

# People and Communities Policy Committee

*Members of the People and Communities  
Policy Committee:*

Mr D Bills (Chairman)

Mr J Hornby (Vice Chairman)

Mrs S Blundell

Ms V Clifford-Jackson

Mrs F Ellis

Mr T Holden

Mr N Legg

Mrs J Wilby

Mr J Worley

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## Agenda

### Date

Wednesday 3 July 2019

### Time

10.00 am

### Place

Colman Room

South Norfolk House  
Cygnet Court  
Long Stratton  
Norwich  
NR15 2XE

### Contact

Sue Elliott tel (01508) 533869  
South Norfolk District Council  
Cygnet Court  
Long Stratton Norwich  
NR15 2XE

Email: [democracy@s-norfolk.gov.uk](mailto:democracy@s-norfolk.gov.uk)

If you have any special requirements in order to attend this meeting,  
please let us know in advance

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# **A G E N D A**

1. **To report apologies for absence and to identify substitute members;**
2. **Any items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act, 1972. Urgent business may only be taken if, "by reason of special circumstances" (which will be recorded in the minutes), the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency;**
3. **To Receive Declarations of Interest from Members;**  
(Please see guidance form and flow chart attached – page 3)
4. **To confirm the minutes of the meeting of the Housing, Wellbeing, Leisure and Early Intervention Policy Committee held on 28 November 2018;** (attached – page 5)
5. **Council Tax Reduction/Support Scheme;** (report attached – page 9)
6. **Affordable Home Ownership in Broadland and South Norfolk;**(report attached – page 14)
7. **Amenity and Facility Standards for Licensed Houses in Multiple Occupation;**  
(report attached – page 25)
8. **Revision of the Norfolk Protocol for Managing Un-authorised Encampments;**  
(report attached – page 66)
9. **Work Programme;** (to be discussed)

## DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.

Does the interest directly:

1. affect yours, or your spouse / partner's financial position?
2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?
3. Relate to a contract you, or your spouse / partner have with the Council
4. Affect land you or your spouse / partner own
5. Affect a company that you or your partner own, or have a shareholding in

If the answer is "yes" to any of the above, it is likely to be pecuniary.

Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.

Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?

If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

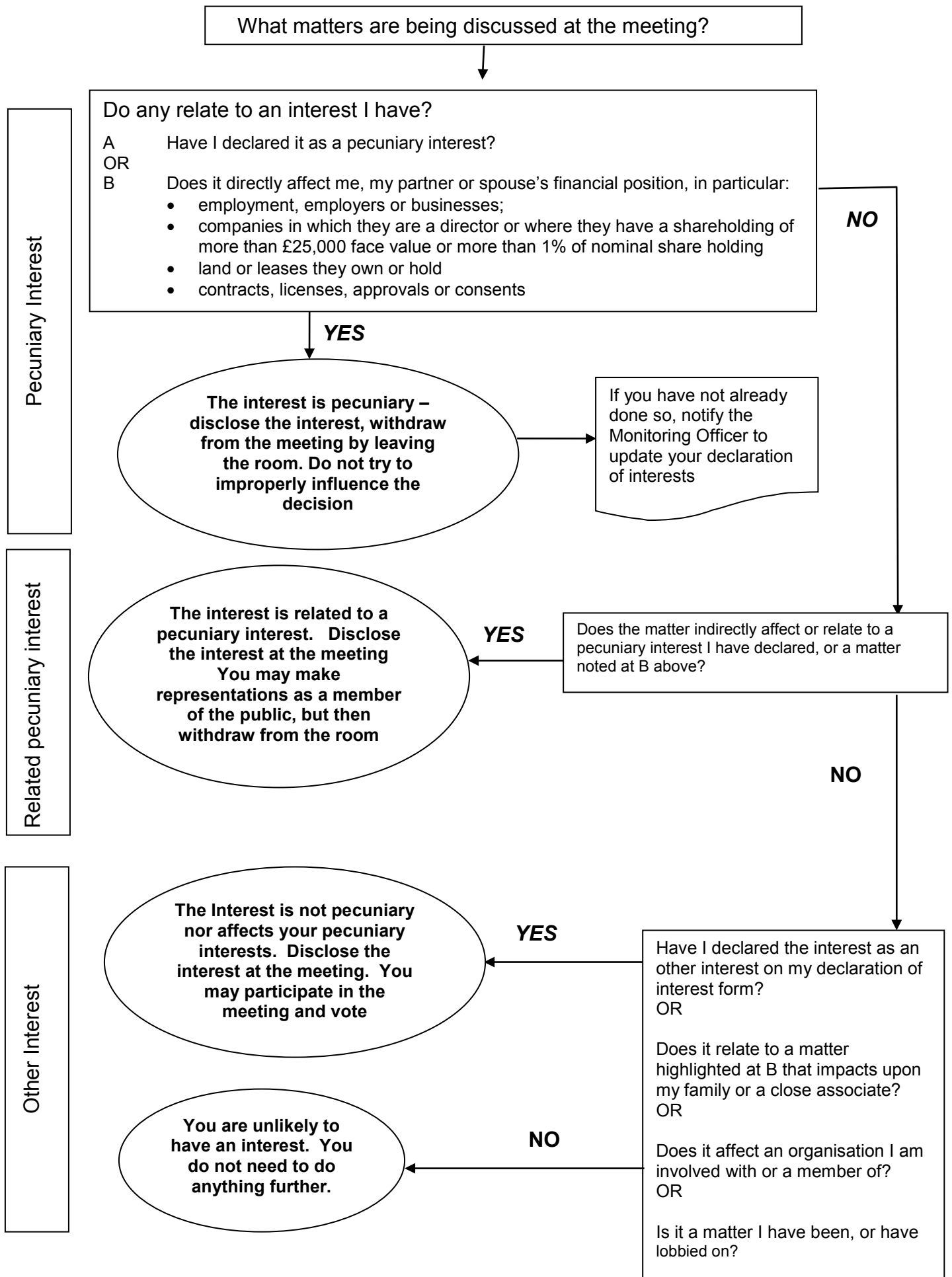
Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.

Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.**

**PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST INSTANCE**

# DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF





## Housing, Wellbeing, Leisure and Early Intervention Policy Committee

Minutes of a meeting of the Housing, Wellbeing, Leisure and Early Intervention Policy Committee of South Norfolk Council held at South Norfolk House, Long Stratton on Tuesday 28 November 2018 at 9.30am

**Committee Members Present:** Councillors: D Bills (Chairman), S Blundell, J Hornby and J Overton

**Apologies:** Councillors: F Ellis, N Legg and A Pond

**Substitute Members:** Councillors: B Riches for F Ellis  
C Gould for N Legg and  
G Minshull for A Pond

**Cabinet Member in Attendance:** Councillor: Y Bendle

**Officers in Attendance:** The Director of Communities and Wellbeing (J Sutterby), the Head of Early Help (M Pursehouse), the Head of Health and Leisure Services (S Goddard), the Early Help Hub Manager (L Pickering) and the Housing and Benefit Manager (R Dunsire)

### 26 DECLARATIONS OF INTEREST

Councillor	Minute	Declaration
S Blundell	29	Member declared an 'other' interest, that she was in receipt of Council Tax Benefit, and chose to leave the room for this item.
G Minshull	29	Member declared an 'other' interest, that he was in receipt of Council Tax Benefit, and chose to leave the room for this item.

### 27 MINUTES

The minutes of the meeting of the Housing, Wellbeing, Leisure and Early Intervention Policy Committee held on 30 August 2018 were agreed as a correct record and signed by the Chairman.

## 28 SOUTH NORFOLK EARLY HELP APPROACH

Following a brief introduction by Cllr Bendle, the Head of Early Help presented his report which sought to review the South Norfolk early help approach and to look at the future of early help within the District.

Members were provided with an overview of the coordinated support provided to residents by partners working together to go beyond traditional organisational boundaries and provide a holistic and more joined-up provision, enabling residents to be connected to the help they needed, via the Help Hub. Officers explained the importance of primarily trying to set firm foundations by ensuring that residents had suitable housing, community support networks and a form of meaningful occupation in place, as a base on which any further support could be provided.

The Committee was provided with statistics relating to the cases referred to the Hub, as detailed within the report, and noted that there had been a significant growth in social prescribing due to 100% of GP surgeries in the District now offering the service. Members were pleased that this meant more vulnerable residents could be reached and that less GP time was being spent on non-medical issues.

The Head of Early Help drew members' attention to the financial information contained within his report, advising that the Early Help service was comprised of statutory and non-statutory functions. The Committee was advised that, in addition to the inward investment attracted, the Council had been required to provide additional funding to support the work. However, it was noted that there had been savings to the housing department and, although difficult to evaluate, there would be future savings to the Council and its partners, and a lessening of the burden on other public services, due to early intervention. Members agreed that, although the Council had an obligation to be cost-effective and was not required, by statute, to provide this service, it did have a moral obligation to provide vulnerable residents with a solid foundation and to help enable them to remain independent.

Members recognised the work of Early Help and thanked officers for their commitment and enthusiasm, agreeing that South Norfolk was well-regarded by other organisations for the services provided by its Help Hub. In response to a member's question regarding whether residents realised that the service was provided by the Council, the Head of Early Help advised that much of the provision was funded by partners and also suggested that some residents might be reluctant to engage with help if it was branded as a Council service. The Director of Communities and Wellbeing stressed that all partner organisations provided similar functions but that it was more beneficial to spread out a whole range of services in a wide-ranging offer, rather than to give sovereignty to individual organisations.

Some members suggested that various groups were not aware of the Help Hub and it was agreed that, although much work had already taken place in promoting the service, this should be repeated frequently, especially amongst groups for the more elderly and/or vulnerable. Cllr Bendle also requested that members continued to spread the word to ensure that residents were aware that help was available from the Help Hub and through social prescribing.

The Committee discussed the opening hours of the Help Hub and concerns were raised that limited help was available to residents at weekends. Officers advised that there was an after-hours telephone service operated by NORSE which helped with

emergencies such as homelessness but agreed that this could be an area which required further investigation and costings.

In response to a question from Cllr J Hornby regarding the percentage of callers to the Help Hub with lower-level mental health issues, the Early Help Hub Manager suggested that this was around 33-50% but confirmed that he would investigate further and advise members, by email, after the meeting.

The Director of Communities and Wellbeing requested, and it was agreed, that the Committee adjust the recommendation to request that Cabinet endorse the Early Help approach in the medium-term forward plan. It was then:

**RESOLVED:**

1. To recommend that Cabinet endorse the Early Help approach in the five-year medium-term forward plan; and
2. To recommend that Cabinet endorse the project proposed to take forward in 2019, taking into account the comments from the Committee, as detailed above.

## **29 2019-20 COUNCIL TAX SUPPORT SCHEME**

The Housing and Benefit Manager presented his report which proposed that there be no changes to the Council Tax Support Scheme for the financial year 2019-20. Members were advised that, although there would be a need to review and amend the Scheme for 2020/21, due to the impact of Universal Credit, it was currently fit for purpose.

In response to a member's question regarding the amount and reasons for claims, officers advised that around 47% of claimants were for pension credits, around 10% were in temporary or supported accommodation, with the remainder being working-age claimants on low or no wages.

Following a brief discussion, it was:

**RESOLVED:**

To recommend to Cabinet that the Council Tax Support Scheme remains in its current form for a further 12 months.

## **30 EXCLUSION OF THE PUBLIC AND PRESS**

It was:

**RESOLVED:**

To exclude the public and press from the meeting under Section 100A of the Local Government Act 1972 for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act (as amended).

### 31 LEISURE PRICING PROPOSALS FOR FUTURE DELIVERY

The Head of Health and Leisure Services presented his *exempt* report which detailed the annual review of the Council's pricing structure for its leisure centre activities.

Members were advised that officers had reviewed other providers throughout the District to ensure that the Council continued to offer a competitive and quality service that contributed to the improvement of the health and wellbeing of its residents.

Following a brief discussion, it was:

**RESOLVED:**

To recommend to Cabinet the Leisure Pricing Proposal, as shown in Appendix 2, and the offers as detailed at paragraph 4.4 of the exempt report.

### 32. COMMITTEE WORK PROGRAMME

The Director of Communities and Wellbeing advised of items for consideration at a future meeting of the Health, Wellbeing, Leisure and Early Intervention Policy Committee:

- Diss Leisure Centre;
- Health and Wellbeing Board priorities and the District sub-group; and
- Community Leisure – improving access to leisure facilities and bringing leisure and early help together.

The Committee noted that the date for the next meeting would be communicated to members in due course.

(The meeting concluded at 10.53 am)

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Chairman



## **COUNCIL TAX REDUCTION/SUPPORT SCHEME**

**Report Author(s):** Richard Dunsire  
Housing and Benefit Manager  
01508533620  
[rdunsire@s-norfolk.gov.uk](mailto:rdunsire@s-norfolk.gov.uk)

**Portfolio:** Health, Housing & Wellbeing

**Ward(s) Affected:** All

### **Purpose of the Report:**

To detail options and provide a recommendation to allow the Council to mitigate the impact of the increase in zero hours contracts, the Gig economy and Universal Credit (UC) on Council Tax Reduction/Support (CTR/S)

### **Recommendations:**

To recommend to Cabinet the variance scheme for those receiving the Housing Element of UC and to incorporate operational changes already enacted within the Housing Benefit system.

## **1. SUMMARY**

- 1.1 The implementation of Universal Credit is having an alarming impact on Council Tax collection which not only impacts the ability of the Council to collect income from individuals but puts those in most need in often unsustainable arrears. This reports details why change is needed and what the options are.

## **2. BACKGROUND**

- 2.1 The traditional benefit system relies on people informing us of their changes in income and works predominately in line with Housing Benefit. When completing an assessment Housing Benefit requires a minimum of 3 months income, the amount then being averaged. This process allowed people to only notify where income changes were more significant and the impact any one-off income variances to be mitigated when spread across the 3 months. Relying on people's judgment on whether to notify us of a change inevitably results in overpayments.
- 2.2 UC's core function is to make sure work is easier to obtain and people are better off within work. The system of income change notification is wholly automated and much better at working in real time due to its close working relationship with HMRC. This allows people to take additional hours whenever available without then worrying they will obtain a benefit overpayment however each and every change, no matter how minute requires action. Whilst we support this ethos the CTS/R Schemes are based on legislation which when written in 2012, did not truly recognise the impact UC would have on the assessment of CTS/R. There is therefore a need to amend the CTS/R schemes for those claiming UC to reduce the administrative burden created by the roll out of UC.
- 2.3 Any work completed within this project has been undertaking in collaboration with Broadland who are undertaking the same process.

## **3 CURRENT POSITION/FINDINGS**

- 3.1 Throughout the joint work completed on CTS/R one thing became apparent and therefore worth mentioning. Within any CTS/R scheme it would be desirable to have fairness, cheapness and simplicity. It has become apparent that in any modelled scheme you can only choose two of these elements. We have also found that there is no easy remedy as UC simply was not designed to fit with current benefit and therefore CTS/R legislation and working models.

## **4 PROPOSED ACTION**

- 4.1 There are 4 main options, namely, do nothing, discount scheme, banded scheme and variance scheme. Each option has elements of fairness, cheapness and simplicity but not all three.

- 4.1.1 Discount scheme – This piggy back upon UC whereby CTR/S awards are decided upon the UC elements they receive. Whilst this is a very simplistic and cheap route, its simplicity creates inherent unfairness, especially for those who are already being failed by UC. Due to its link to UC it also fails to meet the political and corporate driver present in current schemes.
- 4.1.2 Banded scheme – This creates income bands that people can move within without prompting changes. Whilst this process will decrease change of circumstances there will always be those who sit right on the cliff edge. I believe that this is a good system however all its advantages are found within the variance scheme which is not subject to the same cliff edges. This approach is simple and fairer than the current process however I believe we can do better.

*To note any implementation of a banded or discount scheme will require a complete overhaul of our schemes. As the ambition is for South Norfolk and Broadland to align the schemes this would require political compromise on the principals of both schemes as both differ. This will also attract substantial system costs circa £40000.00 per a council.*

- 4.1.3 Do nothing - We can continue to annually review, consult and implement future schemes with minor adjustments. This would not enable us to address the impact on collection or streamline the administration associated with delivering the CTS scheme. This will either result in decreased performance due to insufficient resource to meet demand which could impact on government subsidy or the need for additional resource within the Housing and Benefit team. This would result in unfairness and be the most expensive option due to the complexity of the impact of UC.
- 4.1.4 Variance scheme – A Variance Scheme is best described as a personalised banding scheme as it allows an income tolerance for each claimant. All the fundamentals of each Councils schemes would remain the same and this would only impact those receiving the Housing Element of UC. The applicable tolerance can be decided and moved by the council to make sure it ensures a suitable level of fairness whilst also mitigating the increased administration prompted by UC changes. Due to its close alignment to the current CTS/R schemes it has been much easier to complete internal modelling across both councils. A variance of £20 per month will allow for a 67% decrease in reassessments. This approach will mitigate increased costs, be tailored and therefore fair and, whilst arguably complicated its complications are only to a level that officers are used to working to at present.

## **5 OTHER OPTIONS**

- 5.1 Legislative changes
- 5.2 Alongside the UC work detailed above each year the Department of Work and Pensions (DWP) change specific details within housing benefit regulations. To ensure consistency for claimants, keep administration costs low and avoid

officer error we have always amended our scheme to reflect these changes. At present a joint office working group has been set up to make sure these legislative changes are incorporated into current CTS/R schemes ensure continuity moving forwards.

5.3 Collection

5.4 Alongside suggested amendments to the CTR/S schemes there needs to be a fundamental review of the way that we collect Council Tax. Whatever approach taken peoples income are inherently more fluent now with the increase of zero hours contracts, the Gig economy and for those on UC whose income variance is greater than £20.00. Any change to CTR/S schemes requires a 12-week public consultation period however how we collect Council Tax does not. Alongside the suggested changes to CTR/S a project group will be created to explore different options including but not limited to more flexible direct debits or payment dates and making sure we only collect Council Tax when economically viable. Whilst collection is not a task completed by benefits officers from the Benefit teams will be involved allowing me to update on progress at a later date.

## 6 ISSUES AND RISKS

6.1 These have been detailed within each option.

6.2 Resource Implications – Providing variance scheme option supported there will be no resource implications in the short term. With the increase of UC there may be requirements for system upgrades in the future.

6.3 Legal Implications – Whatever change that is recommended we must complete a 12-week consultation exercise. Failure to do so will breach The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012.

