



## CABINET REPORT

<b>Report Title</b>	<b>DELEGATION OF ENFORCEMENT POWERS</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	22 May 2019
<b>Key Decision:</b>	No
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	No
<b>Service Area:</b>	Customers and Communities
<b>Accountable Cabinet Member:</b>	Cllr Anna King
<b>Ward(s)</b>	All

### 1. Purpose

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- 1.1 To confirm that the existing arrangements for the Countywide Traveller Unit to deal with Gypsy and Traveller issues on behalf of Northampton Borough Council will continue until the 31 March 2020.
- 1.2 To ask Cabinet to enter into an arrangement with Northamptonshire County Council for it to take action to deal with unauthorised encampments under sections 77 and 78 of the Criminal Justice and Public Order Act 1994 and Part 55 of the County Court Procedure Rules, in relation to land under within Northampton Borough Council's area.

### 2. Recommendations

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- 2.1 That Cabinet agrees that Northampton Borough Council enter into an arrangement with Northamptonshire County Council to discharge the powers under sections 77 and 78 of the Criminal Justice and Public Order Act 1994 and Part 55 of the County Court Procedure Rules, in relation to unauthorised occupation of land within Northampton Borough Council's area and for it to arrange for delegation of those powers to specified officers of the County Council.



### **3. Issues and Choices**

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#### **3.1 Report Background**

- 3.1.1 The Countywide Traveller Unit is a single body that manages Gypsy and Traveller related issues on behalf of six of the seven district and borough councils within Northamptonshire and the county council.
- 3.1.2 The staff of the unit use the legal powers under section 77 and 78 of the Criminal Justice and Public Order Act 1994 and Part 55 of the County Court Procedure Rules, to take action in relation to unauthorised encampments on land which is within those authorities' areas. The details of the arrangements are outlined in the Countywide Traveller Unit Compact and associated appendices.
- 3.1.3 The most recent agreement in relation to the Unit is now at an end and the member authorities wish to continue those arrangements. Following a recent review of the governance arrangements of the unit it has been highlighted that there is a lack of clarity in the previous agreement in relation to the formal delegation of these legal powers to the unit.
- 3.1.4 The staff in the unit who currently carry out these duties are employees of Northamptonshire County Council.

#### **3.2 Issues**

- 3.2.1 The countywide traveller unit has been dealing with Gypsy and Traveller issues for over fifteen years. Over this time efficient processes have been developed. These processes ensure that unauthorised encampments are dealt with in an effective manner, ensuring the appropriate safeguards are in place in relation to the welfare of those concerned.
- 3.2.2 It is important that appropriate arrangements are in place to ensure that the officers from the unit are properly authorised to use the legal powers to deal with unauthorised encampments on land which is within the area of Northampton Borough Council. Failure to ensure this could result in legal challenge to any action taken.
- 3.2.3 Since the powers in sections 77 and 78 and County Court Procedure Rules Part 55 are Executive functions, any arrangements for another authority to exercise those functions must be made between this Council's Executive and the Executive of that other authority. Once those arrangements have been made the other authority may delegate those functions to its officers. Any arrangements made with the County Council should ensure that they agree to delegate those powers accordingly.

#### **3.3 Choices (Options)**

- 3.3.1 Cabinet could choose to approve the recommendation of the report and enter into the suggested arrangement with Northamptonshire County Council. This would regularise the arrangements which have been in place to allow the Countywide Traveller Unit to act on behalf of Northampton Borough Council.
- 3.3.2 Cabinet could choose not to approve the recommendation but to continue with the current arrangement for the operation of the countywide traveller unit. This would risk legal challenge to action taken by the officers from the unit.

- 3.3.3 Cabinet could choose not to approve the recommendation of the report and to leave the countywide traveller unit arrangement and undertake work to deal with issues relating to Gypsies and Travellers in house. There is currently no allocated resource to carry out this work and the cost of doing so is estimated to be at least twice the annual contribution made by the council towards the operation of the countywide traveller unit.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 No specific policy implications. The proposal is to extend and formalise current operating procedures.

### **4.2 Resources and Risk**

- 4.2.1 Subject to the recommendation of the report, there will be a need for officer time in the preparation of the necessary documentation which will be accommodated within existing budgets.
- 4.2.2 If the recommendation is not accepted there is a risk of legal challenge which could have significant financial implications.
- 4.2.3 If the service was to be taken in house the likely cost of delivery would be approximately £100,000.00. There is no budget for this expenditure.
- 4.2.4 Northampton Borough Council's current contribution to the cost of the countywide unit is £35,245. It is proposed that this cost will remain constant for the year 2019/20.

### **4.3 Legal**

- 4.3.1 The legal implications of the recommended course of action are largely set out in the body of this report. Only the Executives of each authority may enter into the necessary arrangements in relation to discharge of the functions concerned. It is important that any arrangements are made in writing and include an assurance from the County Council's Executive that they will delegate the powers concerned to their relevant officers.
- 4.3.2 To ensure that this Council's position is protected it is also suggested that the arrangements state that:
- 4.3.2.1 this Council can cancel the arrangements with immediate effect at any time by giving three month's notice to the County Council; and,
- 4.3.2.2 notwithstanding the arrangements, this Council may, if it chooses, exercise those powers itself on any occasion on which it considers it appropriate to do so.

## **4.4 Equality and Health**

The mission statement of the countywide traveller unit is to work to provide for Travellers and settled communities across the county, a multi-agency approach to support and enforcement that fosters good relations and in which the rights and responsibilities of all the communities are respected. The aim of this report is to ensure the continued effective operation of this arrangement.

## **4.5 Consultees (Internal and External)**

- 4.5.1 Legal services
- 4.5.2 Finance
- 4.5.3 Countywide Traveller Unit.

## **4.6 How the Proposals deliver Priority Outcomes**

- 4.6.1 The continuation of the arrangement for the provision of services by the countywide traveller unit contributes to the provision of exceptional services to be proud of in accordance with the priorities of the corporate plan.

## **4.7 Other Implications**

- 4.7.1 There are none.

## **5. Background Papers**

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- 5.1 Previous countywide traveller unit documents available at:  
<https://www3.northamptonshire.gov.uk/councilservices/environment-and-planning/gypsies-and-travellers/Pages/about-the-countywide-traveller-unit.aspx>

## **6. Next Steps**

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- 6.1 If the report is approved officers will make the necessary arrangements to authorise the relevant staff to exercise these functions.

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