encampments Policy sets out the approach that will be taken in cases of unauthorised encampments, including the undertaking of statutory welfare checks. The purpose of this policy is to affirm the council's commitment to dealing with unauthorised encampments in a fair and proportionate manner, taking into account the needs of Travellers, as well as the needs of the settled residents of Southampton.																						
6.	Over the last decade, Southampton has seen reduced numbers of unauthorised encampments. In 2007/18, 25 unauthorised Gypsy and Traveller encampments were recorded, reducing to zero in 2011/12 and 2012/13. This has increased to 5 in 2016/17.																						
	 <table border="1"> <caption>Numbers of Unauthorised Encampments per year</caption> <thead> <tr> <th>Year</th> <th>Number of Encampments</th> </tr> </thead> <tbody> <tr> <td>2007/08</td> <td>25</td> </tr> <tr> <td>2008/09</td> <td>11</td> </tr> <tr> <td>2009/10</td> <td>4</td> </tr> <tr> <td>2010/11</td> <td>10</td> </tr> <tr> <td>2011/12</td> <td>0</td> </tr> <tr> <td>2012/13</td> <td>0</td> </tr> <tr> <td>2013/14</td> <td>2</td> </tr> <tr> <td>2014/15</td> <td>2</td> </tr> <tr> <td>2015/16</td> <td>5</td> </tr> <tr> <td>2016/17</td> <td>5</td> </tr> </tbody> </table>	Year	Number of Encampments	2007/08	25	2008/09	11	2009/10	4	2010/11	10	2011/12	0	2012/13	0	2013/14	2	2014/15	2	2015/16	5	2016/17	5
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7.	The policy applies to the management of all unauthorised encampments, regardless of who the occupiers may be. The policy specifically refers to the management of unauthorised encampments from the Traveller communities in order to outline how the council meets its Public Sector Equalities Duty and Human Rights obligations towards these communities.																						
8.	The council has a duty to ensure that statutory welfare checks are undertaken to identify any support needs of Traveller communities before any legal action is taken to remove them from the site. Any legal action, and the timing of that action, will take into account the circumstances identified in the Welfare Check.																						
9.	In cases where the encampment is on non-council land, it is the responsibility of the private landowner to take action to remove trespassers and to deal with any environmental risk or nuisance relating to the encampment. The landowner is responsible for meeting the costs of any action taken. Upon notification of an																						

	encampment on private land, Southampton City Council will liaise with the landlord (if identified), including seeking permission to enter the land to undertake Welfare Checks as above where necessary.
10.	All cases of unauthorised encampments will be dealt with on a proportionate and case by case basis, taking into account the welfare of the inhabitants of the encampment, and the needs of residents, visitors and businesses in the city.
	<b>Policy updates</b>
11.	The majority of the proposed Management of Unauthorised Encampments Policy remains the same as the existing 2005 policy, however the policy has been updated to reflect the introduction of the Equality Act 2010 and the Department for Communities and Local Government (DCLG) guidance on <a href="#">Dealing with illegal and unauthorised encampments</a> .
12.	Other proposed changes to the policy are the: <ul style="list-style-type: none"> <li>• Removal of references to the Senior Project Worker role for liaising with encampments. This role has been removed since the 2005 policy, and liaison with unauthorised encampments is managed through the council's Community Safety Team.</li> <li>• Removal of detail regarding communications in the case of an unauthorised encampment. Communications will be handled with relevant stakeholders on a case by case basis.</li> <li>• Removal of appendices formalising the information provided to Gypsy and Traveller Encampments. Information will be provided as appropriate to the inhabitants of encampments on a case by case basis to ensure that that information is relevant and up to date.</li> </ul>
13.	The draft updated Management of Unauthorised encampments policy has been developed by officers working across Housing Services, Environment and Street Scene, Planning and City Services.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
14.	Following consultation with the relevant service areas involved in enforcement activity, the proposed change in policy is not expected to have an adverse financial impact arising from officer involvement and actions in dealing with enforcement issues in the future. City Council activity is already compliant with legislation; the policy update is intended to ensure that the City Council's policy is in line with the legislation.
<b><u>Property/Other</u></b>	
15.	The delivery of the policy will have implications relating to the management of Capital Assets. Delivering a clear policy in relation to the management of unauthorised encampments will support good management of the council's land assets.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
16.	There is no specific legislative duty placed on local authorities to deal with unauthorised encampments but there exists a range of legal powers available to the Council. Local authorities can take action as landowners through, for example, civil actions against trespass using Civil Procedure Rules Part 55 and have further powers conferred by the Criminal Justice and Public Order 1994,

