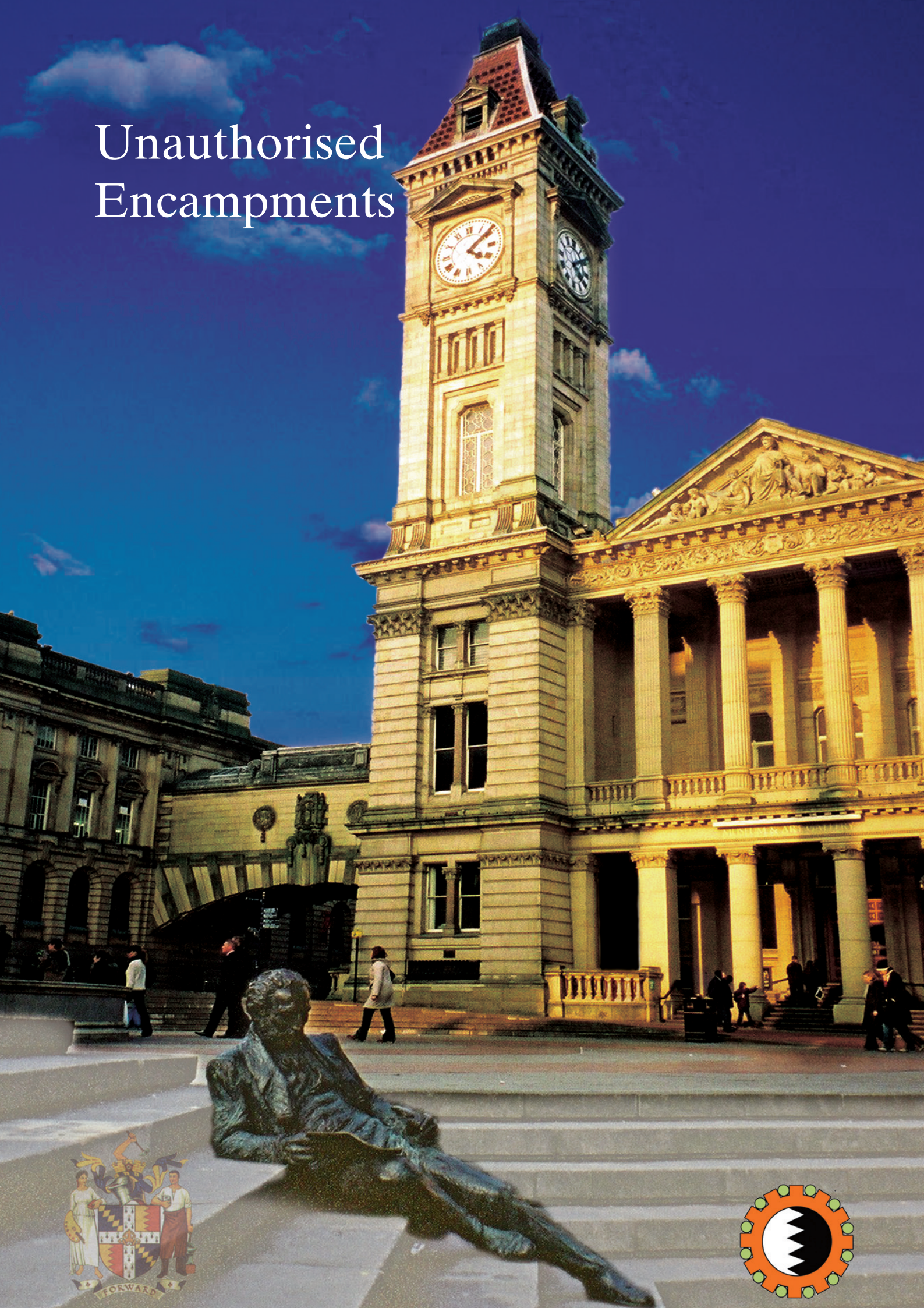


Unauthorised Encampments





Unauthorised Encampments

6 April 2004

Report of the Street Services Overview and
Scrutiny Committee

Unauthorised Encampments

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Unauthorised Encampments

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Preface

Councillor John Lines

Chairman, Street Services Overview and Scrutiny Committee



In undertaking a Scrutiny review of the issue of unauthorised encampments, my fellow members and I were conscious that we were looking at a sensitive and highly emotive issue for residents of the city. As Councillors we are only too aware of the difficulties that unauthorised encampments pose to residents.

We were keenly aware that illegal and unauthorised encampments do result from differences in the way of life of the settled and travelling communities. However, in resolving these differences we did feel that the City Council must take its obligations to the people of the city seriously. In working with the Police to do so, it is important that the agreed processes are updated.

One of the key aspects for the members of the review group was the working of the City Council's authorised transit site at Tameside Drive. This site exists to remove the need for unauthorised encampments. My colleagues on the review group were pleased to see that, following a discussion of our concerns, the Housing Department initiated action to improve the operation of this site during the course of this review. We look forward to their action leading to reduced numbers of unauthorised encampments.

Through our recommendations, we felt it was important to acknowledge the approach already being taken to deal with this issue, and through this, support the Executive in taking forward the issues on behalf of the citizens of Birmingham.