6.4 Equality Implications – An equality impact assessment has been completed and found that although those who claim UC will be slightly worse off when income goes down by under £5.00, however the impact of this is minute compared to the financial pressure placed upon people when receiving multiple and varied Council Tax demands.

6.5 Environmental Impact – There are no environmental impacts anticipated.

6.6 Crime and Disorder – There are no crime and disorder impacts anticipated.

6.7 Risks – It is difficult to 100% foresee the most suitable and rounded solution at present with this continuing to be an issue all councils are trying to resolve. I believe any decision made will require amendments over the next few years,

but I also believe that to sit and wait for another council to come up with the solution, which may never come, will create hardship for our residents, the very thing this scheme is designed to avoid.

## **7 CONCLUSION**

### **7.1 Jointly implement a variance scheme**

7.2 As detailed within the report this allows for initial alignment of both schemes without the need for any unnecessary politically sensitive overhaul, it allows the key aim to be met by mitigating the impact of UC by reducing opportunity for people to accrue unsustainable arrears and makes sure that staff only have to administer one form of CTS/R scheme and not multiple schemes depending on people's circumstances.

## **8 RECOMMENDATIONS**

To recommend to Cabinet the variance scheme for those receiving the Housing Element of UC and to incorporate operational changes already enacted within the Housing Benefit system.

## **AFFORDABLE HOME OWNERSHIP IN BROADLAND AND SOUTH NORFOLK**

**Report Author(s):** Keith Mitchell  
Housing Enabling and Strategy Officer, South Norfolk Council  
01508 533756  
[kmitchell@s-norfolk.gov.uk](mailto:kmitchell@s-norfolk.gov.uk)

Kay Oglieve-Chan  
Housing Enabler, Broadland District Council  
01603 430639  
[kay.oglieve-chan@broadland.gov.uk](mailto:kay.oglieve-chan@broadland.gov.uk)

**Portfolio:** Health, Housing and Wellbeing

**Ward(s) Affected:** All

### **Purpose of the Report:**

This report considers eligibility for homes provided for affordable home ownership, focusing on those provided through negotiation with developers under planning policy (secured through S106 agreements). Supply and demand are analysed, and it is concluded that the benefits of expanding eligibility mean there is no necessity to prioritise residents of Broadland and South Norfolk for these homes. The report asks Members to recommend that the two Councils' Cabinets introduce the recommended changes.

### **Recommendations:**

It is recommended that the Panel and the Policy Committee recommend to their respective Cabinets that:

- a) ordinarily there will be no local connection priority for people wishing to purchase affordable home ownership, other than homes built to meet local needs under the exceptions policy (with flexibility to reintroduce local connection priority if deemed necessary);
- b) all applicants for affordable home ownership must register with the regional Help to Buy agency (or any successor body);
- c) Cabinet amends policy to introduce these changes.

## Affordable Home Ownership in Broadland and South Norfolk

### 1 SUMMARY

- 1.1 This report arises from the Joint Strategic Housing Statement which was produced to identify activities whereby a common approach by Broadland and South Norfolk Councils could benefit the residents of both Districts. One of the projects agreed is 'Affordable Home Ownership – a common approach to tenures and qualification'.
- 1.2 The report relates to homes provided through the planning policy in the Greater Norwich Joint Core Strategy which requires a proportion of dwellings on larger sites to be affordable homes. More specifically, the subject is affordable home ownership dwellings for sale at no more than 80% of their open market value. Consideration does not include homes built for local needs under the 'exceptions policy', which are prioritised for people having a connection with the parish.
- 1.3 The Joint Strategic Statement suggested a common approach to all affordable home ownership on the following basis:
- method of application;
  - eligibility (connection to the District).
- 1.4 The Statement noted that both Councils prefer shared ownership to shared equity because it is a more affordable product (savings required and monthly cost). Any council, as the Local Planning Authority, cannot refuse to accept an affordable housing tenure permitted by national planning guidance (the National Planning Policy Framework February 2019, Annex 2). However, Local authorities do have the flexibility to choose the appropriate affordable home ownership products to meet local need - as set out in the National Planning Policy Framework.
- 1.5 This report implements the intention of the Statement, and recommends a way forward.

### 2 BACKGROUND

- 2.1 The three most common tenures of affordable home ownership are:
- **Shared ownership (S/O):** part buy / part rent, with the purchaser buying 25%-75% of the equity, usually having the right to buy the remaining equity at any.
  - **Shared equity (S/E):** purchase of a specified percentage of the equity, most commonly 75%, with no rent payable on the remaining equity. The purchaser has the right to buy the remaining equity, but often not before a specified period has passed.
  - **Discounted market sale (DMS):** purchase of a home at a specified percentage of its market value, usually 75%. These are sold with a restriction on the title deeds and so all future sales must be at the same

percentage of open market value.

- 2.2 Homes England (which sets the regulations for developments by Registered Providers) does not permit any local eligibility criteria for shared ownership properties other than on exceptions sites because the Government regards them as a contribution to meeting national housing need.
- 2.3 Currently Broadland and South Norfolk Councils adopt different eligibility criteria for other affordable ownership tenures. This report considers whether there is justification for retaining this approach, adopting common eligibility criteria, and/or removing all local connection criteria.

### **3 CURRENT POSITION**

#### **Broadland**

- 3.1 Applicants meet the local connection criteria by either living working or having close family within the district and as such are eligible to purchase an affordable home within the district.
- 3.2 Broadland has seen a large supply of affordable home ownership products on sites across the district. The largest delivery has been as DMS, particularly on sites at Sprowston, Aylsham and currently Horsford. However, most recently a more balanced mix of affordable home ownership tenures is being sought through the planning process with the aim of delivering more new build shared ownership homes.

#### **South Norfolk**

- 3.3 Recently there has been a very good supply of affordable home ownership in South Norfolk. In some locations (Hethersett, Wymondham and Loddon) supply has sometimes exceeded demand. The outcome is that anyone in housing need who could afford a home has been able to buy, irrespective of any connection to South Norfolk.
- 3.4 Over 90% of purchasers in South Norfolk were not currently owners, although they might have owned in the past. About 30% of purchasers applied from addresses outside South Norfolk, with most of those being from Breckland.

#### **Analysis**

- 3.5 The attached Appendices show the detailed findings and analysis of combined Broadland and South Norfolk affordable home ownership data (Appendix 1 and Appendix 2). The main findings this was that:
  - The largest proportion of purchasers already lived within the LA area in which they purchased.
  - Both areas had a significant number of applications where one of the applicants lived or worked in an adjoining LA area.
  - For both areas it was also noted that there were a small number applicants



who lived or worked outside of Norfolk

- 3.6 From these various data collections it indicates that the homes available in both Districts are contributing to meeting the housing needs of people from outside their boundaries: people leaving Norwich, people leaving other rural Norfolk locations, and people moving from outside Norfolk.
- 3.7 It is anticipated that there will be an ongoing good supply of new build properties for affordable home ownership, and the table in Appendix 3 summarises the expectations from existing planning permissions.

#### **4 PROPOSED ACTION**

- 4.1 Both Councils have recognised for many years that the Norwich housing market extends across their districts. The 2017 Central Norfolk Housing Market Assessment used housing and economic evidence to demonstrate that the housing market now extends beyond Greater Norwich to most of Breckland and North Norfolk.
- 4.2 These factors, combined with the anticipated supply, support the proposition that restricting eligibility for affordable home ownership to local people is no longer necessary. Ending the practice could eliminate the councils' process of checking and approving the circumstances of applicants.
- 4.3 Broadland's practice is to require all applicants to register with the regional Help to Buy agency, which checks eligibility on the basis of income and current housing status. South Norfolk does not have this requirement, but it could be imposed.
- 4.4 It is considered that such an approach would suffice for both councils, ending a time-consuming activity for officers. It would also align the eligibility requirements for all three affordable home ownership tenures.

#### **5 POLICY IMPLICATION**

##### **Broadland**

- 5.1 Cabinet decisions relating to Local Lettings Policy are only referred to within the Housing Allocation Policy (adopted in April 2012 and last updated in May 2015). This policy outlines how rented homes are allocated in Broadland.
- 5.2 Allocation of Affordable Home Ownership products is via an informal arrangement with the developer and which requires a local connection to the district. However, the S106 agreement affordable housing clauses could allow for removal of the local connection criteria from Affordable Home Ownership products, subject to Member approval.

##### **South Norfolk**

- 5.3 Two South Norfolk Council Cabinet resolutions would require amendment if

eligibility was to be changed.

- a) In June 2005, Cabinet agreed to a Planning Committee recommendation that:

In settlements with a population of less than 3,000 population local people with proven housing need are to have priority for all affordable housing provided through negotiation with developers.

In settlements with a population of 3,000 or more local people with proven housing need are to have priority for about one third of affordable housing provided through negotiation with developers.

A Cabinet resolution would be required to amend these priorities to only housing for rent.

- b) In November 2005, Cabinet considered the precise wording of local connection cascades in S106 agreements for homes negotiated with developers and homes approved under the exceptions policy. It was resolved to 'approve the definition of "Local" as outlined in the report, to be included in all relevant planning agreements.' A Cabinet resolution would be required to disapply this practice to affordable home ownership provided through any mechanism other than an exceptions policy planning permission.

## **6 ISSUES AND RISKS**

- 6.1 **Resource implications** – None and would require less Officer time within the approvals process.
- 6.2 **Legal implications** – None.
- 6.3 **Equality implications** – No negative implications and may improve applicant access to affordable home ownership for all equalities groups.
- 6.4 **Environmental impact** – None.
- 6.5 **Crime and disorder** – No.
- 6.6 **Risks** – If in the future applicants with a local connection are unable to access new build homes then the local connection criteria might be justified, and could be reinstated within a particular parish.

## **7 CONCLUSION**

- 7.1 It is concluded that there should be no eligibility criteria \* other than registration with the Help to Buy agency for affordable home ownership tenure where the dwellings are not provided as part of an exception site. This is justified because:

- The anticipated supply is expected to meet the needs of Broadland and South Norfolk.
- It contributes to the effective working of the housing market.
- It supports economic development by enabling people in housing need to buy a home which they believe meets their needs.
- It removes an unnecessary administrative burden from both Councils.
- It provides consistency and it simplifies arrangements for potential purchasers, housebuilders and financial advisors.

\*A flexible approach should be taken to allow a reversion to Local Lettings if circumstances change and indicate there is a requirement for local lettings within a particular location

## **8 OTHER OPTIONS**

- 8.1 The alternative to agreeing to the proposal is to retain a local connection priority for affordable home ownership.

## **9 RECOMMENDATIONS**

- 9.1 It is recommended that the Panel and the Policy Committee recommend to their respective Cabinets that:

- (1) Ordinarily there will be no local connection priority for people wishing to purchase affordable home ownership, other than homes built to meet local needs under the exceptions policy (with flexibility to reintroduce local connection priority if deemed necessary);
- (2) all applicants for affordable home ownership must register with the regional Help to Buy agency (or any successor body);
- (3) Cabinet amends policy to introduce these changes.

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## **Background Papers**

None

## **APPENDIX 1: SALES OF AFFORDABLE HOME OWNERSHIP**

**Combined Affordable Home Ownership Data collection for BDC and SN on properties purchased since April 2017**

<b>Affordable Home Ownership Product</b>	<b>Average Full market price</b>	<b>Average Purchase Price paid</b>	<b>Min discounted price paid</b>	<b>Max discounted price paid</b>	<b>Average Equity Purchased</b>	<b>Average House hold Income</b>	<b>Average Equity / Savings</b>
Shared Ownership x 44	£201,776	£83,119	£59,500 2 bed house (35% equity)	£140,000 2 bed house (70% equity)	42%	£26,130	£26,404
Shared Equity x 43	£191,470	£142,750	£112,000 1 bed flat	£176,250 3 bed house	76%	£27,804	£23,800
Discounted Market Sale x 50	£208,441	£166,015	£140,000 2 bed house	£216,000 3 bed house	79.5%	£31,420	£37,945

Data was collected for sales of affordable home ownership products within Broadland and South Norfolk from Early 2017 to the end of 2018. The data collected was for 137 sales completions of Affordable Home Ownership products and the total number of each tenure is shown in the table above. Not all data was accessible (such as sales price or household income) for each sale completed, however the data collected allowed for comprehensive findings as outlined below:-

The main points arising from analysis of these affordable home ownership product sales in Broadland and South Norfolk are:

- Most purchasers (69%) previously lived in the LA area where they purchased.
  - 29% of purchasers lived in or had a connection to an adjacent area.
  - A significant proportion of purchasers had a connection to the district through work or close family.
  - Both South Norfolk and Broadland saw applicants wishing to move between their LA areas as well as from Norwich City or Breckland Council area.
  - Broadland also saw applicants from Gt Yarmouth and North Norfolk who met the local connection criteria whilst applicants moved from Suffolk Authorities to South Norfolk.
  - Two applicants living within adjacent LA areas were MOD or ex-MOD and therefore met the local connection criteria under the Forces Covenant.
  - The remaining purchasers were from out of the LA area but met the eligibility criteria as required by the relevant LA.
- a) For Shared Ownership it was noted that there was an almost equal split of purchases between 2 and 3 bedroom houses (48% 2 bedroom and 52% 3

bedroom). Rather unusually there were slightly more 3 bedrooms delivered within this tenure – as compared to Shared Equity and DMS completions. The percentage equity ranged from the lowest equity of 30% up to a max of 70%, but included a large choice of equity shares from 30% equity up thru 35%, 40%, 45%, 50%, 60% to a max of 70%.

- b) Shared Equity properties purchased ranged from 1 bedroom flats and houses, 2 bedroom flats and houses and 3 bedroom houses. Therefore, this tenure offered the best mix of affordable homes out of all of the tenures. Within the S/E units the predominant properties purchased were 2 bedroom property types (44%) which were predominately as 2 bedroom houses but also included 2 x 2 bedroom flats/apartments.
- c) Although Shared Equity provided the lowest amount of complete data this was still seen to be the affordable home ownership tenure requiring the next lowest combined household income – when compared to DMS. This would be expected as the average discount for the Shared Equity products was higher (24%) compared to DMS (almost 20% discount).
- d) DMS units were delivered mainly as 2 bedroom houses (64%) with the reminder as 3 bedroom houses within this data collection. The percentage equity ranged from 75% up to 80% with the greater number of properties being delivered with a 20% discount. Therefore because of the smaller discount available this could be considered to be the least affordable of the homeownership products.

Comparing these findings to previous data collections (Broadland sales completions – AHO report November 2017) it was noted that the average joint household income for Shared Ownership purchasers was now closer to the Norfolk average household income data. The main reason for the increase may be because there were considerably more results available within this data collection which was combined for South Norfolk and Broadland DC. There was also a more equal spread of data across the three tenures.

This latest data collection reiterates the findings that Shared Ownership is still the most affordable tenure, requiring the lowest deposit and the lowest income. Whilst it was noted that DMS requires the highest joint household income and average savings. For Shared Equity (as previously) this tenure still showed the lowest amount of completed / collected data but was found to be the next most affordable tenure compared to DMS. This was expected as the average discount for the Shared Equity products was higher (24%) compared to DMS (almost 20% discount).

## APPENDIX 2: APPLICANTS FOR AFFORDABLE HOME OWNERSHIP

### Help to Buy East South East data - extracted for BDC and SN

Applications with one or more applicant as current resident of Broadland	BDC where either applicant lives or works within another LA area	Applications with one or more applicants as current resident of South Norfolk	SN where either applicant lives or works within another LA area
<b>197</b>	Norwich City = 52	<b>181</b>	Norwich City = 41
	South Norfolk = 18		Broadland = 11
	Breckland = 7		Breckland = 11
	North Norfolk = 6		North Norfolk = 3
	Gt Yarmouth = 1		Mid Suffolk = 3
	Waveney = 1		Ipswich = 3
	Ipswich = 1		Waveney = 2
			KLWN = 2
			Gt Yarmouth = 1

Analysis of Help to Buy applications for all Affordable Home Ownership applicants registered from Jan 2018 to March 2019 shows:

- 197 applicants registered for Broadland where one or both applicants live within Broadland district
- 181 applicants registered for South Norfolk where one or both applicants live within South Norfolk

This was applicants registering for all property sizes and for all tenures of AHO products.

Again this data showed that both areas had a significant number of applications where one of the applicants lived or worked in an adjoining LA area (if recorded). For both areas it was also noted that there were applicants who lived or worked out of area, some outside Norfolk.

- For Broadland we saw applicants (where recorded) originally living or working in other LA areas further afield, including Chelmsford, Hillingdon, Hounslow, South Cambs and St Edmundsbury.
- For South Norfolk the data also showed applications where one of the applicants lived or worked in another LA area, including Aylesbury Vale, Islington, Bedford, Braintree, Birmingham, Colchester, East Cambs, and South Somerset.
- Therefore, both LA areas had applicants who lived or worked outside of Norfolk, wishing to relocate from quite distant locations.

When filtering only on applicants specifying Shared Ownership, it was noted that South Norfolk shows a greater proportion of applicants indicating this tenure (if

specified) compared to Broadland. For Shared Ownership only (for all property sizes) South Norfolk had 133 applications whilst Broadland had 67 – within the above totals. This is to be expected as the largest delivery of AHO products within Broadland has been as DMS at 75% or 80% OMV and so we would expect a larger number of applicants to have specified this tenure.

### **APPENDIX 3: PREDICTED PIPELINE SUPPLY FOR AFFORDABLE HOME OWNERSHIP**

	Expected completions to 2025			
	S/O	S/E	DMS	Total
Broadland	86	42	114	<b>242</b>
South Norfolk	148	74	2	<b>224</b>
<b>Total</b>	<b>234</b>	<b>116</b>	<b>116</b>	<b>466</b>
<i><b>Of which, before December 2020</b></i>	<b>86</b>	<b>24</b>	<b>30</b>	<b>140</b>

Note: additional completions can be expected from planning permissions not yet granted.

This table summarises expectations from existing planning permissions, assuming no major changes in the housing market. This indicates a good predicted continuing supply, although the tenure mix varies between the two districts because of the outcomes of past priorities and negotiations.



## **AMENITY AND FACILITY STANDARDS FOR LICENSED HOUSES IN MULTIPLE OCCUPATION**

**Report Author(s):** Tony Cooke  
Housing Standards & Community Protection Manager  
01508 533754  
[tcooke@s-norfolk.gov.uk](mailto:tcooke@s-norfolk.gov.uk)

**Portfolio:** Health, Housing and Wellbeing

**Ward(s) Affected:** List Wards affected - All

### **Purpose of the Report:**

Owners of Houses in Multiple Occupation (HMO) occupied by five persons or more forming more than one household are required to have a license. The Housing Act 2004 and associated regulations set the minimum standards for HMO's and enable local authorities to adopt a set of minimum standards to help ensure that the HMO's are not overcrowded and do not pose risks to the health or safety of occupiers or blight the local communities in which they are located.