	sections 77 and 78. The use of these powers requires the council to carry out a number of welfare assessments before exercising them. Further information in this regard is contained in the proposed policy included at appendix 1.
<b>Other Legal Implications:</b>	
17.	<p>The Equality Act 2010 obliges public authorities, when exercising their functions, to have ‘due regard’ to the need to:</p> <ul style="list-style-type: none"> <li>• Eliminate discrimination, harassment and victimisation and other conduct which the Equality Act 2010 prohibits;</li> <li>• Advance equality of opportunity; and</li> <li>• Foster good relations between people who share relevant protected characteristics and those who do not.</li> </ul> <p>The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p>
18.	The decision-maker, Cabinet in this instance, must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a proposed policy or course of action. Members should in particular note that the duty is for them personally. It is not sufficient to rely on officers to discharge the duty by the preparation of the Equality Impact Assessment and this report. Members must themselves read and actively take into consideration the Equality Impact Assessment at appendix 2. This Public Sector Equality Duty (PSED) applies not only to the formulation of this policy but also to decisions made in individual cases where the policy is applied.
19.	The Human Rights Act 1998 requires that local authorities and other public bodies covered by the HRA must be able to demonstrate that policy formulation and all decisions in this regard are ‘proportionate’ in weighing individual harm against the wider public interest.
20.	In exercising this policy, central Government guidance, currently ‘Dealing with Illegal and Unauthorised Encampments – A Summary of Available Powers’ (2015) should be considered as well as guidance relating to duties in respect of welfare enquiries.
21.	There is a duty on Local Authorities under section 17 of the Crime and Disorder Act 1998 to have due regard to the likely effect of the exercise of its functions on crime and disorder in its area and the need to do all that it can reasonably do to prevent crime and disorder, including on any anti-social behaviour and other behaviour that affects the local environment, misuse of drugs, alcohol and other substances and on re-offending in the area.
<b>RISK MANAGEMENT IMPLICATIONS</b>	
22.	The updating of the policy in line with legislation reduces potential risks to the council of having an outdated policy in place.
<b>POLICY FRAMEWORK IMPLICATIONS</b>	
23.	<p>The Management of Unauthorised Encampments Policy will support the delivery of the Council Strategy 2016-2020 outcomes:</p> <ul style="list-style-type: none"> <li>• People in Southampton live safe, healthy, independent lives</li> <li>• Southampton is an attractive, modern city where people are proud to live and work</li> </ul>

24.	The policy will also support the delivery of the Safe City Strategy 2017-2020 in relation to the reduction of anti-social behaviour.	
<b>KEY DECISION?</b>	<b>Yes</b>	
<b>WARDS/COMMUNITIES AFFECTED:</b>	<b>All wards</b>	
<u>SUPPORTING DOCUMENTATION</u>		
<b>Appendices</b>		
1.	Proposed Management of Unauthorised Encampments Policy	
2.	Management of Unauthorised Encampments Policy ESIA	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		<b>Yes</b>
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		<b>No</b>
<b>Other Background Documents</b>		
<b>Other Background documents available for inspection at:</b>		
<b>Title of Background Paper(s)</b>	<b>Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)</b>	
1.	None	