A handwritten signature in black ink, appearing to read 'John Lines'.



Unauthorised Encampments

1: Summary

- 1.1.1 Members of the Street Services Overview and Scrutiny Committee identified an issue of concern to their constituents, in terms of the way the City Council deals with the issue of unauthorised encampments.
- 1.1.2 Members have examined the Joint Policy for Managing Unauthorised Traveller Encampments between the City Council and West Midlands Police and the degree of co-operation and liaison that exists as a consequence. Members have also had the opportunity to discuss with representatives from other Council departments, particularly Economic Development and Leisure and Culture the cost of dealing with unauthorised encampments and the vulnerability of Council land to such encampments.
- 1.1.3 Visits have been made to other Midlands authorities (Wolverhampton City Council and Tamworth Borough Council) to assess what methods are used for the removal of unauthorised encampments and to consider whether lessons could be learnt in the treatment of unauthorised encampments by the City Council.
- 1.1.4 Members have heard from a representative of the Council's Housing Department as to the difficulties presently existing at the Birmingham City Council site at Tameside Drive, Castle Vale and the measures that are being taken to improve the situation.
- 1.1.5 Members have heard from a representative of the West Midlands Police, particularly in relation to the use of Police powers as the ultimate sanction to remove unauthorised encampments. Both the police and the Council representatives dealing with unauthorised encampments on a regular basis indicated to members the overlap with human rights legislation and the need to proportion any action in light of health and social concerns.
- 1.1.6 Having examined the issue in some detail, members have put forward a number of recommendations for improving how the City Council handles this issue in conjunction with the Police.



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2: Summary of Recommendations

	Recommendation	Responsibility	Completion Date
R1	<p>The findings of this review should be incorporated into the annual review of the Joint Policy / Protocol between the City Council and West Midlands Police.</p> <p>This review must encompass</p> <ul style="list-style-type: none"> • The effectiveness of the process and communication within the Police; and • The clear need in specified circumstances where there is concern of serious damage, public disorder or serious fear of crime for the Police to apply their statutory powers that exist under sections 61 and 62 of the Criminal Justice and Public Order Act 1994. 	Cabinet Member for Transportation and Street Services	31 May 2004
R2	<p>Constituency Committees should consider establishing a rolling programme of identifying priorities for investment in measures to secure Council-owned land at risk of unauthorised incursion. This programme should be</p> <ul style="list-style-type: none"> • Subject to approval of works by the relevant Constituency Committees; • Informed by a professional assessment by Regulatory Services of the likelihood of incursion, but with such schemes to be managed within the constituency. 	Cabinet Member for Transportation and Street Services	30 September 2004
R3	<p>There must be an evaluation of the impact on unauthorised encampments of the changes made with regard to the management of the authorised transit site at Tameside Drive, Kingsbury.</p>	Cabinet Member for Transportation and Street Services	30 September 2004
R4	<p>Consideration is given to involving an external organisation to manage the existing transit site at Tameside Drive. Such consideration should be from a viewpoint of the City Council acting in a landlord capacity.</p>	Cabinet Member for Housing	30 September 2004



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R5	<p>Further investment in the Tameside Drive site should be subjected to a financial appraisal.</p> <p>Investment should only be undertaken where such an appraisal indicates that the investment will lead to the City Council recovering its capital investment costs through site fees and a reduction in the cost of dealing with unauthorised encampments over a reasonable financial period (such as ten years).</p>	Cabinet Member for Housing	30 September 2004
R6	<p>Progress towards achievement of these recommendations should be reported to the Street Services Overview and Scrutiny Committee before 31 October 2004.</p> <p>Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.</p>	Cabinet Member for Transportation and Street Services	31 October 2004



Unauthorised Encampments

3: Introduction

3.1 Background to the Review

- 3.1.1 Unauthorised encampments over the years have caused numerous problems throughout the environs of the city. Members have heard specifically from Economic Development and Leisure and Culture Services as to the cost of such encampments and the action taken to secure Council owned land. In order to maintain a co-ordinated approach the Housing Department ensures that Regulatory Services are kept informed of actions taken in respect of the City Council-run Travellers' Site.
- 3.1.2 The primary emphasis of this review was to examine how the City Council deals with unauthorised encampments – i.e. incursions onto land without the permission of the landowner. Authorised encampments also exist – sites where Travellers may camp legally, subject to payment of rent to the site owner.
- 3.1.3 Members voiced their concerns with the way that the City Council-run Travellers' site has been managed. In response to this, during the course of this review the Housing Department has taken action to address the problems with the way that the site was operated.

3.2 Terms Of Reference / Project Plan

- 3.2.1 This review was initiated because members have identified the issue of unauthorised encampments as one of concern to their constituents, particularly in terms of how the Council deals with the issue.
- 3.2.2 The Street Services Overview and Scrutiny Committee approved the following objectives and terms of reference for this review:
- Understand the nature of the issue.
 - What problems do the encampments cause?
 - What is the root cause of these problems?
 - How many encampments does the Council deal with?
 - How does the Council deal with the issue?