The objective is to support good private landlords who provide decent well-maintained homes and avoid unnecessary regulation on them.

### **Recommendation:**

To recommend to Cabinet the adoption of the "South Norfolk HMO Licensing – Amenity and Facility Standards for licensed Houses in Multiple Occupation 2019"

## **1 SUMMARY**

- 1.1 Enforcement of amenity standards in HMO's is undertaken using the Housing Health and Safety Rating System (HHSRS) created by the introduction of the Housing Act 2004. In addition, most HMOs occupied by 5 or more people require a licence under the Housing Act 2004 and in considering an application for such a licence the Authority must be satisfied that the property is reasonably suitable for occupation by the number proposing to live there.
- 1.2 Some standards are prescribed in the Licensing and Management of Houses in Multiple Occupation (Miscellaneous Provisions) (England) Regulations 2006(SI2006/373). South Norfolk has power to specify other standards and the "HMO Licensing – Amenity and Facility Standards for licensed Houses in Multiple Occupation 2019" (Appendix One) document outlines those standards which should be interpreted as guidance to landlords as to what the Authority is likely to consider reasonable taking account of property type and layout.
- 1.3 The document provides clear guidance on the Councils expectations on the standard of accommodation to be provided, these include
  - 1.3.1 Sleeping Accommodation – minimum room sizes that can be used for sleeping
  - 1.3.2 Space Standards & Heating – to prevent overcrowding
  - 1.3.3 Personal Washing Facilities – to ensure satisfactory facilities for personal hygiene
  - 1.3.4 Sanitary Conveniences – ensuring satisfactory sanitary provision for the number of occupants
  - 1.3.5 Storage, Preparation & Cooking of Food – ensuring provision for the safe preparation of food
  - 1.3.6 Fire Safety – ensuring measures are in place to reduce the risk of fire and to protect occupants
  - 1.3.7 Management – ensure proper management arrangements are in place
  - 1.3.8 Refuse Disposal & Storage Facilities – ensuring there is proper provision for the hygienic storage and disposal of domestic refuse.
- 1.4 The document sets out the legal requirements and provides clear advice with examples to HMO landlords and occupants.
- 1.5 It should also be noted that a Local Authority may consider, in certain justified circumstances that a higher standard than specified in this guidance is required and landlords are advised to discuss their specific property with council officers prior to carrying out alterations.
- 1.6 Full compliance with the standards contained in the document means that formal enforcement action against an HMO Landlord for amenity-related issues should not be necessary. Conversely, failure to comply with them places a Landlord at heightened risk of enforcement action.
- 1.7 This document will be subject to review at least every 3 years or earlier if considered necessary as a result of any relevant legislation or changes in government guidance.

## **2 CURRENT POSITION**

- 2.1 South Norfolk previously adopted a HMO Amenity and Space Standard in 2008/09 to support a voluntary landlord registration scheme that was discontinued in 2011/12 and the standards have not been reviewed since.
- 2.2 Broadland adopted an Amenity and Space Standards document in August 2018 in preparation for the introduction of the new mandatory licensing scheme.
- 2.3 At the time of writing there are 10 licensed HMO's in Broadland and 19 in South Norfolk. Both councils have applications pending.
- 2.4 South Norfolk has successfully trialled a South Norfolk version of the Broadland document for HMO licence applications in South Norfolk.
- 2.5 Adopting a single agreed set of standards provides consistency for landlords across the wider the geographical area and clear statement of a single team approach.

## **3 OTHER OPTIONS**

- 3.1 South Norfolk adopts a different Space and Amenity Standards.

## **4 ISSUES AND RISKS**

- 4.1 **Resource Implications** – a single agreed standard will remove barriers to officers to working over the wider geographical area and provided consistency of approach to landlords who have property portfolio's in both areas.
- 4.2 **Legal Implications** – the Council has a duty to ensure that HMO's are properly licensed and managed and do not pose a risk to the health and well-being of their occupants.
- 4.3 **Equality Implications** – none.
- 4.4 **Environmental Impact** – a set of minimum standards will help to prevent poor property being a blight on their local community.
- 4.5 **Crime and Disorder** – poorly managed housing can give rise to crime and disorder.
- 4.6 **Risks** – none.

## **5 CONCLUSION**

- 5.1 An agreed set of minimum standards helps to ensure that HMO's are not overcrowded and do not pose risks to the health or safety of occupiers or blight the local communities in which they are located.
- 5.2 They provide support for good landlords whilst enabling officers to focus on the poorer parts of the sector.
- 5.3 A single set of standards badged for both Councils will provide consistency of approach to the sector and enable officers to work more easily across the wider geographical area.

## **6 RECOMMENDATION**

- 6.1 To recommend to Cabinet the adoption of the HMO Licensing – Amenity and Facility Standards for licensed Houses in Multiple Occupation 2019” (Appendix One).

### **Background Papers**

None

## Appendix One

Two Councils  
One Team



# Licensing

## Amenity and Facility Standards for Licensed Houses in Multiple Occupation



	Introduction	3-4
	Sleeping Accommodation – minimum room sizes	5-6
	Space Standards & Heating	7-8
	Personal Washing Facilities	9-10
	Sanitary Conveniences	11-15
	Storage, Preparation & Cooking of Food	16-22
	Fire Safety	23-30
	Management	31
	Refuse Disposal & Storage Facilities	32
	Housing Health & Safety Rating System (HHSRS)	33-34
	Planning & Building Control	35
	Further Information	36-37



## Introduction

These Standards have been produced by Broadland District Council & South Norfolk Council for Houses in Multiple Occupation (HMO's) which require a licence. It has been written to assist owners, agents and occupiers in relation to the licence application procedure and standards they should expect in such accommodation.

### What is an HMO?

A house is a 'House in Multiple Occupation' (HMO) if both of the following apply:

- at least **3 persons** live there, **forming more than 1 household**; and
- facilities such as a toilet, bathroom or kitchen are shared with other tenants.

A **household** is either a single person or members of the same family who live together. A family includes people who are:

- married or living together - including people in same-sex relationships
- relatives or half-relatives, for example grandparents, aunts, uncles, siblings
- step-parents and step-children.

This includes shared houses and bedsits. An HMO is also a building which has one, or more, non-self-contained units. A non-self-contained unit is where one, or more, of the facilities is not within the occupant's room. This applies even if the facility is for exclusive use of the occupant. An HMO is also a building that has been converted into self-contained flats and less than two-thirds are owner occupied and the conversion does not meet the appropriate Building Regulations. If the property was converted prior to June 1992, it must meet the 1991 Building Regulations. The property is not an HMO unless it meets the 1991 Building Regulations.

### The Licensing requirement:

Mandatory licensing of large HMO's, (i.e. those 3 storeys high with at least 5 tenants), came into force in 2006. However, in April 2018 the Government extended the scope of mandatory HMO Licensing by removing the 3-storey rule. **The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018** came into force on 1<sup>st</sup> April 2018.



This means that a licence is required where HMO's are occupied by **five or more persons forming more than one household, regardless of the number of storeys.**

A licence is also required for any purpose-built flats where there are up to two flats in the block and one or both are occupied as an HMO, including flats above or below shops and other businesses.

A six-month grace period, from April 2018, was given for landlords to comply. A landlord of an HMO subject to the new licensing regime may not be prosecuted for not licensing the property within that period and no rent repayment order may be made in respect of such an HMO. However, during the first phase it is expected landlords will apply for a licence. At the end of the six-month grace period landlords who have still not applied for a licence may be prosecuted and can be subject to rent repayment orders being made against them.

#### Why is licensing needed?

The Government values the private rented sector. It is an important part of our housing market, housing 4.3 million households in England. HMO's form a vital part of the sector, providing often cheaper accommodation for people whose housing options are limited. Some of the occupiers of HMO's are the most vulnerable people in our society. It is estimated that there are about 500,000 HMO's in England. Many are managed to good standards by reputable landlords, but unfortunately this is not always the case. The Government wishes to remove that uncertainty by creating a level playing field between landlords, so the rogues cease to be able to operate substandard accommodation for maximum profit. This will help ensure HMO's are not overcrowded and do not pose risks to the health or safety of occupiers or blight the local communities in which they are located. The objective is to support good private landlords who provide decent well-maintained homes and avoid unnecessary regulation on them.

#### Legal standards in HMO's

The Housing Act 2004 and associated regulations state the minimum standards in HMO's. This document will explain the legal requirements and provide the minimum standards for HMO's adopted by Broadland District Council and South Norfolk Council.

#### Management Regulations

All HMO's are subject to the Management Regulations irrespective of their licensable status. Please see attached link;

<http://www.legislation.gov.uk/ukSI/2006/372/contents/made>

#### What HMO's does this guide cover?

These Standards are for all HMOs covered by the Licensing scheme. Further guidance is available in the document <https://tinyurl.com/y9czvae1>

These standards should be used as a guide only; the actual provisions required will be dependent on a risk assessment undertaken by a Council Officer. It does not provide an authoritative interpretation of the law; only the courts can do that.



## Sleeping Accommodation – Minimum Room Sizes

There are mandatory conditions in licences to regulate the size and use of rooms used as sleeping accommodation. The minimum sleeping room sizes are:

- A usable floor area\* of **6.51m<sup>2</sup>** – **one adult (over 10 years of age)**
- A usable floor area of **10.22m<sup>2</sup>** – **two adults (over 10 years of age)**
- A usable floor area of between **4.64m<sup>2</sup>** and **6.5m<sup>2</sup>** may be occupied by a **child under the age of ten only if the room is let / occupied in connection with the letting / occupation of a room with a useable floor area of at least 6.51m<sup>2</sup> to a parent or guardian of the child.**

\* usable floor area of a room is where the distance between the lowest part of the floor and the ceiling measures at least **1.5m, (5ft)**. Any area less than 1.5m is to be disregarded.

The minimum room size is simply a standard below which a room cannot be used as sleeping accommodation. It is not intended to be the norm or the lowest common denominator.

A room of less than 6.51m<sup>2</sup> cannot be occupied as sleeping accommodation by any person aged 10 or over.

Any room less than 4.64 m<sup>2</sup> may not be used as sleeping accommodation. Communal space in other parts of the HMO cannot be used to compensate for rooms smaller than the prescribed minimum.

The minimum room sizes reflect those in section 326 of the Housing Act 1985 which is concerned with overcrowding in residential accommodation in England.

Licenses will be granted with a condition stating the maximum number of persons, (adults and children under 10), who may occupy the specified rooms as sleeping accommodation. Any room not specified as suitable for sleeping accommodation is prohibited from use as sleeping accommodation.

Temporary visitors are excluded from the regulations.

Hostels and charities providing temporary accommodation are also excluded from the minimum room size condition.

**Transitional arrangements:**

**No person sleeping in accommodation which was adequate for them to do so at the time of letting, but then becomes by reason of the regulations no longer suitable should be immediately evicted.**

Where licensed HMO's do not immediately comply with the maximum occupancy mandatory condition, a reasonable time period of **up to a maximum of 18 months** from the grant of a licence, will be permitted to enable landlords to regulate the number of occupiers permitted under the licence.

During this period, provided the landlord takes steps to reduce the number of occupiers which exceed the permitted number, no offence of breaching the condition will be committed.

In the event of a pregnant woman living in a single occupancy room and the arrival of the child causing the room to become overcrowded, potential remedies could include securing alternative accommodation in the HMO or elsewhere. Alternatively, and if practicable, the overcrowding might be remedied by the enlargement of the room or the provision of an additional room (of not less than 4.64m<sup>2</sup>) for use as sleeping accommodation by the child.

However, the offence of breaching the licence condition will be committed if the accommodation becomes deliberately overcrowded after the regulation came into force, e.g. if a tenant moved their partner into a room which was only suitable for one person and the landlord did not take all reasonable action to address the breach.

**What are the sanctions for breaching minimum room sizes?**

A licence holder commits an offence if, without reasonable excuse, the licence holder breaches the licence by:

- Knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence; and
- Failing to comply with a condition of the licence such as a prohibition against occupation as sleeping accommodation.

**If convicted of such an offence the licence holder is liable to an unlimited fine. A financial penalty of up to £30,000 may be imposed as an alternative to prosecution.**

## Space Standards

### Legal requirements

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 require kitchens, bathrooms and WC's to be of adequate size, as set by this guide.

Broadland District Council & South Norfolk Council have adopted the following minimum space standards:

### HMO's where occupiers share kitchen facilities:

Follow the table from left to right to work out the space requirements in your HMO.

Total number of people in HMO	Minimum kitchen size	1 to 2 storey HMO minimum living space	3+ storey HMO minimum living / dining space
3-5 people	7m <sup>2</sup>	11m <sup>2</sup> separate living room; or  18m <sup>2</sup> combined kitchen/living room	Either: 11 m <sup>2</sup> separate living room within 1 floor distance of kitchen; or  13 m <sup>2</sup> kitchen/diner and 11 m <sup>2</sup> living room elsewhere; or  18 m <sup>2</sup> combined kitchen/living/dining room.
6-10 people	10m <sup>2</sup>	14 m <sup>2</sup> separate living room; or  24 m <sup>2</sup> combined kitchen / living room	Either: 14m <sup>2</sup> separate living room within 1 floor distance of kitchen; or  16m <sup>2</sup> kitchen/diner and 14m <sup>2</sup> living room elsewhere; or  24m <sup>2</sup> combined kitchen/living/dining room.
<ul style="list-style-type: none"> <li>The minimum kitchen area must be provided in all cases.</li> <li>A living room will be accepted as a dining room and vice versa, provided the minimum space requirements are fulfilled.</li> </ul>			



**HMO's with kitchen facilities for the exclusive use of occupants (Bedsits):**

1. A bedsit is typically where sleeping, living and cooking amenities are provided for exclusive use by occupants within a single unit of accommodation, (i.e. one room), but where an amenity, i.e. a toilet, personal washing facilities or cooking facilities, are shared with the occupants of other bedsits in the same building.
2. A bedsit can be occupied by a maximum of two persons.
3. Room sizes:  
1 person bedroom/sitting room/kitchen: minimum of 13m<sup>2</sup>  
2 person bedroom/sitting room/kitchen: minimum of 20m<sup>2</sup>

**1 or 2 person self-contained flats contained within a licensable HMO:**

1. A self-contained flat is typically where all basic amenities are available for the exclusive use of its occupants and no amenities are shared with the occupants of other accommodation in the same building.
2. The bedrooms in self-contained flats must meet the minimum sizes of 6.51m<sup>2</sup> for one occupant and 10.22m<sup>2</sup> for two occupants.

(N.B. If the kitchen is within the same room as the bedroom the minimum room sizes detailed for bedsits above must be met, i.e. 1 person bedroom/sitting room/kitchen: minimum of 14m<sup>2</sup> and 2 person bedroom/sitting room/kitchen: 18m<sup>2</sup>).

**Notes:**

The measured space in any room must be 'usable space'. The room should be able to accommodate the required amount of appropriate furniture easily and still allow space for movement about the room.

Any floor space that has a ceiling height of less than 1.5m (5ft) shall be disregarded for the purpose of measuring the total space in the room.

**Heating:**

Each unit of living accommodation in an HMO must be equipped with adequate means of space heating, capable of maintaining temperatures of 21°C in living rooms and 18°C in bathrooms when the outside temperature is -1°C.

The fixed space-heating appliance may be an adequate central heating system with thermostatic radiator valves (TRVs), or a fixed, hardwired electrical appliance.

Each occupant should be provided with controls to allow them to regulate the temperature and timing settings within their unit of accommodation.

## Personal Washing Facilities

### Legal requirements:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 set standards for washing facilities as below:

1. Bath/showers shall be provided in the ratio of at least one to every five persons sharing.
2. The bathrooms or shower rooms shall be readily accessible and normally not more than one floor away from the user. Shared facilities shall be accessible from a communal area. Facilities must be inside the building.
3. Bathrooms and shower rooms must be of adequate size and be laid out in such a way as to enable persons to undress, dry and dress themselves in a safe manner.
4. Each bath, shower and wash hand basin shall be provided a continuous and adequate supply of hot and cold running water, designed to ensure reasonable temperature control.
5. Bathrooms and shower rooms must have adequate lighting, heating and ventilation.
6. All baths, toilets and wash hand basins must be fit for the purpose.

To meet the above requirements of adequate size, layout, and fit for purpose, Broadland District Council & South Norfolk Council have adopted the following minimum standards:

1. An efficient and safe fixed space-heating appliance must be provided in the bathroom/personal washing room that can maintain a minimum temperature of 18°C when the outside temperature is -1°C.  
The fixed space-heating appliance may be an adequate central heating system with thermostatic radiator valves (TRVs) or a fixed electrical appliance. The heating must be under the control of the occupiers for timings and temperature settings.
2. Bathrooms must have mechanical ventilation to the outside air at a minimum extraction rate of 15 litres/second in addition to any window(s). The system is to be either coupled to the light switch and incorporate a suitable over-run period, or an appropriately set humidistat. This is in addition to any windows.

3. A tiled splash-back shall be provided to all baths and wash hand basins. Shower cubicles shall have fully tiled walls and be provided with a suitable water-resistant curtain or door to the cubicle. Bathrooms and shower rooms shall have smooth, impervious wall and ceiling surfaces, which can be easily cleaned. The flooring should be capable of being easily cleaned and slip-resistant.

4. The following minimum dimensions shall apply:

Item	Dimension
Wash hand basin	500mm X 400mm
Splashback	300mm high
Bath	1700mm X 700mm
Shower	800mm X 800mm

5. Bathrooms and shower rooms must be constructed in such a way as to ensure and protect the privacy of the users.



## Sanitary Conveniences (toilet facilities)

### Legal requirements:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 set standards for sanitary conveniences.

1. Where there are four or fewer occupiers sharing facilities, there must be one toilet which may be situated in the bathroom.
2. Where there are five or more occupiers there must be one separate toilet with wash hand basin with appropriate splash back for every five sharing occupiers.
3. Toilets are to be provided in bathrooms or separate compartments of an adequate size and layout. The rooms shall have smooth, impervious wall and ceiling surfaces, which can be easily cleaned. The flooring should be capable of being easily cleaned and slip-resistant.
4. Toilets shall be readily accessible and normally not more than one floor away from the user. Shared facilities shall be accessible from a communal area. Facilities must be inside the building.
5. A toilet provided in a separate compartment must have a wash hand basin with an appropriate splash-back.

To meet the above requirements for sanitary conveniences, Broadland District Council & South Norfolk Council have adopted the following minimum standards:

1. Separate toilet compartments should be a minimum dimension of 1300mm x 900mm with 750mm in front of the toilet.
2. Each toilet in a separate compartment is required to have a window equivalent to 1/20th of the floor area or mechanical ventilation to the outside air at a minimum extraction rate of six litres/second.
3. An efficient and safe fixed space-heating appliance that can maintain each room at a minimum temperature of 18°C when the outside temperature is – 1°C must be provided. The fixed space-heating appliance may be an adequate central heating system with thermostatic radiator valves (TRVs), or a fixed, hardwired electrical appliance. The heating must be under the control of the occupiers for timings and temperature settings.
4. A wash hand basin must be provided in the same compartment as the toilet.
6. Compartments must be constructed in such a way as to ensure and protect the privacy of the users.

## Sharing Ratios for Bathrooms & Sanitary Conveniences

### Legal requirements:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 set standards for sanitary conveniences.

1. Where there are four or fewer occupiers sharing facilities, there must be one toilet which may be situated in the bathroom.
2. Where there are five or more occupiers there must be one separate toilet with wash hand basin with appropriate splash back for every five sharing occupiers.
3. Toilets are to be provided in bathrooms or separate compartments of an adequate size and layout. The rooms shall have smooth, impervious wall and ceiling surfaces, which can be easily cleaned. The flooring should be capable of being easily cleaned and slip-resistant.
4. Toilets shall be readily accessible and normally not more than one floor away from the user. Shared facilities shall be accessible from a communal area. Facilities must be inside the building.
5. A toilet provided in a separate compartment must have a wash hand basin with an appropriate splash-back.

To meet the above requirements for sanitary conveniences, Broadland District Council & South Norfolk Council have adopted the following minimum standards:

1. Separate toilet compartments should be a minimum dimension of 1300mm x 900mm with 750mm in front of the toilet.
2. Each toilet in a separate compartment is required to have a window equivalent to 1/20th of the floor area or mechanical ventilation to the outside air at a minimum extraction rate of six litres/second.
3. An efficient and safe fixed space-heating appliance that can maintain each room at a minimum temperature of 18°C when the outside temperature is – 1°C must be provided. The fixed space-heating appliance may be an adequate central heating system with thermostatic radiator valves (TRVs), or a fixed, hardwired electrical appliance. The heating must be under the control



of the occupiers for timings and temperature settings.

4. A wash hand basin must be provided in the same compartment as the toilet.
5. Compartments must be constructed in such a way as to ensure and protect the privacy of the users.

## Sharing Ratios for Bathrooms & Sanitary Conveniences

### Legal requirements:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 set standards for the number of bathrooms/showers and toilet facilities in HMOs.

1. Where there are four or fewer occupiers sharing facilities, there must be one bathroom with fixed bath or shower and a toilet (which may be situated in the bathroom)
2. Where there are five or more occupiers sharing facilities, there must be:
  - One separate toilet with wash hand basin for every five sharing occupiers
  - One bathroom (which may contain a toilet) with a fixed bath or shower for every five sharing occupiers

The information below explains this requirement in more detail:

Number of people (irrespective of age)	Facilities required (If a child under 10 lives at the property, a bath must be provided)
1 – 4 people	<p>The minimum provision is 1 bathroom containing toilet, bath or shower and wash hand basin.</p> <p>The bathroom and toilet may be in the same room.</p>
5 people	<p>The minimum provision is 1 bathroom with a bath or shower and 1 separate toilet with wash hand basin.</p> <p>The separate toilet may be located in a second bathroom.</p>
6 – 10 people	<p>The minimum provision is:</p> <ul style="list-style-type: none"> <li>• 2 bathrooms containing a bath or shower</li> <li>• 2 toilets with wash hand basins, one of which must be in a separate room.</li> </ul>
11 – 15 people	<p>The minimum provision is:</p> <ul style="list-style-type: none"> <li>• 3 bathrooms containing a bath or shower</li> <li>• 3 toilets with wash hand basins, one of which must be in a separate room.</li> </ul>

Bedrooms with en-suites	<p>Where a room is provided with a complete en-suite facility (bath/shower, toilet and wash hand basin) for the exclusive use of that occupant then that occupant will be disregarded when considering the provision of sanitary facilities.</p> <p>Six occupants and one occupant had exclusive use of a fully equipped en-suite. The requirement for the remaining occupants would be for five people.</p> <p>If, however, the en-suite only provides one facility (either a bath/shower or a WC) then the occupant will not be disregarded for the missing amenity.</p>
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## Facilities for the Storage, Preparation & Cooking of Food

### Shared kitchens:

#### **Legal requirement:**

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 require:

1. A kitchen suitably located in relation to the living accommodation, and of such layout and size and equipped with such facilities to adequately enable those sharing the facilities to store, prepare and cook food.
2. The kitchen must be equipped with the following equipment, which must be fit for the purpose and supplied in a sufficient quantity for the number of those sharing the facilities:
  - (i) sinks with draining boards;
  - (ii) an adequate supply of cold and constant hot water to each sink supplied;
  - (iii) installations or equipment for the cooking of food;
  - (iv) electrical sockets;
  - (v) worktops for the preparation of food;
  - (vi) cupboards for the storage of food or kitchen and cooking utensils;
  - (vii) refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers);
  - (viii) appropriate refuse disposal facilities; and
  - (ix) appropriate extractor fans, fire blankets and fire doors

To meet the above requirements, Broadland District Council & South Norfolk Council have adopted the following minimum standards:

#### **Location:**

- The kitchen must be contained in the main building and located not more than one floor distant from the bedrooms. If this is not practicable in HMOs of not more than three storeys and not more than 10 persons, communal kitchens may be provided up to two floors distant from some bedrooms.
- All kitchen facilities must be available for use 24 hours a day

#### **Layout:**

- The kitchen layout must be safe, convenient and allow good hygienic practices.
- Cookers should be located away from doorways and have enough floor space for items to be safely retrieved from the oven.
- It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each.
- If two sets of facilities are provided the layout must allow them to be used safely at the same time.

### Examples of approved and poor layout

This layout is not suitable as neither the cooker nor the sink can be practically or safely used.



The cooker is in an unsafe location due to its proximity to the door.



This layout meets the minimum requirements as there is adequate worktop to both sides of the cooker and suitably located extraction.



This cooker location meets the minimum requirements for a suitably sited cooker with sufficient worktop to both sides of it.



### Examples of approved and poor layout

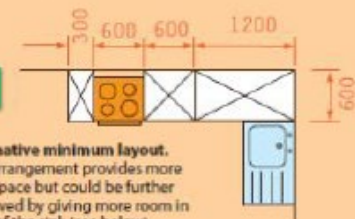


#### Good practice

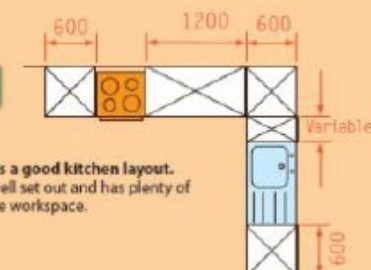
A satisfactory kitchen must be safe, convenient and must allow good hygiene practices. It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each. Worktops must be secure, level and impervious and must be of adequate size. Adjacent walls require splash-backs and power points must be suitably located.



This is the minimum provision for a kitchen. It incorporates worktop on both sides of the cooker and working space both sides of the sink bowl. Note 300mm is a minimum width and should be made wider where possible.



**Alternative minimum layout.** This arrangement provides more workspace but could be further improved by giving more room in front of the sink (see below).



This is a good kitchen layout. It is well set out and has plenty of usable workspace.

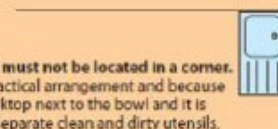


#### Unacceptable

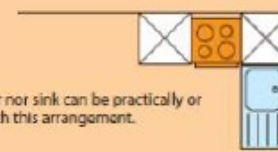
Cookers cannot be safely used if they are located in corners, do not have adequate worktop on both sides or are too close to sinks. Sinks require space to put dirty utensils on one side and clean on the other.



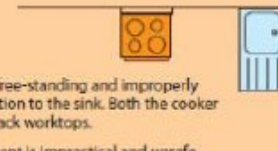
**Cooker may not be located in a corner.** This arrangement is impractical and unsafe.



**The sink bowl must not be located in a corner.** This is an impractical arrangement and because there is no worktop next to the bowl and it is impossible to separate clean and dirty utensils, it also creates a hygiene hazard.



Neither cooker nor sink can be practically or safely used with this arrangement.



The cooker is free-standing and improperly located in relation to the sink. Both the cooker and sink also lack worktops. This arrangement is impractical and unsafe. Adding worktops will still not give a practical and safe kitchen.

#### Size:

- For three to five residents, kitchens shall have a usable floor area of at least 7m<sup>2</sup>.
- For six to ten residents, kitchens shall have a usable floor area of at least 10m<sup>2</sup>.
- The width of the kitchen must be at least 1.8m to allow safe movement of occupants.

**Quantity of equipment:**

- For three to five residents, kitchens shall have a usable floor area of at least 7m<sup>2</sup>.
- For six to ten residents, kitchens shall have a usable floor area of at least 10m<sup>2</sup>.
- The width of the kitchen must be at least 1.8m to allow safe movement of occupants.

Number of people (irrespective of age)	Minimum provision of kitchen facilities
3 – 5 people	<p>A complete set of kitchen facilities consisting of the following:</p> <p><b>Sink:</b> A stainless steel sink, integral drainer and a tiled splash-back, on a base unit. The sink must have constant supplies of hot and cold running water and be properly connected to the drains. The cold water must come directly from the rising water main. It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each.</p> <p><b>Cooker:</b> A gas or electric cooker with four ring burners, oven and grill, that are capable of simultaneous use. The cooker is to be located away from doorways with a minimum of 300mm worktop to both sides.</p> <p><b>Electrical sockets:</b> At least three double 13amp electrical power points (in addition to those used for fixed appliances, such as washing machines).</p> <p><b>Worktop:</b> A kitchen worktop that is level, secure and impervious. The minimum dimensions are 1000mm length and 600mm width.</p> <p><b>Storage:</b> A food storage cupboard for each occupant that is at least one 500mm wide base unit or a 1000mm wide wall unit. This may be provided</p>

	<p>within each occupant's room. (The space in the unit beneath the sink and drainer is not allowable for food storage).</p> <p><b>Fridge/Freezer:</b> A refrigerator with a minimum capacity of 130 litres plus a freezer with a minimum capacity of 60 litres. If not in the kitchen the fridge/freezer must be freely accessible and adjoining the kitchen.</p> <p><b>Refuse disposal:</b> Appropriate refuse disposal facilities must be provided.</p> <p><b>Ventilation:</b> Mechanical ventilation to the outside air, in accordance with current Building Regulations. This is in addition to any windows.</p> <p><b>Fire precautions:</b> Please see fire safety section.</p>
6 – 7 people	<p>Two complete sets of kitchen facilities as above with a 1500mm x 600mm work surface. However;</p> <ul style="list-style-type: none"> <li>• a combination microwave is acceptable as a second cooker</li> <li>• a dishwasher is acceptable as a second sink.</li> </ul>
8 – 10 people	<p>Two complete sets of kitchen facilities as above with a 2000mm x 600mm work surface.</p>
11 – 12 people	<p>At least two separate kitchens containing three complete sets of kitchen facilities as above, each kitchen with 2500mm x 600mm of work surface. However;</p> <ul style="list-style-type: none"> <li>• a combination microwave will be acceptable as a third cooker</li> <li>• a dishwasher will be acceptable as a third sink</li> <li>• Two x 130 litre refrigerators with an additional 20 litres capacity of refrigerator space per person over 10</li> <li>• Two x 60 litre freezer space with an additional 10 litres capacity of freezer space per person over 10.</li> </ul>



13 – 15 people	At least two separate kitchens containing three complete sets of kitchen facilities as above, each kitchen with 5000mm x 600mm of work surface.
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#### Kitchens for exclusive use:

##### **Bedsits:**

A bedsit is typically where sleeping, living and cooking amenities are provided for exclusive use by occupants within a single unit of accommodation (i.e. one room), but where an amenity, i.e. a toilet, personal washing facilities or cooking facilities, are shared with the occupants of other bedsits in the same building.

##### **Legal requirement:**

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 requires rooms without shared amenities to be provided with adequate equipment.

To achieve compliance with the above requirements for adequate size, layout and equipment, Broadland District Council & South Norfolk Council have adopted the following minimum standards:

1. **Cooking:** A gas or electric cooker with a minimum two-ring hob, oven and grill.
2. **Storage:** A 130 litre refrigerator with freezer compartment plus at least one food storage cupboard for each occupant in the bedsit (base units shall be 500mm wide and wall units shall be 1000mm wide). The sink base unit cannot be used for food storage.
3. **Preparation:** Worktop of at least 500mm deep and 1000mm long, comprising a minimum of 300mm both sides of the cooking appliance to enable utensils and pans to be placed down. All worktops must be securely supported, impervious and easy to clean.
4. **Electricity:** Two double 13 amp power sockets suitably positioned at worktop height for use by portable appliances, in addition to sockets used by fixed kitchen appliances, plus two double sockets located elsewhere within the bedsit.
5. **Washing:** A stainless steel sink and integral drainer set on a base unit with constant supplies of hot and cold running water. The sink shall be properly connected to the drainage system. The cold water shall be direct from the mains supply. A tiled splash-back shall be provided behind the sink and drainer.
6. **Ventilation:** Mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second or 30 litres/second if the fan is sited within 300mm of

the centre of the hob. This is in addition to any windows.

7. **Layout:** The same principles of safe layout and design apply in bedsits as for shared kitchens. Cookers must not be located near doorways to avoid collisions.

**Notes:**

Where a gas appliance is provided within a unit of accommodation, a carbon monoxide detector should also be provided.

Proprietary micro-style kitchenettes incorporating the above features may be suitable in certain situations, following consultation with a case officer.

## Fire Safety

### Legal requirement:

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 require appropriate fire precaution facilities and equipment to be provided of such type, number and location as considered necessary.

The Regulatory Reform (Fire Safety) Order 2005 requires all HMOs to have a sufficient risk assessment with regard to fire.

The Management Regulations require firefighting equipment and fire alarms to be maintained in good working order.

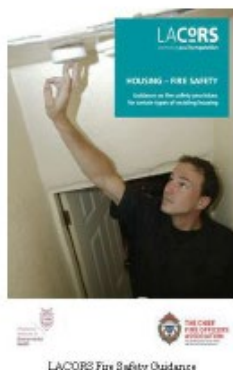
Norfolk Fire and Rescue Service enforce fire safety Regulations in communal, (shared), parts of an HMO such as shared kitchens, living rooms, hallways, stairways, etc. Broadland District Council & South Norfolk Council will liaise and work with Norfolk Fire and Rescue Service whenever appropriate to obtain specialist advice and guidance.

### Broadland District Council & South Norfolk Council requirements:

The Council will undertake the inspection of HMO's and determine whether adequate fire precaution facilities and equipment are in place. A joint inspection may be undertaken with Norfolk Fire and Rescue Service where appropriate.

National Guidance on fire safety provisions for certain types of existing housing, published by LACORS, Housing – July 2008 (ISBN978-1-84049-638-3) will be used in the decision-making process. Specialist advice may also be sought from Norfolk Fire and Rescue Service in relation to property specific requirements.





This document contains advice for landlords and fire safety enforcement officers in both local housing authorities and fire and rescue authorities on how to ensure adequate fire safety. Please use attached link to the document;  
<https://www.rla.org.uk/docs/LACORSFSguideApril62009.PDF>  
The information below is summarised from the Fire Safety Guidance document and provided to help landlords understand their responsibilities and the fire safety precautions judged necessary for HMOs.

**Fire Risk Assessment:**

A Fire Risk Assessment is required. A Fire Risk Assessment is an organised and methodical look at the premises, the activities carried on there and the likelihood that a fire could start and cause harm to those in and around the premises. The aims of a Fire Risk Assessment are:

- to identify fire hazards;
- to reduce the risk of those hazards causing harm to as low as reasonably practicable; and
- to decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

A landlord or specialist contractor can undertake the risk assessment. Most properties will be relatively small and will have a straightforward and simple layout. Therefore, little fire safety expertise is likely to be required to carry out the risk assessment. In larger buildings or where the building contains different uses, i.e. commercial and residential, then specialist advice may be required.

**Fire precaution requirements:**

The requirements expected by the Council will vary according to the observations and findings arising from any inspection undertaken and will be based on the advice detailed in the LACORS Fire Safety guide.

Landlords should also be aware that where premises are occupied in a manner other than that intended under the original construction, compliance with the Building

Regulations at the time of that construction will not necessarily negate the requirement for additional fire safety measures.

Although an exhaustive list of likely requirements cannot be given in this document necessary measures may include: fire doors on high risk rooms, fire separation, a fire blanket in the kitchen and automatic fire detection systems.

Landlords are required to test and maintain fire alarm and emergency lighting systems in accordance with the British Standards.

- Grade D fire alarm systems should be tested on a regular basis, not less than monthly and more frequently whenever circumstances require. All detectors must be cleaned at least annually. Testing and maintenance must be in accordance with the manufacturer's instructions. Landlords can self-certify this has been completed.
- Grade A fire alarm systems should be tested on a regular basis, not less than monthly and more frequently whenever circumstances require. The system must be inspected and serviced at periods not exceeding six months in accordance with the recommendations of Clause 45 of BS 5839-1:2013. An inspection and servicing certificate of the type contained in H.6 of BS 5839-1:2013 should be issued by a suitably qualified and competent person.
- Emergency lighting systems should be tested regularly, and a full system test and service must be completed annually by a competent person in line with BS5266.
- Landlords are required to service firefighting equipment annually.

**Non-standard layout/Higher risk homes:**

If the property is of a non-standard layout or if the occupants present a higher risk due to factors such as drug/alcohol dependency or limited mobility, then the risk may increase and additional precautions may need to be taken. This must be factored into your Fire Risk Assessment.

An example of a non-typical layout is 'inner rooms' where the bedroom is located such that the occupant passes through risk rooms (living rooms, kitchens or dining rooms) in order to reach the means of escape. There are various solutions available such as escape windows or water suppression systems; these should be discussed with a case officer before undertaking works.