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- What action does the Council take?
- Why is this approach used?
- How effective is this approach?
- How much does this cost the Council?
- Critically evaluate what further action the Council can take, including what the consequences of actions would be.

3.2.3 The review was conducted between October 2003 and January 2004 by a review group of members from the Street Services Overview and Scrutiny Committee. This comprised Councillors John Lines (Chairman and Lead Member), Les Byron, George Harper and Keith Linnecor. A synopsis of the review group meetings is shown in **Appendix 1**.

3.3 Background Documents

3.3.1 In the course of this review, a number of background documents were highlighted as relevant, both through provision by officers and research of the issue. These were as follows:

- Managing Unauthorised Traveller Encampments: West Midlands Police and Birmingham City Council – A Joint Policy.
- Birmingham City Council – briefing note 12th August 2003. Services provided by the Regulation Division in respect of unauthorised Traveller encampments.



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4: The Nature of the Problem

4.1 The Issue in Birmingham

4.1.1 There were 160 illegal encampments reported between 01 April 2002 and 21 October 2003. The following are examples of the number of incursions in particular wards:

- 36 in the Nechells Ward;
- 25 in the Aston Ward; and
- One incursion each in Moseley and Sutton New Hall.

A listing of encampments by ward is shown in **Appendix 2**.

4.2 Authorised Encampments

4.2.1 Whilst there is in theory no issue with authorised encampments (provided of course that the conditions of using the site are adhered to by those using the sites), it is not possible to look at the issue of unauthorised encampments without considering this area.

4.2.2 There are two authorised sites within Birmingham:

- Dartmouth Circus, Aston: A private site; and
- Tameside Drive, Kingsbury: A public transit site operated by the City Council.

4.2.3 The Government sees such sites as a fundamental part of dealing with the problems caused by unauthorised encampments: if there is adequate provision of well-managed authorised sites, then there is less reason for unauthorised sites to occur. The approach encouraged is one of mutual tolerance and respect between the travelling and settled communities.

4.2.4 This approach is also a key part of the powers to be given to the Police in the new anti-social behaviour legislation. These powers enable the Police to direct Travellers in an unauthorised encampment to vacant places on local transit sites. More detail on this is given in **Appendix 3**.



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- 4.2.5 The Government encourages local authorities to work with Travellers' groups such as the National Gypsy Council in operating such sites. This was also found to be the case with the official site in Wolverhampton.

4.3 The Cost of Dealing with Authorised and Unauthorised Encampments

- 4.3.1 In the course of this review, the cost to the City Council of dealing with both authorised and unauthorised encampments has been examined. This is a complicated area, due to
- The ephemeral nature of their incidence and
 - The fact that this results in a number of officers dealing with the issues, for short periods of time, but as a minor, rather than a substantial part of their duties.
- 4.3.2 As an example, even in the case of the Environmental Protection team who interact with Travellers probably the most of all areas of the Council, the amount of officer time equates to a total of one half of a full time post per year.
- 4.3.3 There are four key areas in which costs are incurred:
- Providing services and assessing the needs of Travellers (such as educational needs and social care);
 - Dealing with the problems caused by unauthorised encampments (such as the costs of repossessing the land and cleaning afterwards);
 - Operating authorised sites;
 - Preventative measures to stop unauthorised encampments and incursions.
- 4.3.4 In terms of provision of services and assessing the needs of Travellers, this is principally through delivering the Council's obligations towards ensuring that children are educated. This is dealt with by a contribution to the West Midlands Education Consortium for Traveller Children, with an additional grant provided by the Department for Education and Skills (DfES).
- 4.3.5 There are no identifiable costs through Social Care and Health. The involvement of area teams tends to be on an individual case basis, where the case is referred to the Council, and would therefore be included within the general operational costs of dealing with care of children. Such cases are considered to be rare.



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- 4.3.6 The specific costs of dealing with unauthorised encampments are split into three main areas:
- Regulatory Services: Officers visiting the sites and dealing with serving eviction notices (estimated at approximately £15k per annum);
 - Legal Services: Solicitor costs, court and Sheriff's fees (comprising £37.3k from December 1998 to December 2003);
 - Land-Ownning Departments: The cost of cleaning the land afterwards.
- 4.3.7 In many cases it is difficult to distinguish the cost of specifically cleaning up following unauthorised encampments from the cost of other instances of fly-tipping. Leisure Services (Parks) are the main land-owning department affected and they have estimated their costs in this respect for 2002/3, with an average cost of approximately £ 2,570 per incursion.
- 4.3.8 In terms of operating the official site at Tameside Drive, there are no specific costs identified. Residents of the site pay rent and this provides revenue towards the cost of operating the site.
- 4.3.9 The most significant area of expenditure identified by departments in relation to unauthorised encampments was that of measures to prevent or reduce the risk of an unauthorised incursion onto land. These include height-restricting gantries, earthworks and fencing. Leisure Services (Parks) estimated that £1.2m was spent in this respect in 2002/3. A summary of the costs identified by Leisure Services is shown as an example in **Appendix 4**.
- 4.3.10 These measures are identified as one of the reasons that parks in particular have been able to reduce the number of incursions from the numbers experienced in the 1980s. Highways also noted that as a result of preventative measures taken at a number of repeatedly affected locations. There have been no unauthorised encampments since 2001.
- 4.3.11 It is important to put such expenditure clearly in perspective. The cost of measures that prevent Travellers accessing a location are mostly not exclusively for that purpose. Such measures prevent other defined anti-social behaviour, such as abandonment of vehicles, fly-tipping and unauthorised entry to land. To attribute such measures to exclusively dealing with unauthorised encampments would be misleading.



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4.4 City Council Policy

- 4.4.1 The City Council has an agreed protocol with West Midlands Police for how unauthorised encampments will be managed. A similar approach is in place in Wolverhampton. This is detailed in *Managing Unauthorised Traveller Encampments: West Midlands Police And Birmingham City Council – A Joint Policy*.
- 4.4.2 The policy outlines how illegal encampments should be dealt with on Council owned and private land. It sets out in detail the available powers to be used for the removal of unauthorised encampments. The policy also sets out the restrictions that apply equally to all of these powers, i.e. the need to carry out educational welfare and social enquiries.
- 4.4.3 The joint policy perhaps enforces the degree of co-operation between Birmingham City Council, the Police and other agencies. It is viewed as an essential part of the partnership approach that the City Council needs to adopt with working with the Police.
- 4.4.4 Within this policy there is an expectation that, assuming no other powers are appropriate (e.g. Criminal Justice and Public Order Act 1994), should Travellers be on City Council land, it will typically take seven days to obtain an eviction. This is a reflection of the amount of time practically taken to achieve this through the courts. It can be shortened only by the Travellers themselves electing to move on.



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5: Legal Position

5.1 Legal Processes

- 5.1.1 There is not only one legal process that the Council can follow in dealing with an unauthorised encampment. There are three legal mechanisms available to be utilised for the eviction of Travellers from unlawful encampments:
- The common law;
 - Part 55 of the Civil Procedure Rules for possession / eviction;
 - Sections 77 and 78 of the Criminal Justice and Public Order Act (CJPOA 1994)
- 5.1.2 Birmingham City Council uses both the common law and Part 55 of the Civil Rules for eviction.
- 5.1.3 In all cases the objectives are to
- Successfully evict unlawful Traveller encampments in an efficient manner;
 - (So far as possible) minimise legal and bailiff costs; and
 - Ensure that the Council discharges its legal duties in respect of health, welfare and educational needs.
- 5.1.4 There is alternative provision for the eviction of unauthorised encampments under sections 77 and 78 of the CJPOA 1994. Section 77 (1) states:
- "if it appears to a local authority that persons are for the time being residing in a vehicle or vehicles within that authority's area*
- *On any land forming part of a highway;*
 - *On any other unoccupied land; or*
 - *On any occupied land without the consent of the occupier*
- the authority may give a direction that those persons and any others with them are to leave the land and remove the vehicle or vehicles and any other property they have with them on the land."*



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- 5.1.5 If the Travellers then ignore such a local authority's direction, an offence would be committed and the person on summary conviction would be liable to a fine not exceeding level 3 on the standard scale (£1,000).
- 5.1.6 A local authority then has further recourse to the courts under section 78 (1):
- "A magistrate's court may, on a complaint made by a local authority, if satisfied that persons and vehicles in which they are residing are present on land within that authority's area in contravention of a direction given under section 77, make an order requiring the removal of any vehicle or other property which is present on the land and any person residing in it."*
- 5.1.7 Whilst in theory, the Magistrates' Court procedure under CJPOA 1994 may possibly allow for a quicker eviction of Travellers (by one day) than the common law or Part 55 of the Civil Procedure Rules in the County Court, Birmingham City Council does not use this procedure. These provisions are more onerous in terms of welfare, health and educational need assessments. This emphasis is due to case law from the mid-1990s and the Human Rights Act 1998. The procedure under the common law and Part 55 of the Civil Procedure Rules (formerly Order 113 of the Rules of the Supreme Court) can be regarded as a "tried and trusted" method – for many years they have proved more reliable and less subject to challenge.
- 5.1.8 It was noted on the visits to Wolverhampton and Tamworth that neither of the authorities were utilising the provision of the CJPOA 1994.
- 5.1.9 The Police also have specific powers provided under Section 61 of the CJPOA 1994. Section 61 states:
- "If a senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and*
(a) that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of the family or an employee or agent of his; or
(b) that those persons have between them six or more vehicles on the land,
a direction can be made ordering them to leave; failure to comply with the order is a summary offence and also an arrestable offence."



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- 5.1.10 The police choose to use these powers sparingly due to resource pressure and the requirement to carry out welfare related tests. From discussion of experiences with Wolverhampton City Council and Tamworth Borough Council it was noticeable that the police rarely applied such legislation.
- 5.1.11 Common law evictions provide a method of eviction and removal of Travellers that is relatively cheap and quick; this is where Travellers are persuaded to leave voluntarily.
- 5.1.12 Where Travellers do not leave voluntarily and the Legal Services Office issue County Court proceedings under the Civil Procedure Rules Part 55, the process becomes much more costly. This procedure incurs Solicitor's fees, and if possession is obtained by use of the bailiff, bailiff costs in the range of approximately £500-£1,200 depending upon the size of the encampment to be evicted. In addition, there are Court fees and legal costs which can typically cost around £1,000. These methods of removal are also utilised by Wolverhampton City Council and Tamworth Borough Council.