**Examples:**

The following examples are based on typical properties with a simple layout, i.e. where all bedrooms lead onto the means of escape (i.e. the landing and hallway) and do not have to pass through any other room. These are also based on low risk occupants:

Two Councils  
One Team



***Low risk shared houses:***

For properties let on a joint contract with shared access to all areas of the property and shared facilities the following requirements apply:

Area	Item	1-2 Storey Property	3 - 4 Storey property	5 Storey property
<b>Fire doors</b>	Doors to kitchen must be 30 minute fire doors with heat and smoke seals.		✓	✓
	Bedroom doors must be solid and close fitting.	✓	✓	✓
	Bedroom doors must be 30 minute fire doors with heat and smoke seals.		✓	✓
	Fire door to living room with heat and smoke seals.		✓	✓
	Doors to any cellars must be 30 minute fire doors with heat and smoke seals.	✓	✓	✓
<b>Fire alarm system</b>	<i>BS 5839-6:2004 Grade D, LD3 fire alarm system with smoke detectors in escape route at all levels and heat alarm in kitchen.</i>	✓	✓	✓
	<i>Additional interlinked smoke alarms in any cellar.</i>	✓	✓	✓
	<i>Additional smoke</i>			

	<p><i>interlinked alarm in living room.</i></p> <p><i>Additional smoke alarms to bedrooms – only if smoke seals fitted to bedroom doors</i></p>	✓	✓	✓
<b>Firefighting equipment</b>	<p>Fire blanket in kitchen</p> <p>Simple multi-purpose fire extinguisher in hallway recommended.</p>	✓ ✓	✓ ✓	✓
<b>Locks on doors</b>	<p>Final exit doors must have a security lock that can be opened from the inside without a key. Break glass boxes are not acceptable.</p> <p>Locks on bedroom doors (where provided) must be provided with a lock that can be opened without a key from the inside.</p>	✓ ✓	✓ ✓	✓ ✓
<b>Protected escape route</b>	<p>Under stairs cupboards must have a ceiling that is 30 minutes fire resistant.</p> <p>Cellars must have a ceiling that is 30 minutes fire resistant.</p> <p>30 minute protected escape route.</p> <p>Escape windows (to current building regulation standard).</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>(Alternative solution)</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>



**Bedsits:**

A bedsit is where tenants rent a room and have shared use of a kitchen or bathroom. The tenants will not always know each other and may have locks on their bedroom doors.

Each property will be risk assessed for the individual particular needs.

**No more than 2 storeys:**

- Mains wired interlinked optical type smoke detectors / alarms in common parts, basement /cellar and in all habitable rooms and a heat detector in the kitchen (BS 5839-6:2004 Grade D, LD2);
- 30 minute fire resisting structure to walls and ceilings separating habitable rooms from other habitable rooms, kitchens and the common escape route.
- Fire doors with 30 minute fire resistance, complete with intumescent smoke seals and an overhead self-closing device (FD30S)
- Emergency lighting to common parts (BS5266) where escape route is long or complex
- Fire escape signage where escape route is long or complex
- Provision of a fire blanket and dry powder fire extinguisher in the kitchen and a 9 litre water extinguisher to each floor level.
- A fire sprinkler system (BS 9251:2005) with relaxations on the above requirements.

**3 or 4 storeys:**

- Mains wired interlinked optical type smoke detectors / alarms in common parts, basement /cellar and in all habitable rooms and a heat detector in the kitchen (BS 5839-6:2004 Grade A, LD2);
- 30 minute fire resisting structure to walls and ceilings separating habitable rooms from other habitable rooms, kitchens and the common escape route.
- Fire doors with 30 minute fire resistance, complete with intumescent smoke seals and an overhead self-closing device (FD30S)
- Emergency lighting to common parts (BS5266) where escape route is long or complex
- Fire escape signage where escape route is long or complex

- Provision of a fire blanket and dry powder fire extinguisher in the kitchen and a 9 litre water extinguisher to each floor level.
- A fire sprinkler system (BS 9251:2005) with relaxations on the above requirements.

**Buildings converted into flats:**

Compliance with the 1991 Building Regulations will usually be considered sufficient.

In general:

- 60 minutes fire resistance between flats and any commercial premises.
- 30 minutes fire resistance between flats and common parts and other flats.
- 30 minute fire resisting doors to the flat entrances (FD30S)
- Mains wired interlinked optical type smoke detectors/alarms in common areas, basement/cellar and a heat detector in the room/lobby opening onto the escape route (BS5839-6:2004 Grade D, LD2).
- Mains wired non-interlinked optical type smoke detectors/alarms in hallway (BS 5839-6:2004 Grade D, LD3).

## Management

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all HMO's. Please see attached link to the Regulations;

<http://www.legislation.gov.uk/uksi/2006/372/contents/made>

The Regulations can be accessed in full at [www.legislation.gov.uk](http://www.legislation.gov.uk). Under both sets of Regulations the person in control of or managing the HMO has a number of duties:

- Provision and display of the manager's contact information to the occupiers;
- Maintenance of common parts, fixtures, fitting and appliances;
- Maintenance of living accommodation;
- Safety measures, including fire safety;
- Supply and maintenance of gas and electricity;
- Maintenance of water supply and drainage; and
- Provision of waste disposal facilities.

### **Fit & proper person**

A licence holder and any manager of an HMO must be a "fit and proper" person. Applicants must declare relevant information and appropriate checks will be undertaken to ensure they are fit and proper to operate an HMO.

A database of rogue landlords and property agents has been introduced which can be used to verify / confirm any previous convictions.

### **Occupiers**

Occupiers of HMO's have a duty to ensure that they take reasonable care to avoid damage and disrepair to the property, and do not obstruct the manager in complying with any Management Regulation.



## Refuse Disposal & Storage Facilities

HMO licences will require the licence holder to comply with their local authority policy for the provision of facilities for the proper disposal and storage of domestic refuse.

### **Waste HMO Policy:**

The Council provides bins for household waste collection to all households in the district who pay Council Tax as follows;

- A standard set of 240 litre bins to each household (one green bin for general refuse and one grey bin for recycling);
- A larger 360 litre green bin to households of 5 or more;
- A larger 360 litre grey bin is available to any household with large amounts of extra recycling at each collection;
- An extra set of bins may be delivered if there is more than one family residing in a property, or an annexe, and is paying separate Council Tax;
- Other arrangements can be put in place where there are exceptional circumstances at a property, e.g. a large number of residents or residents with special needs.
- Large communal bins are only provided where there is not space for smaller bins to be provided.

The Council operates an alternate weekly collection of refuse and recycling waste. To comply with the requirements of the licence the landlord must:

- Agree suitable waste storage and collection arrangements with the Council at the earliest opportunity;
- Store all household waste from the property safely and securely within the boundary of the property;
- Ensure all household waste is contained within bins provided by the Council and that any other waste is dealt with promptly and legally to prevent any potential nuisance/issue;
- Ensure all tenants are aware of the household waste collection arrangements for the property including what can be accepted through the refuse and recycling scheme (details are available on the Council's website or from the Environmental Services Department at the Council);
- Ensure that all household bins are presented by 07:00 on the day of collection and are returned to the property following collection; and
- Legally dispose of any waste generated in any maintenance of the property, including any DIY and construction and demolition waste. The landlord must be able to provide a Waste Transfer Note upon request for such controlled waste.

## Housing Health and Safety Rating System (HHSRS)

The Housing Health and Safety Rating System, (HHSRS), is the legislation which gives minimum standards for all homes, including HMO's. When HMO's are inspected, any defects found as part of this procedure will be subject to HHSRS. It is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in properties. There are 29 hazards detailed within the HHSRS, the most common being:

### **Damp & mould growth:**

Houses should be warm, dry, well-ventilated and maintained free from rising and penetrating damp and condensation. There should be adequate provision for the safe removal of steam / moisture to prevent damp and mould growth.

### **Excess Cold:**

Houses should be adequately insulated to prevent excessive heat loss and have an effective heating system capable of maintaining temperature. An Energy Performance Certificate, (EPC), is required every time a home is put up for sale or for rent. There are a few exceptions, i.e. for a room that's being rented out by a resident landlord and listed buildings may also be exempt.

### **Entry by Intruders:**

Houses should be capable of being secured against unauthorised entry. Windows and doors must be robust and fitted with adequate security. Externally, the curtilage of the property should be restricted and secure. Sheds and outbuildings should be maintained secure and in good repair.

### **Lighting:**

All habitable rooms should have an adequate level of natural lighting. All rooms and circulation areas should have provision for electric lighting.

### **Electrical Hazards:**

The electrical installation should be maintained in a safe condition. There is a legal requirement for the electrical installations in HMO's to be inspected by a competent person every five years.

### **Flames, hot surfaces, etc.:**

Heating and cooking appliances should be maintained in a safe condition and be suitably located so as not to become hazardous. Cooking appliances should be set on an even surface and heating appliances securely fixed in a suitable position within the room.

**Falls:**

Internally, floors should be even, non-slip and be maintained in a good condition. Stairs should be maintained in good condition and be free from disrepair. Stair coverings should be securely fitted and should not be worn or loose. A securely fixed hand rail should be provided the full length of the stairway. Balconies and basement light wells should have securely fixed guarding. Externally, paths should be even, properly drained and steps should be maintained in good condition and be free from disrepair.

**Personal hygiene, sanitation and drainage:**

Bathroom and kitchen surface finishes should be capable of being readily cleaned. The external of the property should be free from disrepair and free from access by pests, such as rats and mice. There should also be suitable provision for the storage of domestic waste inside and adequate receptacles outside the property – see additional section on new licensing requirements for refuse disposal and storage facilities.

**Water supply:**

An adequate supply of potable drinking water should be available from the kitchen sink. All pipework should be adequately protected from frost damage. Further guidance can be found on the Housing and Safety Rating System via the following link;

<https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>



## Planning

### **HMOs with 3 to 6 persons:**

HMO's occupied by between three and six unrelated persons are defined as Use Class C4 by the Town and Country Planning (Use Classes) Order 1987 (as amended). Dwellings occupied by families or fewer than three unrelated people are defined as Use Class C3.

Planning permission may be required from the Council to change the use of a dwelling to an HMO in Use Class C4.

### **HMOs with 7+ occupiers:**

HMO's with seven or more occupiers require planning permission and owners and managers are recommended to contact the Planning Department to clarify the planning status of the property;

**Address:** South Norfolk House, Cygnet Court, Long Stratton NR15 2XE

**Telephone:** 01508 533633

**Email:** [planning@S-NORFOLK.GOV.UK](mailto:planning@S-NORFOLK.GOV.UK)

## Building Control

Alteration / improvement works, including those requested by the Council such as window replacement, drainage works or alterations to the electrical system, etc. may require Building Regulation or Building Notice approval.

For further information:

**Address:** CNC Building Control, PO Box 1370, Norwich, NR15 2GX

**Telephone:** 0808 168 5041

Quotations: [quotations@cncbuildingcontrol.gov.uk](mailto:quotations@cncbuildingcontrol.gov.uk)

General Enquiries: [enquiries@cncbuildingcontrol.gov.uk](mailto:enquiries@cncbuildingcontrol.gov.uk)

Technical Advice: [technical@cncbuildingcontrol.gov.uk](mailto:technical@cncbuildingcontrol.gov.uk)

Applications: [applications@cncbuildingcontrol.gov.uk](mailto:applications@cncbuildingcontrol.gov.uk)

## Further Information

For further information on the licensing of HMO's please contact the Housing Standards Team at South Norfolk Council on (01508) 533711.

### Applying for an HMO Licence:

You can apply for an HMO Licence by downloading the application form on our website:

<https://www.south-norfolk.gov.uk/residents/housing/houses-multiple-occupation-hmo>

To make a valid HMO licence application you must:

1. Complete the HMO Licence application form;
2. Ensure declarations within the Licence application form are signed;
3. Submit any required documentation; and
4. Pay the licence fee.

Once this has been completed, send the application form to [hstandards@s-norfolk.gov.uk](mailto:hstandards@s-norfolk.gov.uk) or by post to:

South Norfolk House  
Cygnet Court  
Long Stratton  
NR15 2XE

### HMO Licence Fee:

The fee for a 5-year HMO Licence is set at £833.00. An HMO Licence renewal-fee is £500 for another 5 years.

Once an application is valid, an inspection of the property will be undertaken. The HMO may have been inspected recently, where all necessary observations, measurements and information was collected. Therefore, a further inspection may not be necessary. In addition, sufficient information and evidence may be provided by you in the application to enable a Licence to be issued without an inspection of the property prior to issuing a Licence. In that situation, compliance with Licence conditions will be determined during future routine inspections of the property.

The Council will prepare a draft licence called an 'Proposal to Grant a Licence'. This Proposal Notice will contain conditions to be applied to the licence. Licence Conditions will detail standards required to be met concerning occupancy, spacing, amenities and facilities for the HMO.

There is a 14-day consultation period before the final licence is issued. If you disagree with any conditions on the licence (as detailed in the proposed licence), you can make representation against the condition. These will be reviewed. We may amend / vary the licence as requested or reject the representation.



## Two Councils One Team



The actual licence is then issued. You have the right of appeal to the First Tier Tribunal against conditions on the licence. This must be done within 28 days. The licence application will be acknowledged and processed by the Housing Standards Team as quickly as possible and, in any event within **62 days**.

An HMO licence runs for five years from the date of issue.

You must renew your licence before the current licence expires. A valid renewal requires timely submission of the online renewal application form, signed declaration and fee payment.

Renewals received after licence expiry will be rejected and you will be required to submit a full new application.

## **REVISION OF THE NORFOLK PROTOCOL FOR MANAGING UN-AUTHORISED ENCAMPMENTS**

**Report Author(s):** Tony Cooke  
Housing Standards & Community Protection  
Manager  
01508 533754  
[tcooke@s-norfolk.gov.uk](mailto:tcooke@s-norfolk.gov.uk)

**Portfolio:** Health, Housing and Wellbeing

**Ward(s) Affected:** All

### **Purpose of the Report:**

In 2001 the Norfolk agencies responsible for responding to unauthorised Gypsy and Traveller encampments agreed a multi-agency protocol as to how the different agencies would respond to and manage encampments when they occurred. Known as the “Norfolk Unauthorised Encampments Protocol” previously revised in 2009 it is currently being reviewed again.

The purpose of this report is to make members aware of the protocol and the current review, to consider whether the protocol adequately covers the issues and to comment on changes they wish to be made.

### **Recommendation:**

Members are asked to consider the proposed redraft of the Norfolk Protocol for Managing Unauthorised Encampments and recommend any amendments for consideration by the Norfolk Gypsy and Traveller Officer Group.

## **1 SUMMARY**

- 1.1. The government recommends the use of joint protocols between the local authority, the police and any other relevant agencies as being highly effective in establishing how individual cases will be dealt with and making sure that all parties are clear about their responsibilities and how they work together (CLG, Feb 2006, 6).
- 1.2. It states that arrangements should be reached in advance, both within local authorities and the police themselves, but also between the parties, about how cases of unauthorised camping will be dealt with (CLG, Feb 2006, 17).
- 1.3. To achieve this, in 2001 the Norfolk Gypsy and Traveller Officer Group produced the Norfolk Unauthorised Encampments Protocol. Held up at the time as a model of good practice by Association of Chief Police Officers, the protocol was revised in 2009 and has been used consistently when dealing with encampments in South Norfolk.
- 1.1 In 2017 an officer group led by the County started a review of the protocol to reflect the structural changes that has taken place over the County. That review is nearing completion and a draft is now available for comment.
- 1.2 Unauthorised encampments remain an issue that continues to give rise to community tensions, and the review of the protocol presents an opportunity to make members aware of the complexity of the issues around responding to them when they occur.

## **2 BACKGROUND**

- 2.1 Historically there has been regular movement of Gypsies and Travellers throughout Norfolk and to locations in the South Norfolk area, though in recent years the number of families who traditionally visited the area has declined as has the pattern/reason for travelling. Many of the locations previously camped upon, especially in the Costessey area have now been built upon, and as a result a new generation of settled residents have been brought into closer contact with a new generation of travelling families who's traditional stopping places and employment have been displaced.
- 2.2 Although the protocol is primarily concerned with un-authorised encampments, the nationally recognised shortage of authorised legal Gypsy and Traveller is often cited as part of the reason for the encampments. South Norfolk has made great strides in addressing this; in 2003 South Norfolk had 2 legal sites providing 24 pitches – in 2019 there were 18 sites (including a transit site) providing 73 pitches. Our most recent independent research indicates that the South Norfolk based travelling families have been able to meet their accommodation needs through our planning process.
- 2.3 Whilst some of the families staying in the area are homeless, the main reason given for travelling is for economic purposes followed by social and then health (attendance at N&NUH). The protocol was drafted to enable a co-ordinated and proportionate response to groups who are travelling for these reasons and who in a trespass situation. Since the Transit site was opened in 2015 there has been a significant reduction un-authorised encampment in the Costessey area.

- 2.4 Whilst some encampments are short-lived and have negligible or no impact on the immediate environment others can be highly disruptive to the locality, impact upon the local economy and give rise to heightened community tensions. The concerns raised by affected communities places a heavy demand on the resources of the statutory agencies even though they may not actually own the land involved.
- 2.5 In operation the protocol provides the opportunity for all affected parties to have their views considered and for the officers to consider those views, the evidence and intelligence they have collected and to come to a measured and proportionate decision on how best to “manage” an encampment based on the impact it was having and the likely duration.
- 2.6 The protocol clearly set the lead agency for the encampment, based on location of the camp (County land – County lead, other land - District lead) or the police if public order was at risk.
- 2.7 The protocol decision could range from toleration with conditions to immediate direct action to remove the encampment. Whatever the decision, the written outcome of the meeting detailed any conditions, timescales or powers to be exercised so all partners were aware, and a consistent message could be communicated.
- 2.8 The written outcome of a protocol has been used to justify the toleration with conditions of an encampment as well as the immediate eviction.
- 2.9 Although the protocol has been agreed as a collaborative joint approach, the protocol is not a contract or binding on the partners though its existence means a partner could be liable to be challenged in court if they have not had regard to it.