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6: Conclusions and Recommendations

Conclusions

1. *On evaluating the evidence from Legal Services and Regulatory Services against independent research, the City Council is utilising the quickest and cheapest method of unauthorised encampment removal.*
2. *These procedures are the ones used by Local Authorities in Wolverhampton and Tamworth. The use of the Common Law Eviction Notice and proceedings under part 55 of the Civil Procedure Rules is less problematic with reference to the need for welfare checks etc as compared with proceedings in the Magistrates' Court under the CJPOA.*
3. *It is important that an overall role in dealing with unauthorised encampments is maintained, such as that currently played by Regulatory Services. This should continue to (i) assess the need for and advise upon protective measures (for Council and privately owned land), and (ii) communicate and liaise with the Police to ensure that powers are used effectively.*
4. *Regulatory Services is effective and enjoys the benefit of a favourable working relationship with Travellers, Police and land-owning departments. This is an essential requirement for the smooth running of the present enforcement system and for the co-ordination of all related services.*
5. *The Police have specific powers under section 61 and section 62 of the Criminal Justice and Public Order Act 1994 to deal with the removal of unauthorised encampments. Whilst the police must work within tight guidelines (i.e. human rights legislation and the joint policy with the City Council). It was accepted that the use of these powers in each instance is dependent upon the situation that the Police face.*
6. *The way forward was viewed as greater intelligence co-ordination with Regulation Services and the Police, and wherever possible a continued securing of Council owned land. This stance was supported by officers from Economic Development and Leisure and Cultural Services.*
7. *The tide of Government policy is also moving towards authorities providing effective and well-run transit sites. A partnership approach to designing and running such sites in conjunction with bodies such as the National Gypsy Council is encouraged.*



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8. *The Council meets its obligation to provide a transit site within the city through the Tameside Drive site. The continued effective operation of this site is critical to being able to manage the incidence of unauthorised encampments in the city.*
9. *Above all there is a need for greater co-ordination and careful use of existing funding. In particular, areas of the Council should have responsibility for all regulatory services, including the protection of Council-owned land.*

	Recommendation	Responsibility	Completion Date
R1	<p>The findings of this review should be incorporated into the annual review of the Joint Policy / Protocol between the City Council and West Midlands Police.</p> <p>This review must encompass</p> <ul style="list-style-type: none"> • The effectiveness of the process and communication within the Police; and • The clear need in specified circumstances where there is concern of serious damage, public disorder or serious fear of crime for the Police to apply their statutory powers that exist under sections 61 and 62 of the Criminal Justice and Public Order Act 1994. 	Cabinet Member for Transportation and Street Services	31 May 2004
R2	<p>Constituency Committees should consider establishing a rolling programme of identifying priorities for investment in measures to secure Council-owned land at risk of unauthorised incursion. This programme should be</p> <ul style="list-style-type: none"> • Subject to approval of works by the relevant Constituency Committees; • Informed by a professional assessment by Regulatory Services of the likelihood of incursion, but with such schemes to be managed within the constituency. 	Cabinet Member for Transportation and Street Services	30 September 2004
R3	<p>There must be an evaluation of the impact on unauthorised encampments of the changes made with regard to the management of the authorised transit site at Tameside Drive, Kingsbury.</p>	Cabinet Member for Transportation and Street Services	30 September 2004



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R4	Consideration is given to involving an external organisation to manage the existing transit site at Tameside Drive. Such consideration should be from a viewpoint of the City Council acting in a landlord capacity.	Cabinet Member for Housing	30 September 2004
R5	Further investment in the Tameside Drive site should be subjected to a financial appraisal. Investment should only be undertaken where such an appraisal indicates that the investment will lead to the City Council recovering its capital investment costs through site fees and a reduction in the cost of dealing with unauthorised encampments over a reasonable financial period (such as ten years).	Cabinet Member for Housing	30 September 2004
R6	Progress towards achievement of these recommendations should be reported to the Street Services Overview and Scrutiny Committee before 31 October 2004. Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.	Cabinet Member for Transportation and Street Services	31 October 2004



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Appendix 1: Record of Evidence Given at Meetings

A1.1 Meeting of the Unauthorised Encampments Scrutiny Review Group, Wednesday 22nd October 2003