### **3 CURRENT POSITION**

- 3.1 A copy of the latest draft revision shown in Appendix One
- 3.2 The same principles as adopted in the original document remain, however there is more emphasis on making it clear that it is the landowner who is ultimately responsible for dealing with matters on their land.
- 3.3 The stakeholder meeting and officer decision making process is tried and tested remains fundamentally unchanged.
- 3.4 What is significantly missing at this stage is reference and comment from the police as to the use of their powers and resources. I have been informed by the County officer co-ordinating the review that this has now been received by them and consideration is being given as to how it can be incorporated into the document. There is a further officer meeting scheduled in July to discuss this.
- 3.5 At issue is the resources needed to support the protocol outcome. Eviction action can be initiated by the County, Police or District; under the current

arrangement the cost of the action falls to the initiating agency. Without agreement on cost and risk sharing there is a real risk that the most appropriate course of action will be determined by an agencies preparedness to fund the action.

## **4 OTHER OPTIONS**

- 4.1 The Government continues to recommend the use of joint protocols.

## **5 ISSUES AND RISKS**

- 5.1 **Resource Implications** – lack of a protocol will result in duplication and increase demand on resources as the affected communities seek solutions.
- 5.2 **Legal Implications** – the protocol sets out a legal framework the Council could be challenged in the event of acting outside of a framework.
- 5.3 **Equality Implications** – the protocol recognises and considers protected characteristics and ensures they are properly reflected in the decision-making process.
- 5.4 **Environmental Impact** – un-managed encampments can adversely impact on and beyond their immediate neighbourhood.
- 5.5 **Crime and Disorder** – we have experienced crime and anti-social behaviour perpetrated by members of encampments and by members of the settled community towards the members of the encampment.
- 5.6 **Risks** – the lack of a protocol will lead to uncertainty as to how an encampment is being managed and a perceived lack of community leadership on the part of the agencies.

## **6 CONCLUSION**

- 6.1 The protocol has provided a valuable resource/tool in managing unauthorised encampments. We need to ensure that the redraft continues to ensure that all courses of action are considered when considering the most appropriate course of action and in that respect be mindful of the comments still awaited from other partners.
- 6.2 There has been a recent change of members; taking the draft revision to will be an opportunity to raise members awareness of what continues to be a potentially contentious issue that has created community tensions.

## **7 RECOMMENDATION**

- 7.1 Members are asked to consider the proposed redraft of the Norfolk Protocol for Managing Unauthorised Encampments and recommend any amendments for consideration by the Norfolk Gypsy and Traveller Officer Group.

**Background Papers - None**

# **Protocol for Managing Unauthorised Encampments in Norfolk and Suffolk**

**Revised version for comment – May 2019**

# Contents

## Page

1. Introduction - why a Protocol?
2. Roles and responsibilities
3. Local authority procedure for managing unauthorised encampments
4. The case conference process
5. Criteria for toleration or eviction
6. Code of conduct for Gypsy, Roma and Traveller people on unauthorised encampments

## Appendices

- Appendix 1 - The Gypsy, Roma and Traveller population
- Appendix 2 - Legislation
- Appendix 3 - Welfare Enquiries (site assessments)
- Appendix 4 - Case Conference guidance
- Appendix 5 - Contact information

# 1: Introduction

## Overview – why a Protocol?

1. The Government recommends the use of protocols between local authorities, the Police and other relevant agencies as being highly effective in establishing how unauthorised encampments will be dealt with, to make sure that all parties are clear about their responsibilities and how they work together.
2. This Protocol has been prepared to ensure that:
  - Everyone - landowners, Gypsies, Roma and Travellers and the settled community - understands their roles and responsibilities
  - The rights of everyone are considered fairly, consistently and proportionately
  - There are clear timeframes within which statutory agencies will act
  - There are clear criteria by which an encampment may be tolerated or evicted.

## The guiding principles of this Protocol

3. The guiding principles of this Protocol are:
  - a. Equal consideration to be given to the rights of travelling and settled communities
  - b. Balanced consideration to be given to each encampment on its own merits
  - c. Enforcement to be linked where appropriate with available alternative sites
  - d. Toleration where possible, robustness where necessary
  - e. Proportionality of all actions
  - f. The owner of the land on which the unauthorised encampment is located is responsible for deciding whether the encampment should be tolerated or evicted, in accordance with their legal rights and responsibilities. This may include taking into account any recommendations of a case conference.

## Definition of an unauthorised encampment

4. An unauthorised encampment is where any person camps (in vans, trailers, tents or any other moveable accommodation) on land that they do not own, and where they do not have permission to reside.
5. Gypsies, Roma and Travellers are the main group residing on temporary unauthorised encampments, in most cases, due to their nomadic lifestyle. Though, there has been an increase in non-Travellers trespassing to reside.

## Definition of an Unauthorised Development

6. An unauthorised development is where the person owns the land that they reside on but does not have planning permission for the developments they have undertaken or started to undertake.



## Definition of Gypsies, Roma and Travellers

7. The term 'Gypsies and Travellers' does not constitute a single, homogenous group, but encompasses a range of groups with different histories, cultures and beliefs including: Romany Gypsies, Irish Travellers, Scottish Gypsies/Travellers and Welsh Gypsies/Travellers. There are also Traveller groups which are generally regarded as 'cultural' rather than 'ethnic' Travellers. These include 'New' (Age) Travellers and occupational travellers, such as showmen and waterway travellers.
8. In the UK the term 'Roma' is generally used for people of Roma origin who have come to the UK from Central and Eastern Europe in recent years, particularly following the end of the Cold War and successive enlargements of the EU in 2004 and 2007. The word Roma is used as an umbrella term for several distinct ethnic groups, including Roma, Manouche, and Sinti, among others.
9. Romany Gypsies, Scottish Travellers and Irish Travellers have been declared by the courts to be protected under the Equality Act 2010. Roma are also an 'ethnic group' in terms of the law and are also protected by equality legislation.

## Legislation that underpins the Protocol

10. Statutory agencies have legal responsibilities to ensure the welfare of Gypsies, Roma and Travellers on unauthorised encampments, and a range of powers to take enforcement action (where this is appropriate) in relation to unauthorised encampments.
11. These legal duties and powers are set out in the following Government guidance: '[Managing Unauthorised Camping – A Good Practice Guide 2004](#)' and the [supplement](#) to this guide; the '[Guide to effective use of enforcement powers. Part 1: Unauthorised encampments 2006](#)' and '[Dealing with illegal and unauthorised encampments, summary of available powers](#)' 2015), published by the Ministry of Housing, Communities and Local Government.
12. For more information see Appendix 2.

This Protocol primarily addresses unauthorised encampments by Gypsies, Roma and Travellers, although the principles may apply to other types of encampment e.g. encampments by people who camp because they are homeless.

Local authorities participating in this Protocol may have separate policies to deal with these other types of encampment and participation in this Protocol does not preclude authorities from applying these policies.

## 2: Roles and responsibilities

### Residents of the settled community

1. Most new unauthorised encampments are brought to the attention of the Police or local authority by calls from the public. The authorities rely on this information, without which they would often be unaware of encampments.
2. When notifying relevant authorities of an encampment, only the facts should be reported. Because an encampment is new, it does not always follow that it is unlawful. What is most important to the authorities is number of caravans in attendance, date of arrival and ownership of the land (if known).

### Norfolk and Suffolk Constabularies

3. The Police are often the first agency to be notified of a new unauthorised encampment. The Police have a duty to enforce the law and will take early action to assess the situation. Where there are reports of violence; threats or intimidation to landowners or occupants of an unauthorised encampment, or there is criminal damage caused, these will be taken as aggravating factors which the Police will assess.
4. The Police will notify relevant local authorities of the presence of an unauthorised encampment, giving sufficient notification (where possible) for welfare enquiries and site assessments to be carried out. Police officers are not under any obligation to undertake welfare enquiries, although they must take into account humanitarian considerations when considering action to remove an encampment.
5. Prevention of trespass and the removal of trespassers are generally the responsibilities of the landowner and not the Police<sup>1</sup>. However, there are circumstances where it is appropriate for the Police to intervene to seek to remove trespassers (see Appendix 2). Use of police powers are at the discretion of the duty county commander (Norfolk and Suffolk) after all considerations have been taken into account.

### Private landowners

6. When an unauthorised encampment occurs on private land it is the responsibility of the landowner to decide how they want to respond and to take appropriate legal or enforcement action if they wish to remove the encampment.

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<sup>1</sup> Generally speaking, trespass to land is not itself a criminal offence in England unless some special statutory provision makes it so (although damage done by a trespasser while trespassing may amount to the offence of criminal damage). However, aggravated trespass is a criminal offence. A landowner or local authority may request the Police to use their available powers to respond to this request. It is for the Police to justify any action or lack of action on their part.

7. If a local authority receives a report of an unauthorised encampment on private land, they will endeavour to establish who the private landowner is; give information to the landowner about the date of arrival and number of caravans; and advise the landowner of their responsibilities and what powers they have.
8. All landowners have the power to serve a Common Law Notice or apply to the courts for a possession order under Part 55 to remove trespassers. These powers are set out in more detail [here](#). (this will be hyperlinked in the final document)
9. If the landowner does not take action to recover the land, the local authority may consider planning enforcement against the landowner.
10. The landowner may also be committing other offences such as an offence under Part 1 of the Caravan Sites and Control of Development Act 1960 (as amended).

### **County, City, District, Borough councils**

11. If an unauthorised encampment takes place on land owned by the County, City, District or Borough Council, the relevant local authorities should ensure that it is acted upon swiftly. They should nominate a named officer (or appoint an agent) who has the appropriate level of authority to make operational decisions on the ground, and cover arrangements should be put in place for those instances where this officer (or agent) is unavailable.
12. The local authority (or agent) is responsible for engaging with the encampment and conducting welfare enquiries and site assessments. It is the responsibility of the agency with the statutory duty to ensure they have discharged any statutory responsibilities towards the occupants under Children's Act, Care Act, Education Act, homelessness or other legislation. For more information about welfare enquiries see Section 3.
13. Where required, the local authority will support access to service providers with statutory duties (e.g. health, education or social care). The local authority may take account of the views of other agencies and the settled community to decide whether the encampment should be tolerated or evicted (using the case conference process if appropriate) and serve any legal notices if required.

### **Town and Parish councils**

14. When an unauthorised encampment occurs on land owned by a Town or Parish Council, it is the responsibility of the Town or Parish Council to decide how they want to respond and to take appropriate legal or enforcement action if they wish to remove the encampment.
15. All Town and Parish councils have the power to serve a direction to leave under Common Law or apply to the courts for a possession order under Part 55 to remove trespassers. These powers are set out in more detail [here](#). (this will be hyperlinked in the final document)

### **Elected Members**

16. Elected members have a duty to represent the interests of resident Gypsies, Roma and Travellers as well as the settled community. Elected members- especially those members who represent the geographical area where the encampment is situated- can make representations at case conferences on behalf of the settled community or the occupants of unauthorised encampments.

#### **Gypsies, Roma and Travellers on the encampment**

17. Travelling communities should respect the rights of settled communities in the same way as their own rights should be respected. They are subject to the same laws and standards of behaviour as every resident of the area in which they are camped.

#### **The Norfolk and Suffolk Gypsy Roma and Traveller Service**

18. The Government recognises that in some cases the presence of a neutral third party may be helpful. Enforcement action can be stressful, particularly for private landowners. The presence of a third party to negotiate a solution may help action to go more smoothly, minimising distress for those involved.
19. Norfolk and Suffolk County Councils operate a Gypsy, Roma and Traveller Service (NSGRTS). The NSGRTS can give free advice to private landowners on what they need to do to manage or remove an encampment. For a fee, the NSGRTS can act as an agent on behalf of the private landowner to directly manage the encampment, for example, establishing liaison with the occupants; finding out their intentions; agreeing departure dates and serving legal notices.

20. For more information see [here](#). (contact details to be added).

**1.3.1.1.1.1.1.1.**

### 3: Local authority procedure for managing unauthorised encampments

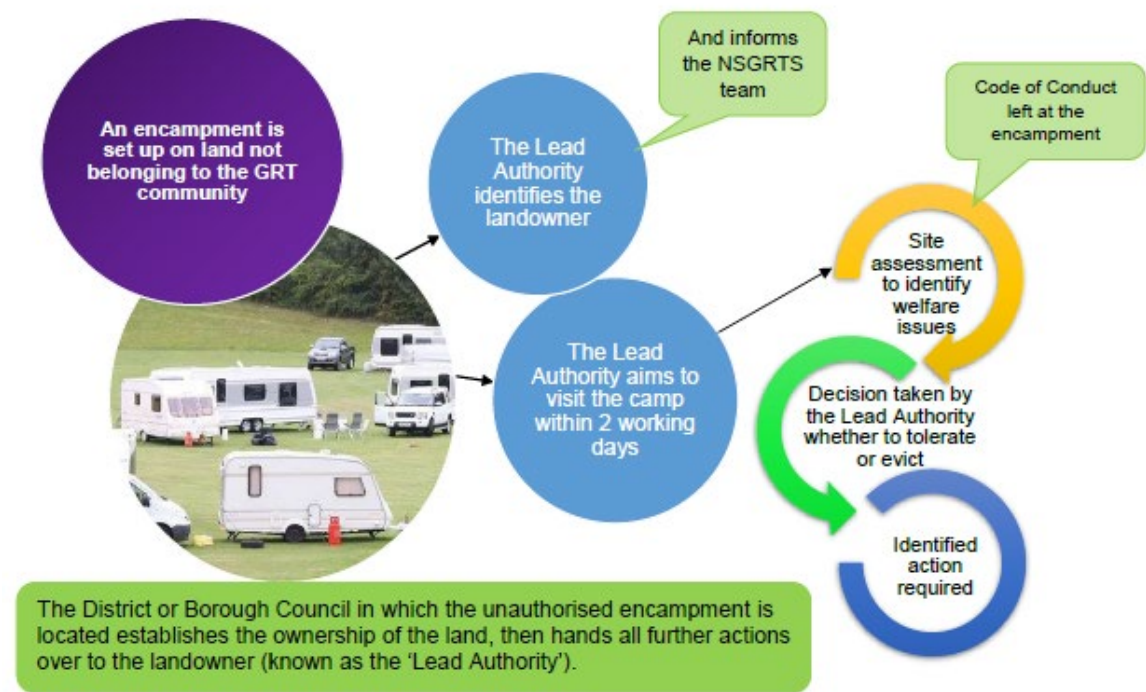
1. Following a report of an unauthorised encampment, the Police will take early action to assess the situation, liaising with relevant statutory agencies. They will normally provide a Code of Conduct to members of the encampment
2. The District, City or Borough Council within whose boundary the new unauthorised encampment is located is responsible for establishing who owns the land.
3. The lead responsibility for all further actions is then handed over to the landowner.
4. If the landowner is a local authority, the local authority (known as the Lead Authority) or their agent will aim to visit the site within two working days of being first notified of the unauthorised encampment. The purpose of this visit is to conduct a site assessment and make welfare enquiries of the occupants. This includes:
  - Establishing numbers of caravans and other vehicles on the encampment; hazards that may make residing on the encampment dangerous to the travelling or settled community; nuisance to nearby residences, businesses or amenities; travelling patterns of the group concerned; the presence of domestic or trade waste, or other environmental concerns; if animals are present, and if they pose a threat to the safety of the settled community.
  - Ensuring the encampment has been provided a Code of Conduct.
5. If a case conference is planned, this site assessment is forwarded to relevant statutory agencies who are due to attend.
6. In some cases, it may be appropriate for the local authority, in conjunction with the Police, to seek to remove the encampment immediately (see Section 5) however if there is no immediate need then the case conference procedure may be used. A case conference should normally be convened by the Lead Authority within five working days of notification of the arrival of the encampment.<sup>2</sup> For the meeting format and membership please see Section 4.
7. The Lead Authority will notify all parties involved in both parts of the case conference of the decision as soon as possible and within five working days.

Where deemed necessary, relevant local agencies (including the Police) will participate in a short daily strategy discussion (e.g. via conference call), chaired by the Lead Authority, to allow for information and intelligence to be shared and for the risk assessment to be reviewed daily leading to joint decision-making.

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<sup>2</sup> During particularly busy times of the year, these targets may not always be met. In such cases, priority will be given to larger or higher profile encampments.

The procedure: (Note this is being updated to reflect the role of the police)



## 4: The case conference process

### Introduction

1. The Government recommends that where possible, an interagency approach should be taken by statutory agencies when making decisions about how to deal with an unauthorised encampment on land owned by a local authority.
2. A case conference brings together relevant statutory agencies and stakeholders such as elected members and representatives from the settled and travelling communities, to ensure that the rights of all communities are heard and considered fairly, consistently and proportionately.
3. Statutory agencies at the case conference listen to representations about the encampment and consider the findings of welfare enquiries and the site assessment before making a decision about whether the encampment should be tolerated or evicted. This may include stating a timescale for tolerating or removing the encampment and conditions.
4. The case conference provides a sound basis for enforcement action on land where toleration is not appropriate.

### The case conference process

#### Part 1: stakeholders' meeting

5. The stakeholders' meeting is open to all parties who have a significant interest in the unauthorised encampment. Local authority officers, the Police, elected members and occupants of the encampment (or their representatives) are invited as a matter of course, though numbers may be limited at the Lead Authority's discretion.
6. This part of the meeting is designed to ensure that the views of all parties are recorded and considered before a decision is made. The meeting will be guided by a pro forma (see Appendix 4).
7. It is expected that the process will normally take no longer than one hour, at the end of which all parties with the exception of officers of statutory agencies will be asked to leave. Officers will remain to decide a course of action to recommend to the Lead Authority.

#### Part 2: officers' meeting

8. The officers' meeting is open to officers of statutory agencies involved in the encampment. The purpose of this part of the meeting is to arrive at a decision as to whether the encampment should be tolerated, or whether action should be taken to seek its removal. Personal or otherwise confidential information not suitable for the public domain will be considered during this part of the meeting, subject to data protection and information sharing protocols.
9. Consensus will be sought by the Lead Authority as to what action (if any) should be taken, which may require some level of compromise and/or agreeing of terms for the duration of the



encampment. While the decision will ultimately rest with the Lead Authority, application to the courts for possession of the land will normally be strengthened by consensus.

A recommendation is proposed and agreed as appropriate (local authorities may wish to refer recommendations to their legal teams to review before confirming a final decision).

### **Notification of decisions**

10. All parties involved in both parts of the case conference will be notified of decisions made as soon as possible and within five working days. Parties may contact the Lead Authority if the need is more urgent.
11. Notification of decisions will normally be by email and will include case conference notes. Where parties do not have email access all reasonable efforts will be made by the Lead Authority to inform parties by other means.