Gavin Tringham, Head of Environmental Protection

- A1.1.1 Members were advised that at present there are two authorised encampments in the city: a private site at Dartmouth Circus and the site managed by the Housing Department at Tameside Drive, Castle Vale. Travellers on unauthorised sites were always advised of the existence of this site and the number of pitches available.
- A1.1.2 The nature of the city's Enforcement Team was also described: within the Environmental Protection Unit a 0.5 full time equivalent post was allocated to deal with illegal encampments. Two officers deal with encampments on a regular basis, but this position could be supplemented by additional staff where required.
- A1.1.3 **Appendix 2** contains information regarding the number of illegal encampments reported between 01 April 2002 and 21 October 2003. Advice was provided that the number of unauthorised encampments in Birmingham has significantly reduced over the last ten years.
- A1.1.4 The procedures used were also explained (see chapter **5: Legal Position**). Three points were emphasised:
- Due to the size of the city, it is impossible to secure all sites, so intelligence is used to maximise site defence and thus pre-warning land-owning departments;
 - It is extremely difficult to obtain evidence for criminal prosecutions or civil actions to recover money for damages. Names and addresses are required in order to serve a summons to commence legal proceedings. Officers indicated however that the division was succeeding and obtaining vacant possession of 99% of sites within seven days;



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- The only way of obtaining such a rate of vacant possession was by on-going dealings with Travellers and not a confrontational approach;
- It is extremely difficult to obtain evidence for criminal prosecutions or civil actions to recover money (not on civil actions).

A1.1.5 Members were also advised that there are only vacant pitches at Castle Vale at certain times of the year; there seems to be some reluctance on the part of the Travellers to utilise the site. The reason usually given is disagreement between Traveller families.

A1.1.6 The last point that was emphasised was that although Regulatory Services is responsible for obtaining vacant possession of all sites, individual land holding departments are responsible for undertaking a risk assessment to prevent Travellers entering the sites.

Wendy Taylor, Legal Services

A1.1.7 Members were advised that in most cases, Regulatory Services deal with cases under the 7-day Common Law Notice. The remainder of the cases go to court. It was also noted that Legal Services do not have a dedicated resource to deal with such cases.

A1.1.8 Police powers were also noted. However it was indicated that there are resource issues.

A1.2 Unauthorised Encampments Scrutiny Review Group, Wednesday 5th November 2003

Geoff Benton, Development Directorate

A1.2.1 Mr. Benton advised that his department looks after surplus land and buildings which include potential sites for encampments. He indicated that the department in 2000 experienced high costs for the clearance of unauthorised encampments from land.

A1.2.2 Costs are now being reduced due to close liaison with Regulatory Services. Members were advised that clearance costs have been reduced to £45,000 in 2000/2001 and to £13,000 in the last financial year.

A1.2.3 Mr Benton indicated that the Directorate had become proactive, in that once it becomes responsible for managing a site, it undertakes a risk assessment for health and safety and to assess what protective measures could be taken to secure the site.

A1.2.4 Members were advised that typical costs for protecting a site are £1,000 to £1,500; depending on the form of protection this could rise to £5,000.



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Geoff Cole, Assistant Director, Parks and Nature Conservation

- A1.2.5 Mr. Cole indicated that Traveller encampments in the 1970s were a fairly common occurrence. He also advised members that funding had been identified and used for the construction of the so-called 'Ring of Steel' at Pye Hayes Park, which has not been breached.
- A1.2.6 Mr Cole indicated that there are 8,500 acres of park and 700-1,000 sites to deal with; as a consequence it is impossible to secure all areas.
- A1.2.7 Evidence was also provided regarding the number of encampments and clearance / eviction costs for parks over the last nine years. This is shown in **Appendix 4**. It identifies works associated with enclosing parks sites, either as part of a wider redevelopment scheme or specifically to deal with unauthorised access.

A1.3 Unauthorised Encampments Scrutiny Review Group, Wednesday 3rd December 2003

Sergeant Lee Kendrick, West Midlands Police

- A1.3.1 Sergeant Kendrick provided an overview of the Police response to unauthorised encampments and also the ongoing working relationship with the Council. He advised that the joint response is in line with the joint policy adopted between the West Midlands Police and the Council (see Appendix 2).
- A1.3.2 The Council was identified as the lead agency in the joint policy, they have to issue the Notice of Eviction through the Traveller Enforcement Officer. Sergeant Kendrick also indicated that all police powers including section 61 and section 62 of the Criminal Justice and Public Order Act 1994 are subject to the need to balance Travellers' human rights with rights of members of the public. In addition, particular consideration has to be given to health and safety obligations; arrests are not advocated if it would jeopardise officer safety.

Robin Bryan, Ranger Services Manager, Leisure Services Department

- A1.3.3 Mr. Bryan gave further information regarding the Parks Police. This unit ceased in the early 1970s and was replaced by a mobile ranger service presently consisting of eight mobile units.
- A1.3.4 Rangers have no specific training in relation to unauthorised encampments; health and safety issues are paramount.



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David Cusack – Housing Department

- A1.3.5 Mr. Cusack advised that the Tameside Drive site was opened in 1986. It has not been fully occupied since 1999, with the maximum number of caravans being four or five. Members were advised that the Housing Department is presently reviewing the position at the site and considering upgrading the site in line with Government policy.



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Appendix 2: Reported Encampments

Ward	Reported Encampments
Nechells	36
Aston	25
Perry Barr	17
Erdington	14
Kingsbury	14
Stockland Green	7
Hodge Hill	7
Acocks Green	5
Small Heath	5
Bartley Green	4
Northfield	4
Sparkhill	4
Yardley	4
Ladywood	3
Sparkbrook	3
Sheldon	3
Longbridge	2
Brandwood	2
Oscott	2
Selly Oak	2
Billesley	1
Bournville	1
Washwood Heath	1
Edgbaston	1
Harborne	1
Moseley	1
Sutton New Hall	1
Fox Hollies	0
Hall Green	0
Handsworth	0
Kings Norton	0
Kingstanding	0
Quinton	0
Sandwell	0
Sutton Four Oaks	0
Shard End	0
Soho	0
Sutton Vesey	0
Weoley	0

Fig. 1: Number of Illegal encampments reported between 01/04/02 and 21/10/03
Source: Regulatory Services



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Appendix 3: Developing Services for Gypsies and Travellers

A3.1 Background

A3.1.1 This appendix contains details from a briefing note provided to members, concerning a conference organised by the Travellers' Law Reform Coalition (TLRC). The purpose of the conference was to highlight many of the issues and best practice in dealing with Gypsies and Travellers, including those arising from unauthorised encampments.

A3.1.2 Speakers at the conference included:

- **Yvette Cooper MP**, Parliamentary Under-Secretary within the Office of the Deputy Prime Minister (ODPM), with direct responsibility for issues relating to Gypsies and Travellers;
- **Charles Smith**, Chair of the Gypsy Council for Education, Culture, Welfare and Civil Rights;
- **Lord Avebury**, President of the Advisory Committee on the Education of Romanies and Travellers;
- **Cliff and Janie Codona**, National Travellers' Action Group;
- **Seamus Taylor**, Director of Strategy and Delivery, Commission for Racial Equality (CRE);
- **Nick Williams**, Diversity Directorate, Metropolitan Police Service (MPS);
- **Bill Forrester**, Traveller Liaison Officer for Kent County Council, presently seconded to ODPM;
- **Heaven Crawley**, Associate Director, Institute of Public Policy and Research (IPPR), advisors to ODPM;
- **Pat Niner**, Senior Lecturer, University of Birmingham Centre for Urban and Regional Studies.



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- A3.1.3 There were five key themes that were common to most speakers:
- Development of services by ODPM;
 - Equalities issues relating to Gypsies and Travellers, and tackling racial incidents and hate crime;
 - Partnership working to resolve issues for both Travellers and the settled community;
 - Managing unauthorised encampments;
 - Strategic links to planning and homelessness strategies.
- A3.1.4 The key points raised in each of these areas are discussed in the following sections.

A3.2 ODPM Development Of Services

- A3.2.1 ODPM is conducting a policy review of the issues relating to Gypsies and Travellers, and is due to report back on this in April 2004. In doing so, it is seeking to tackle the issues from a perspective of social exclusion and educational under-achievement. Within this approach, site provision is acknowledged as a fundamental factor.
- A3.2.2 The approach emphasised is one of mutual respect and obligations between Travellers and the settled community. In other words, whilst the settled community should seek to be accommodating of the Gypsy and Traveller way of life, Gypsies and Travellers should equally not cause nuisance to the settled community.
- A3.2.3 The current Anti-Social Behaviour (ASB) Bill provides for dealing more effectively with unauthorised encampments as a nuisance issue. It proposes powers for the Police to be able to move Travellers on from unauthorised sites where there is an alternative (authorised) site for them to go to.
- A3.2.4 ODPM acknowledges that there is a need to increase provision of authorised sites, particularly since this underpins exercising available enforcement powers under the ASB Bill. However, the view was expressed that we should not be discouraging Travellers from owning and running private sites.
- A3.2.5 Refurbishment and renewal grants are available for authorised sites from ODPM (a figure of £8m was mentioned). There is not additional money available for site provision within this £8m. There is also potentially an issue here with regard to where Travellers on the site go during the refurbishment.



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A3.3 Tackling Racial Incidents And Hate Crime

- A3.3.1 Gypsies and Travellers are a distinct ethnic group identified by the CRE and therefore covered by the provisions of the Race Relations (Amendment) Act. This means that
- Local authorities have a statutory duty to promote equality for Gypsies and Travellers in their areas;
 - It is a criminal offence to discriminate against Gypsies and Travellers in the provision of goods or services.
- A3.3.2 Speakers highlighted two recent incidents of concern in November 2003:
- **Firle, East Sussex:** A local demonstration against Gypsies and Travellers, including the burning of effigies of Gypsies and a caravan, and
 - **Ellesmere Port, Cheshire:** A 15-year old Gypsy boy was beaten to death in a racially-motivated attack.
- A3.3.3 In the view of the CRE speaker, racism against Gypsies and Travellers is "the last respectable form of racism". Other speakers referred to the belief that issues with Gypsies and Travellers are perceived not be racist, because they are associated with 'nuisance behaviour'.
- A3.3.4 There was concern expressed that in including dealing with unauthorised encampments under 'Anti-Social Behaviour' the Government was extending the "criminalisation" of the Gypsy way of life - a perceived feature of the 1994 Criminal Justice Act. There was also complaint that this fuels racism.