Case conferences do not impact on a statutory agency's rights to take action on their own in accordance with their policies and statutory responsibilities, neither do they provide an alternative to legal proceedings. Case conferences are used to find ways to respond to unauthorised encampments and protect the rights of all communities.

### **Chair of the case conference and members**

12. Case conferences are chaired by the relevant Lead Authority (or their agent).
13. The range of agencies involved is dictated by the issues under discussion. The standing members may include:
  - A representative of the Lead Authority (chair)
  - The relevant City, District or Borough Council Officer
  - Education or Welfare officers
  - The Police Designated Officer
  - A representative from the encampment
  - Relevant elected members/s representing the views of the settled community, should the elected member/s wish to be involved
14. And where relevant:
  - Legal representatives from the Lead Authority
  - Environmental services
  - The relevant health authority
  - Children and Young People's Services
  - Adult and Community Services
  - Any other party, as appropriate and agreed with the Lead Authority.

## 5: Criteria for tolerating or evicting unauthorised encampments

### The decision to tolerate

1. Government guidance suggests that if the Gypsies, Roma and Travellers are cooperative, only wish to stay for a short time and the encampment is not in a sensitive location, it may only be necessary to monitor the situation pending their departure. Where unauthorised campers have chosen an unobtrusive location in which to camp it may be preferable to agree a departure date with them.
2. Where it is not expedient to take enforcement action against unauthorised encampments, local authorities could consider providing basic facilities, such as skips and chemical toilets, for a reasonable fee payable by the Gypsies, Roma and Travellers on the site. The County/City/District/Borough Council may provide plastic bin bags for occupants of the unauthorised encampment. The City/District/Borough Council may make arrangements to collect the waste in accordance with their own local policies.
3. Where the Lead Authority agrees to tolerate an encampment for a period of time, it will request members of the encampment to agree to a Code of Conduct (see Section 6). Significant failure to observe the terms of such an agreement will result in the Lead Authority considering enforcement action.
4. The Lead Authority may agree a specific fixed period that an encampment can be tolerated for, or it may decide to tolerate the encampment on a 'rolling toleration' basis, that is until a suitable alternative location becomes available. In such a scenario, it would be expected that the encampment is visited at least weekly, and the situation reviewed with statutory agencies at least every 28 days.
5. Where an encampment is to be tolerated, an officer of the Lead Authority (or an agent) will visit the encampment at least once a week to ensure the Code of Conduct is being respected. He or she will be the main point of contact for members of the public wishing to discuss the encampment.

### The decision to enforce

6. It is unlawful for Gypsies and Travellers to camp on land they do not own without the landowner's permission.
7. There are locations where action to remove them should be taken on the grounds of safety or because the presence of the encampment is seriously disrupting the ability of the settled community to make use of facilities or to conduct their business, for instance, if the encampment:
  - Is having a detrimental impact on public order or safety
  - Is close to a busy highway, potentially endangering the safety of the campers and others

- Is located on operational land (for example urban parks, school grounds during term-time, sports fields, retail parks, operational car parks)
  - Prevents the use of land for its intended purpose by its owners and those owners are unable to take their own action
  - Interferes with the peaceful enjoyment of neighbouring property, creates an impact on the use or habitation of neighbouring property, or interferes with the effective management of that property.
  - Is located on contaminated land
  - Causes harm to the local environment or amenities (which includes fly tipping, dumping of rubbish and lighting fires to burn waste materials)
  - Is located on environmentally sensitive areas like Sites of Special Scientific Interest
  - Is harming good community relations
  - Is not adhering to the Code of Conduct
  - Has exceeded the length of time previously agreed by the Lead Authority.
8. If it is decided that an unauthorised encampment cannot be permitted to stay based on the criteria above, but one or more of the occupants has a welfare need that requires urgent attention, the occupant/s should be given adequate time to address this with relevant care providers and an appropriate departure date agreed.
9. This means that removal of the encampment, **or part of the encampment** could be delayed whilst this urgent welfare need is addressed.
10. It is important to note that if the site is particularly sensitive or hazardous to the wider public or members of the encampment themselves, it may be appropriate for the local authority or the police, to seek to remove the unauthorised encampment immediately.

## 6: Code of Conduct for Gypsies, Roma and Travellers on unauthorised encampments

1. Standards of behaviour on unauthorised encampments are the same as those expected of the wider community.
2. Intimidation from or towards encampments will not be tolerated.

### **Encampments are asked to:**

- Please be considerate to other people and businesses near to the encampment.
  - Please drive carefully in and around the encampment.
  - Please space your caravans at least 6 metres apart and park away from other groups (this is to reduce fire risk).
  - Please keep groups small (normally no more than 6 caravans) and away from houses.
  - Please do not play loud music or use loud equipment (i.e. generators).
  - Please do not damage any land or property and please report any damage to your property to the Police.
  - Please do not have open fires in or around the encampment.
  - Please dispose of all waste at official waste and recycling centres - use plastic bags for rubbish and leave at agreed collection points.
  - Please keep the site and surrounding area clean and hygienic
  - Please make sure children are supervised at all times
  - Please keep animals under control at all times and clear up after them.
  - Please do not block rights of way and do not prevent the local community using any adjacent facilities.
  - Please work with council staff and/or the landowner to minimise the impact of the encampment on the surrounding community.
  - Please clear up before you leave site.
3. How long encampments are allowed to stay on any land may depend on how they behave and will affect any future toleration of the group.

# Appendix 1

## **Numbers of Gypsies, Roma and Travellers in Norfolk and Suffolk**

1. Historically there has been a lack of robust data on Gypsy and Traveller communities. For the first time, the 2011 Census included an ethnic category to collect data on Gypsy, Traveller and Irish Traveller communities. In total around 63,000 people in the UK identified themselves as members of these groups.
2. Of all regions in England, the Eastern region has the second highest level of Gypsies, Roma and Travellers (the South East having the highest). There are approximately 2000 - 2500 GRT people living in Norfolk and around 1500 living in Suffolk, of which around 50 per cent live in houses.

## **Inequalities experienced by Gypsies, Roma and Travellers**

3. Gypsies and Travellers experience some of the worst lifelong outcomes of any group, across a wide range of social indicators.
4. This Protocol addresses the issue of unauthorised encampments. Participating local authorities will have separate strategies which set out how inequalities are being addressed to improve outcomes for disadvantaged groups.

## Appendix 2 – Relevant legislation and (welfare and enforcement)

### Introduction

1. Statutory agencies have legal duties to ensure the safety and wellbeing of Gypsies, Roma and Travellers on unauthorised encampments. They also have a range of powers to deal with illegal and unauthorised encampments.
2. A summary is provided below:

### Welfare legislation

	Legislation	When can the power be applied?
1.	Human Rights Act 2000	<p>The human rights of members of the settled community are material if an authority fails to act to curb nuisance from an encampment.</p> <p>The two convention rights which are of most particular relevance to Gypsies and Travellers living in the UK are articles 8 and 14. Article 8 (1 &amp; 2) provides that:</p> <p>Everyone has the right to respect for his private and family life, his home and his correspondence.</p> <p>There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.</p> <p>Article 14 provides that:</p> <p>The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</p>



	Legislation	When can the power be applied?
		<p>A further right to be considered is article 2 of Protocol 1 of the Act, which provides that:</p> <p>No person should be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.</p> <p>It has been argued that in order for this right to education to be practical and effective, the children of Gypsies and Travellers require a minimum degree of stability in order to be able to attend the same school and receive continuous education.</p> <p>HRA 1998 s6 requires public authorities to consider carefully the proportionality of their actions when making decisions which interfere with article 8 rights. Thus public authorities are required to undertake a systematic analysis of the relevant issues and to ensure that they have taken into account the answers to properly articulated framework of questions before reaching such decisions.</p> <p>The human rights of settled communities are equally important. Article 8 (1 &amp; 2) must be applied equally to the rights of settled communities in proximity to encampments.</p> <p>Sometimes one person's right may be restricted to protect another person's rights or those of the wider community. In such situation the balancing of rights becomes crucial. The restriction must: have a clear legal basis, a legitimate aim, be necessary, be proportionate, and not discriminate against a particular group or class of people.</p>
2.	The <a href="#">Equality Act 2010</a>	<p>The Equality Act 2010 places a duty on public authorities (and other organisations) not to unlawfully discriminate against Gypsies, Roma and Travellers (those covered by the Act). It also places a duty on public authorities to pay due regard to <i>fostering good community relations</i>. This is particularly relevant when considering the impact of an unauthorised encampment on the local settled community.</p>

	Legislation	When can the power be applied?
		In addition, <a href="#">section 149</a> of the Act provides that public authorities are required to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations.
3.	The Children's Act	<b>Abbreviated summary of the Children's/ Care Act to be added.</b>

## Enforcement powers

3. A landowner, (including a local authority), can obtain a possession order through the Civil Courts requiring the removal of trespassers from property, including land. Under the Civil Procedures Rules Part 55 the claim must be issued in the County Court in whose jurisdiction the property or land is situated. Exceptionally the claim may be issued in the High Court if there is substantial risk of public disturbance or of serious harm to persons or property, which properly require immediate determination.
4. The Criminal Justice and Public Order Act 1994 (CJPOA) gives local authorities powers to make directions to leave land being used by itinerant group, (Section 77). It is an offence to fail to comply with such a direction. If the direction to leave is not complied with, the local authority can apply to a Magistrates' Court for an order requiring the removal of vehicles and any occupants from the land (Section 78).
5. It is a defence for the accused to show that failure to leave or to remove the vehicle or other property as soon as practicable, or re-entry with a vehicle, was due to illness, mechanical breakdown or other immediate emergency.
6. A detailed overview of the powers available to public agencies are set out below.

## Local authority powers

	Power	When can the power be applied?
1.	<b>Injunctions to protect land from unauthorised encampments</b>	If a local site is particularly vulnerable and intelligence suggests it is going to be targeted for unauthorised camping, causing disruption to others going about their day-to-day lives, local authorities could consider applying to the courts for a pre-emptive injunction preventing unauthorised camping (and/or protests) in a defined geographical area.
2.	<b>Licensing of caravan sites</b>	The Caravan and Control of Development Act 1960 prohibits the use of land as a caravan site unless the occupier holds a site licence issued by the local authority. A caravan site includes anywhere a caravan (including mobile or 'park' home) is situated and occupied for human habitation including touring sites and single sites. However, it does not include sites where caravans are kept for storage only (driveways, retailers, storage parks) or where a caravan is used as additional accommodation for an existing dwelling. Violation of licensing brings a fine not exceeding level 5 on the standard scale (unlimited).

	Power	When can the power be applied?
3.	<b>Tent site licence</b>	Section 269 of the Public Health Act 1936 gives the local authority powers to control the use of movable dwellings and to license the use of land as a site for such a dwelling. If the land is to be used for more than 28 days in total in any calendar year, planning permission must be obtained. A site which is used for more than 42 days consecutively or 60 days in total in any consecutive 12 months, must have a site licence for the area concerned. The local authority may also decide to license tented areas on existing sites which operate within the 28-day planning allowance period. Violation of licensing terms brings a fine not exceeding level 1 on the standard scale and there is a further fine for each day on which the offence continues after conviction.
4.	<b>Possession Orders</b>	<p>A possession order under Part 55 of the Civil Procedure Rules can be obtained by both local authorities and private landowners who require the removal of trespassers from property including land. The claim must be issued in a County Court which has jurisdiction over the affected land/property. A claim can be issued in the High Court in exceptional circumstances where there is a risk of public disturbance and harm to persons or property that requires immediate determination. Local authorities should also be prepared to advise private landowners about their rights to recover land from trespassers through the courts or using common law powers. It is also possible that local authorities may be called upon to assist other Government bodies such as the Highways Agency.</p> <p>The “ordinary” possession order may be used regardless of whether the property is a building or open land, and regardless of the type of squatter or trespasser. The landlord may combine the application for the possession order with suing the squatter for damages and/or an occupation rent for the period of squatting as well as the court fees. A possession order may be secured quickly against trespassers (a minimum of 2 days’ notice before a hearing can take place if the property is non-residential, or 5 days for residential property), but not as quickly as an interim possession order, and is not backed up by criminal sanctions, unlike the interim possession order (see below).</p>
5.	<b>Local Byelaws</b>	<b>Section 235 of the Local Government Act 1972</b> enables the local district council or London borough council to make byelaws for the good rule and governance of the whole or any part of the district or borough and for the suppression and prevention of nuisances. Such byelaws include noise in streets and other public places, urinating in a public place etc.

	Power	When can the power be applied?
		<p><b>Section 150 (2) of the Police Reform and Social Responsibility Act 2011</b> enables local authorities to attach powers of seizure and retention of any property (which could include tents and sleeping equipment) in connection with any breach of a byelaw made under <b>section 235</b> and enables the courts to order forfeiture of any such property on conviction for contravention of any byelaw.</p>
6.	<b>Power of local authority to direct unauthorised campers to leave land</b>	<p>Where people are residing in vehicles (including caravans) on land the <b>section 77 of the Criminal Justice and Public Order Act 1994</b> gives local authorities in England and Wales power to give a direction to leave the land. The power applies only to land forming part of a highway, any other unoccupied land or occupied land on which people are residing without the consent of the occupier.</p> <p>It is an offence to fail to comply with such a direction or return to the same location within three months of the date of the direction, they are then committing a criminal offence and may be arrested by the police. If the direction is not complied with, the local authority can apply to a magistrates' court for an order requiring the removal of vehicles and any occupants from the land (section 78). Responsibility for eviction lies with the local authority. Officers or agents of the local authority may use reasonable force to evict. It is usually recommended that the police attend such evictions in order to prevent a breach of the peace. Please note this power does not apply to other campers i.e. those sleeping under canvas.</p>
7.	<b>Addressing obstructions to the Public Highway</b>	<p>If tents are erected on the public highway, so as to constitute a "nuisance", the relevant highway authority may serve a notice requiring their removal under the Highways Act 1980 (England and Wales only). If the recipient fails to comply, the highway authority can apply to the Court for a removal and disposal order. The key issue is the need to demonstrate that the tents etc that are deposited on the highway are causing a clear, actual obstruction (a "nuisance").</p> <p>The Highways Act provides other grounds on which highway authorities may take action in relation to protest activity on the highway.</p> <p>For example, under sections 1 and 263 of the Act, the freehold title of a highway maintained at public expense is vested in the highway authority. This means that, in some circumstances they could seek a possession order through the courts.</p> <p>Under section 137, it is the duty of the highway authority to protect the rights of the public regarding the use and enjoyment of the highway and to prevent the obstruction of</p>

	Power	When can the power be applied?
		<p>the highway. This allows the authority to seek an injunction in relation to protests on the highway that restrict public use or create an obstruction.</p> <p>Normally a highway authority would take the time to initiate a dialogue with any party that is potentially causing an obstruction and would only use court procedures if it was obvious the party causing the obstruction may not back down.</p> <p>However, as with section 149 of the Highways Act 1980 (Removal and disposal orders) if the object, e.g tents, was causing a danger then there is a provision for their immediate removal.</p> <p>The power won't be effective where the obstruction is temporary and formal proceedings are likely to be frustrated by the voluntary removal of the object before any court proceedings can be brought to fruition. In these circumstances liaison and persuasion are the best option.</p>
8.	Control of Horses Act 2015	The Control of Horses Act allows both local authorities and private landowners to act more quickly and decisively when horses are fly-grazed on their land
9.	Community Protection Notices CPN's.	<p>The <b>Anti-Social Behaviour, Crime and Policing Act 2014</b> affords local authorities and the Police the power to issue Community Protection Notices (CPN).</p> <p>A CPN is aimed to prevent unreasonable behaviour that is having a negative impact on the local community's quality of life. A CPN can be served on individuals aged 16 years or over and can also be served on a corporate body where the issuing authority is satisfied on reasonable grounds that;</p> <ul style="list-style-type: none"> <li>a) the conduct of the individual or body is having a detrimental effect of a persistent or continuing nature, on the quality of the life of those in the locality and;</li> <li>b) the conduct is unreasonable.</li> </ul> <p>The CPN can impose requirements on the individual or body to;</p> <ul style="list-style-type: none"> <li>a) stop doing things;</li> <li>b) do specified things;</li> <li>c) take reasonable steps to achieve specified results.</li> </ul>

	Power	When can the power be applied?
		The CPN can be used to deal with unacceptable behaviours however a Community Protection Warning must be issued first. Breach of a CPN is a criminal offence and can result in either a fixed penalty or prosecution.

#### Police powers

	Power	When can the power be applied?
1.	<b>Power of the Police to direct unauthorised campers to leave land</b>	<p>Should trespassers refuse to adhere to a request to leave the land, <b>sections 61- 62 of Criminal Justice and Public Order Act 1994</b> gives the police discretionary powers to direct trespassers to leave and remove any property or vehicles they have with them. The power applies where the senior police officer reasonably believes that two or more people are trespassing on land with the purpose of residing there, that the occupier has taken reasonable steps to ask them to leave, and any of the following:</p> <p>a) that any of the trespassers have caused damage to land or property;</p> <p>b) that any of the trespassers have used threatening, abusive or insulting words or behaviour towards the occupier, a member of the occupier's family or an employee or agent of the occupier; or</p> <p>c) that the trespassers have between them six or more vehicles on the land.</p> <p>Failure to comply with the direction by leaving the land as soon as reasonably practicable is an offence. Similarly, it is an offence for a trespasser who has left the land in compliance with an order to re-enter it as a trespasser within three months of the direction being given.</p> <p>Section 62A can only be used where short stay provision is available in the local authority. The site must be in the same local authority area as the land on which the persons are trespassing, unless that local authority is in an area covered by a two-tier local authority system, for which the upper tier is a county council, when it may be within any local authority in that county council area.</p>
2.	<b>Police Powers to direct trespassers to an alternative site</b>	Police have powers under <b>sections 62 A-E of Criminal Justice and Public Order Act 1994</b> to direct both trespassers and travellers to leave land and remove any vehicle and property from the land where there is a suitable pitch available on a caravan site elsewhere in the local authority area.