A3.4 Partnership Working

- A3.4.1 Partnership working between the Gypsy and Traveller community, the Police and local authorities was emphasised strongly by all parties as the way forward. This was covered in two main ways:
- Inclusion of Gypsies and Travellers within the process of planning the provision of services for their community;
 - Awareness training with regard to the needs, customs and aspirations of ethnic communities.
- A3.4.2 This is an approach that is in line with the broader strategy of the Metropolitan Police in working with diverse ethnic communities. Gypsies and Travellers are included within training for Metropolitan Police Service officers, particularly in London Boroughs where there is a high incidence of Traveller encampments.



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A3.4.3 By involving Travellers in resolving difficulties particularly arising from unauthorised encampments, this has the benefits of

- Building trust – a key issue with dealing with Gypsies and Travellers;
- Reinforces the need for mutual respect between the settled and travelling communities;
- Building a basis for providing the other services that the local authority has a duty to provide.

A3.5 Managing Unauthorised Encampments

A3.5.1 Since this is the main issue of conflict between settled communities and Travellers, it is not surprising that nearly all speakers mentioned the subject. The general view expressed was that unauthorised encampments result from

- Inadequate provision of authorised sites and
- Difficulty with the Planning system to enable the provision of private sites.

A3.5.2 A distinction was drawn here between

- 'Transit' sites (those intended to provide short-term pitches for mobile Gypsies and Travellers), and
- 'Residential' sites (those to provide for longer-term stay).

A3.5.3 How unauthorised encampments are dealt with was described as a process of managing the objectives of each of the parties involved:

- The Travellers, who want more time to stay where they are;
- The local authority, who aim to reduce the nuisance of the encampment;
- The Police, who want to reduce crime;
- The local residents, who want the encampment moved.

A3.5.4 In managing these differing objectives, it was emphasised that there needs to be a clear communication process between all parties. This needs to be maintained even where legal action is being taken. Whilst there are established power relationships involved, effective decision-making and negotiation in how power is exercised minimises the negative effects that can result.

A3.5.5 It was also recommended that to manage unauthorised encampments fairly and effectively requires all parties to have a good knowledge of the law, underpinned by clear policy and procedures as to what action to take.



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A3.5.6 Some areas requiring further consideration (particularly by local authorities) were raised here:

- Who should manage encampments?
- How should encampments be managed?
- Who should pay for issues relating to encampments?

A3.6 The Planning Process

A3.6.1 There is of course an inevitable tension at the root of the planning argument: whilst it may be necessary to provide for authorised sites for Gypsies and Travellers, in doing so objections will be indubitably be raised at a local level by potential neighbours.

A3.6.2 This is one of the factors that leads to the marginalisation of the gypsy and Traveller community. Where land is provided, it is land that is 'not wanted' by the settled community. As a result, where authorised sites are provided, they are on marginal land of little or no economic use, typically next to transport routes (motorways and rail lines) or close to waste sites. Such marginalisation can hardly be described as congruent with equalities strategies.

A3.6.3 Tackling the problem of site provision on a regional basis was suggested by more than one speaker. This does have the advantage of taking a wider, more strategic view of site provision, not absorbed in the problems of the planning system representing parochial views. However, without statutory duty to provide sites, it is difficult to see how sites will be provided.

A3.6.4 It was also suggested that strategies for dealing with the provision of sites for Gypsies and Travellers should form part of Housing strategies for dealing with homelessness. There is logic behind this: site provision concerns providing for places to accommodate people from the travelling community in the same way that homelessness strategies seek to accommodate people from the settled community.

A3.7 Summary

A3.7.1 The issues covered at the conference did highlight many of the issues that this Scrutiny Review will inevitably need to confront.

A3.7.2 It was clear that the approach of the Government towards this problem is to be one that encourages reasonable behaviour by all parties, whilst at the same time providing for tolerance between communities of fundamentally different ways of life.

A3.7.3 There are duties upon local authorities to promote equality, including for Gypsies and Travellers.



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Appendix 4: Cost Associated with Incursions into Parks

Financial Year	Total Incursions	Costs	
		Clearance ¹	Bailiffs / Eviction ²
2003/4	14	£32,000	£1,400
2002/3	15	£38,500	£3,500
2001/2	9	£20,000	£700
2000/1	8	£16,500	£1,400
1999/2000	22	£66,500	£820
1998/9	26	£38,450	£820
1997/8	49	£65,550	£320
1996/7	44	£49,800	£3,300
1995/6	49	£74,700	£6,300
Total	236	£402,000	£18,560

Fig. 2: Travellers in Parks

Source: Leisure Services (Parks)

Period	Boundary Works
Retrospective Works	£1,498,500
April 2002 to October 2003	£1,222,200
Imminent Works (at November 2003)	£1,530,000
Total: April 1994 to April 2004	£4,250,700

Fig. 3: Estimated ³ works identified with enclosing parks sites (either as part of a wider redevelopment scheme or specifically to deal with unauthorised access)

Source: Leisure Services (Parks)

¹ Including 15% on-cost for officer time.

² These costs are bailiff costs, not including the costs of Legal Services.

³ These figures are estimated. Very small (financially insignificant) schemes may be omitted.

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