	Power	When can the power be applied?
3.	<b>Offence of squatting in a residential building</b>	<p>The offence of squatting in a residential building, which came into force on 1 September 2012, was created by section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The offence is committed where a person is in any residential building as a trespasser, having entered as a trespasser, knows or ought to know he or she is a trespasser, and is living in the building or intends to live there for any period.</p> <p>Although the new offence does not cover squatting in non-residential buildings or on land, squatters who have broken into those premises, removed items or caused damage might be guilty of other offences such as criminal damage or burglary and should be reported to the police.</p>

## Post site clean-up powers

	Power	When can the power be applied?
1.	<b>To act in respect of Fly-tipping</b>	<p>Fly-tipping is the illegal deposit of waste on land that does not benefit from an appropriate environmental permit contrary to <b>section 33 of the Environmental Protection Act 1990</b> and local authorities and the Environment Agency may prosecute for the offence. There is an associated offence relating to the unlawful deposit of waste from a motor vehicle whereby the person who controls or is in a position to control the vehicle shall be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.</p> <p>Prosecution may be taken by the local authority or in more serious cases by the Environment Agency where there is evidence that a person either deposited the waste or knowingly caused or permitted the deposit.</p>
2.	<b>Removal of waste from land</b>	<p>Local authorities are under an obligation to remove fly-tipped waste from public land, but on private land it is the responsibility of the landowner to remove the waste and dispose of it legally. Landowners are therefore often the victims of fly-tipping. Local authorities should advise landowners what local facilities are available to enable them to clear fly-tipped waste. <b>Section 59 of the Environmental Protection Act 1990</b> allows local authorities and the Environment Agency to require owners or occupiers of land to remove waste they <i>knowingly</i> caused or permitted to be deposited illegally. If the waste is not removed, the local authority or the Environment Agency can enter onto the land to clean up the waste and can charge the landowner the costs incurred.</p> <p>This power is effective where a person is still in occupation of land or where a landowner has refused to take steps to prevent fly-tipping or has allowed fly-tipping to occur (in most cases the landowner is the victim). However, it cannot be used against the offender unless they are the occupier or landowner or where there is doubt whether the deposit is an illegal deposit.</p>
3.	<b>Power to remove any thing abandoned without lawful authority</b>	<p>Section 6 of the <b>Refuse Disposal (Amenity) Act 1978</b> provides a general power for local authorities to remove “anything in their area, other than a motor vehicle, [which] is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway”, provided that they have given notice to the occupier of the land and they have not objected, in accordance with the Removal of Refuse Regulations 1967. The local authority may be entitled to recover the costs of removal from the person who deposited the articles.</p>

	Power	When can the power be applied?
4.	<b>Harm to public health</b>	<p>Local authorities have certain duties and powers to control “statutory nuisances” pursuant to <b>sections 79 to 81 of the Environmental Protection Act 1990</b> (as amended). Various matters constitute “statutory nuisances” under this legislation. These include any premises and land that are in such a state as to be prejudicial to health or a nuisance. Something will be ‘prejudicial to health’ if it is ‘injurious or likely to cause injury to health.’ A ‘nuisance’ is unacceptable interference with the personal comfort or amenity of the nearby community.</p> <p>The statute requires local authorities to inspect their areas for statutory nuisances and to take such steps as are reasonably practicable to investigate complaints of statutory nuisance made by residents in their areas. A local authority has a duty to serve an abatement notice if it is satisfied that a statutory nuisance exists, or is likely to occur or recur. The abatement notice should generally be served on the person responsible for the statutory nuisance but can be served on the owner of the land if the person responsible (e.g. a tenant or leaseholder) cannot be found or if the nuisance has not yet occurred or recurred. If the abatement notice is not complied with, the local authority has the power to take further steps to deal with the nuisance (but it not obliged to take these steps). A local authority may abate the nuisance itself. In doing so the local authority may do whatever may be necessary in execution of the notice and may be able to recover expenses from the landowner, if necessary through a charge on the land.</p> <p>A local authority also has the power to take criminal proceedings against a person who fails to comply with an abatement notice if it considers that doing so is in the interests of the inhabitants in its area. If the local authority considers that the criminal procedure is inadequate (e.g. in an emergency) it has a power to seek an injunction in the High Court to deal with the statutory nuisance.</p> <p>Overall this power is effective in tackling statutory nuisance issues that may arise from illegal occupation (e.g., noise, smells, accumulation of material, fumes, dark smoke). The statutory nuisance regime cannot be used to require people who are responsible for a statutory nuisance to move from a site, even if they are occupying the site illegally.</p>
5.	<b>Clearing of land</b>	<p>The scope of works under section 215 of the Town and Country Planning Act 1990 enables a local authority to make good the loss of public amenity. If it appears that the amenity of an area is being adversely affected by the condition of neighbouring land and buildings these powers allow local authorities to serve a notice on the owner requiring that the situation be remedied.</p>

	Power	When can the power be applied?
6.	<b>Power to deal with accumulations of rubbish in the open air</b>	<p>The Public Health Act 1961 gives local authorities powers to deal with accumulations of rubbish in the open air. In particular, section 34 of the Public Health Act creates a power for local authorities to remove rubbish on land in the open air following appropriate notice to the land owner which is seriously detrimental to the amenity of the neighbourhood. For the power to be exercised a number of conditions must be met:</p> <ol style="list-style-type: none"> <li>1. There must be rubbish. "Rubbish" is defined to mean "rubble, waste paper, crockery and metal, and any other kind of refuse (including organic matter)", however "any material accumulated for, or in the course of, any business" will not fall under this definition.</li> <li>2. The rubbish must be on "land in the open air" in the local authority's area.</li> <li>3. The presence of the rubbish must be "seriously detrimental to the amenities of the neighbourhood."</li> <li>4. The local authority must have given 28 days prior notice to the owner and occupier of the land requiring the removal of the specified rubbish.</li> <li>5. The recipient of a notice has the right to serve a counter-notice stating that they will remove the rubbish themselves. If a counter-notice is served the local authority must not remove the rubbish unless the person who served the counter-notice fails to take or complete the steps in the counter-notice within a reasonable time.</li> <li>6. The recipient of a notice may appeal to the magistrates' court on the grounds that the authority should not take action under section 34 (for example, if they allege the rubbish is not seriously detrimental to the amenity of the neighbourhood) or the steps proposed in the notice are unreasonable. If an appeal is brought against the notice, the local authority must not remove the rubbish unless and until the appeal is finally determined its favour or withdrawn.</li> </ol> <p>This power could be used to deal with the accumulation of rubbish on land resulting from illegal occupation.</p> <p>This power does not extend to removing "material accumulated, for or in the course of, any business." Therefore, where illegal occupants are carrying on a business careful consideration will need to be given to whether the items the local authority wishes to remove fall under this exclusion.</p>

	Power	When can the power be applied?
		This power could not be used to evict the occupants from the unauthorised encampment.
7.	<b>Power to seize a vehicle</b>	<p><b>Power to seize a vehicle</b></p> <p>From 6th April 2015 where a vehicle is suspected of being involved in the commission of an offence relating to the illegal deposit of waste or other waste offences (e.g. breach of duty of care; carrying controlled waste while unauthorised to do; operating an illegal waste site), a local authority or the Environment Agency or Natural Resources Wales may instantly seize a vehicle and its contents in accordance with the provisions of 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.</p> <p>This power can be used where a vehicle is suspected of having been involved in the commission of an offence but there is insufficient information concerning who committed the offence. It can also be used to 'flush out' owners where it is unclear who is the registered keeper and to disrupt and prevent illegal waste activities, reducing the impact of waste crime on the environment.</p>

# Appendix 3 - Welfare enquiries and site assessments

## Introduction

1. Before deciding whether to tolerate or evict an unauthorised encampment, local authorities have a legal duty to consider the welfare needs of the occupants.
2. If a local authority fails to fully consider the welfare needs of the occupants, the decision it makes about the encampment- such as to evict. Can, be challenged by judicial review on the grounds that it has been reached improperly.
3. A local authority cannot circumvent these requirements. This is because local authorities may have legal responsibilities towards occupants of unauthorised encampments under Children's Act, Care Act, education, homelessness, human rights or other relevant legislation.
4. A form of welfare enquiry is necessary to identify whether needs exist which might trigger these duties or necessitate the involvement of statutory services to help resolve issues.
5. The duty to make welfare enquiries is usually discharged by carrying out a site assessment and a series of checks. Norfolk and Suffolk authorities have developed a list of questions to be asked as part of a site assessment, to inform a robust and consistent approach to discharging this duty.

## Case law

6. Generally speaking, case law indicates the following:
  - Local authorities must be able to demonstrate that they have taken into consideration any welfare needs of members of unauthorised encampments prior to taking action to evict
  - The onus of making welfare enquiries appears to be greater when using Criminal Justice and Public Order Act 1994 s77, where the use of the section can result in criminal sanctions, than when using landowners' civil powers against trespass. Local authorities should, however, make thorough welfare enquiries whatever powers they intend to use.
  - Authorities should liaise with other local authorities; health and welfare services who might have responsibilities towards the families of unauthorised encampments.



## Appendix 4

### Case Conference Guidance/Pro forma

#### Introduction

Whether for a case conference or when deciding whether to take immediate action to remove an encampment the following information should be considered as part of that decision-making process.

#### Checklist

##### 1. Group profile and history

When did the group first arrive?	
How many living How many living units (i.e. caravans, motor-homes) are on site? (i.e. caravans, motor-homes) are on site?	
Roughly how many other vehicles are present?	
What was the location of the group (if known) prior to this encampment?	
Is the group known to the Lead Authority, or to other agencies represented?  - if yes, to what extent has it respected verbal or written agreements at previous encampments?	
Has the group previously been subject to eviction?  - if yes, please give details	
How long has the group indicated it wishes to stay?	

##### 2. Site details

<b>Who owns the land? (Where there is multiple ownership, please list ALL landowners)</b>	
<b>What services (if any) are available on site? (ie water supply, toilets etc)</b>	
<b>Are rights of way affected by the encampment?</b> - if yes, in what way?	
<b>Are accesses to or from nearby properties or amenities obstructed by the encampment?</b> - if yes please explain - in what ways (if any) could this be remedied without forcibly moving the group?	
<b>Is operational use of the land obstructed by the encampment?</b> - if yes please explain	
<b>Has the site been occupied by Gypsies or Travellers in the preceding year?</b>	
<b>Is the encampment on or near to a nature reserve, SSSI, or other environmentally sensitive area?</b> - if yes please give details - in what ways (if any) could damage be prevented without forcibly moving the group?	

### 3. Health and Safety

<b>Is there an increased risk of road accidents from traffic entering and leaving the site?</b> - if yes, please explain - if yes, in what ways (if any) could this be remedied?	
<b>How far from the road are the living units situated?</b> - does this present hazards to the group or motorists through children or animals getting onto the road?	

<p><b>Are there waterways, railway tracks, buildings, disused wells, or other features that could endanger members of the encampment or their animals?</b></p> <p>- <i>if yes, could these reasonably be made safe?</i></p>	
<p><b>Are there materials or substances on site that could endanger members of the encampment or their animals?</b></p> <p>- <i>if yes, could these be economically removed?</i></p>	
<p><b>Are trade activities being conducted by members of the encampment?</b></p> <p>- <i>if yes, please specify</i></p>	
<p><b>Are open fires being lit?</b></p> <p>- <i>if yes, are they kept under control?</i></p> <p>- <i>if yes, is there evidence of noxious substances being burned?</i></p>	
<p><b>Are caravans spaced sufficiently to prevent fire spreading from one vehicle to another?</b></p> <p>- <i>if no, is there room to move them further apart</i></p> <p>- <i>if no, what is the maximum number of vehicles that could remain on site to minimise such a risk?</i></p>	
<p><b>Are there animals on site?</b></p> <p>- <i>if yes, please give types and rough numbers</i></p> <p>- <i>if yes, how are they being kept under control?</i></p>	

#### 4. Waste and sanitation

<p><b>Are arrangements in place for the disposal of waste?</b></p> <p>- <i>if yes, please specify</i></p> <p>- <i>if yes, are these arrangements effective?</i></p>	
<p><b>What toilet arrangements are in place?</b></p> <p>- <i>are these satisfactory?</i></p>	

- <i>if no, how could these be improved?</i>	
<b>Is there evidence of domestic, human or trade, waste spreading beyond the encampment?</b> - <i>has the Environment Agency been notified?</i> - <i>what other steps have been taken to deal with it?</i>	

## 5. Neighbourhood relations

<b>How far is the encampment from the nearest residence or business?</b> - in what ways (if any) does this affect them?	
<b>Is the encampment separated from other properties by a road or other boundary?</b> - <i>if yes, please specify</i>	
<b>Has the encampment prevented members of the settled community from using amenities? If yes:</b> - are these public amenities? - could use of amenities be restored without eviction?	
<b>Has the Code of Conduct (see section 4) been issued and explained to the group?</b>	
<b>Has criminal and/or antisocial behaviour been witnessed against or by members of the encampment? If yes:</b> - <i>what specific incidents have been reported?</i> - <i>who have they been reported to?</i> - <i>are these reported incidents verifiable?</i>	
<b>what are the views and proposed actions of the Police?</b>	

## 6. Welfare and education

<p><b>Are there medical concerns with any members of the group? If yes:</b></p> <ul style="list-style-type: none"> <li>- <i>please give details</i></li> <li>- <i>would a forced move put individuals at risk?</i></li> <li>- <i>what help has the group been offered to access services?</i></li> </ul>	
<p><b>Are there vulnerable members of the group? If yes:</b></p> <ul style="list-style-type: none"> <li>- <i>please give details</i></li> <li>- <i>would a forced move put individuals at risk?</i></li> <li>- <i>what help has the group been offered to access services?</i></li> </ul>	
<p><b>Are there members of the group, who are pregnant? If yes:</b></p> <ul style="list-style-type: none"> <li>- <i>please give details</i></li> <li>- <i>what help has the group been offered help to access services?</i></li> <li>- <i>in what ways (if any) would a forced move put any of the above individuals at risk?</i></li> </ul>	
<p><b>Are there children on site? If yes:</b></p> <ul style="list-style-type: none"> <li>- <i>approximately how many?</i></li> <li>- <i>what is the age range?</i></li> <li>- <i>would a forced move result in children missing out on education?</i></li> </ul>	
<p><b>Has the Traveller Education Service been notified?</b></p> <ul style="list-style-type: none"> <li>- <i>if yes, what are their views, or proposed actions?</i></li> </ul>	
<p><b>Are there any other areas of concern for members of the encampment?</b></p> <ul style="list-style-type: none"> <li>- <i>if yes, please explain</i></li> </ul>	
<p><b>Are there concerns for the welfare of animals on the site?</b></p> <ul style="list-style-type: none"> <li>- <i>if yes, what action has been taken to address these?</i></li> </ul>	

## 7. Accommodation

<b>Do members of the encampment have access to accommodation elsewhere?</b>  - <i>if yes, please give details</i>  - <i>if yes, does the group intend to return there?</i>	
<b>Are there places on authorised or tolerated sites available to the group?</b>	
<b>Do members of the encampment wish to apply for places on authorised sites?</b>  - <i>If yes, what advice or support has been offered to them?</i>	
<b>Are any members of the group currently on a housing waiting list?</b>  <b>If yes:</b>  - <i>in which area?</i>  - <i>when are they likely to be made an offer?</i>  - <i>what advice or assistance has been offered or given?</i>  - <i>could the encampment be tolerated until they are offered housing?</i>	

## Considerations to be taken into account when deciding whether to tolerate or evict

Following consideration of the case conference checklist, Part 2 of the meeting aims to reach a decision according to the information available about whether to tolerate or evict.

It is therefore open only to officers of the authorities involved, and all other parties are requested to leave to ensure an impartial decision is reached.

### 1. Considerations

After taking into account the information contained in the checklist above, and information arising from the welfare enquiries and site assessment, is there an urgent need to evict?	
What would be the likely outcome of a forced move for the Gypsy/Traveller group?	
What would be the likely outcome for the settled community if the group were not forced to move?	
Does the balancing of the needs and rights of the settled and travelling communities suggest a need to tolerate the encampment, or seek action to remove it?	
After taking into account the information contained in the checklist above, would eviction be proportionate in terms of the European Court of Human Rights regulations?	
Are the group likely to agree to any conditions?  What is the evidence to suggest this?	
<p>If toleration is proposed:</p> <ul style="list-style-type: none"> <li>- <i>what conditions should be placed on members of the encampment?</i></li> <li>- <i>what would be an acceptable toleration period?</i></li> <li>- <i>what services (if any) should be provided, and by whom?</i></li> <li>- <i>when should a meeting be set to review progress?</i></li> </ul>	



<b>If toleration is not proposed, what powers will be used to effect possession of the land:</b>	
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## 2. Human Rights and Equality Act 2010

<b>With reference to Article 1 of the Declaration of the Human Rights Act 1998</b>	
<b><i>Would eviction constitute interference with the right to respect for private and family life of group members?</i></b>  - <i>If yes, in which way/s?</i>	
<b><i>Would non-eviction deny the settled community of the right to respect for its members' private and family life?</i></b>  - <i>If yes, in which way/s?</i>	

<b>With reference to Article 14 of the Declaration of the Human Rights Act 1998 and the Equality Act 2010</b>	
<b><i>Is there evidence that eviction is being pursued on the grounds of the travelling community's ethnic or social origin status?</i></b>  - <i>If yes, please explain</i>	
<b><i>Is there any evidence that the settled community has been subjected to discriminatory behaviour by the travelling community?</i></b>  - <i>If yes, please explain</i>	
<b><i>Is there any evidence that eviction would have the effect of discriminating against a group member because of a protected characteristic, as defined by the Equality Act 2010?</i></b>	

<b>Has due regard been given to the Public-Sector Equality Duty under the Equality Act 2010?</b>	
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<b>With reference to Article 1 of the First Protocol of the Human Rights Act 1998</b>	
<b><i>Would eviction deny members of the travelling community peaceful enjoyment of their possessions?</i></b>  - <i>If yes, in which way/s?</i>	
<b><i>Would non-eviction deny members of the settled community peaceful enjoyment of their possessions?</i></b>  - <i>If yes, in which way/s?</i>	

<b>With reference to Article 2 of the First Protocol of the Human Rights Act 1998</b>	
<b><i>Would eviction deny the travelling community's children access to their right to education?</i></b>  - <i>If yes, in which way/s?</i>	

### **3. Recommendations and proposed actions, with timescale**

<b>Recommendation</b>	<b>Officer/organisation</b>	<b>Timescale</b>

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**Decision agreed by:**

I the undersigned am signing to confirm that I am in agreement with the decisions outlined in sections 9 and 10 of this document.		
<b>Name</b>	<b>Date</b>	<b>Signature</b>

## Appendix 5

### Contact Information

When finalised, this section will set out names and contact details of lead officers for each local authority in Norfolk and Suffolk.




If you need this document in large print, audio, Braille, alternative format or in a different language please contact Beverley Herron on 0344 800 8020.