

Report to the Cabinet

Report reference: C-030-2012/13
Date of meeting: 22 October 2012



**Epping Forest
District Council**

Portfolio: Environment
Subject: Membership of the Essex County Traveller Unit
Responsible Officer: John Gilbert (01992 564062)
Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To note the current situation with the formation and operation of the Essex County Travellers Unit (ECTU);**
- (2) That at this time, the Council remain outside of formal membership of ECTU but continue to engage informally through Member and officer attendance at ECTU meetings;**
- (3) That progress with the ECTU be kept under review and a further report be prepared for cabinet should the rationale for remaining outside of full membership change; and**
- (4) To adopt a revised version of the ECTU Code for Travellers, subject to our own decision making on the enforcement of unauthorised encampments on our own land.**

Executive Summary:

The remit of the Essex County Traveller Unit (ECTU) is to bring together existing gypsy and traveller services in Essex with regard to health, welfare, education and the management of unauthorised encampments within the County, on behalf of the districts and parishes. Essex Fire and Rescue Service and Essex Police also have dedicated officers within the Unit. ECTU is now operational, with most authorities in Essex set to join, other than Southend and EFDC. Harlow District Council has also indicated that they probably will not be joining.

To date no decision to formally join has been made, there being ongoing concerns regarding membership requiring control over the eviction of travellers from Council land being ceded to ECTU.

This report brings Cabinet up to date with the current position and seeks a decision on whether to formally join or remain outside of ECTU for the time being.

Reasons for Proposed Decision:

To consider whether to formally join ECTU or to remain outside for the time being and review the membership position in due course.

Other Options for Action:

None at this time.

Report:

1. The remit of the Essex County Traveller Unit (ECTU) is to bring together existing gypsy and traveller services in Essex with regard to health, welfare, education and the management of unauthorised encampments within the County, on behalf of the districts and parishes. ECTU is now operational, with most authorities in Essex set to join, other than Southend and EFDC. Harlow District Council has also indicated that they probably will not be joining.

2. Although the Council has yet to formally consider joining, officers have been attending meetings, and ECTU has benefitted from the expertise gathered here over the years dealing with such matters. Recently, the Leader appointed Councillor Richard Bassett to be a member of the ECTU Board, albeit without any voting rights and subject to being invited to attend future meetings by the participating authorities (which is due to be considered by the participating authorities at the first Board meeting). Similarly, at an operational level our Officers are expected to be invited to continue to attend ECTU operational meetings, so that ECTU can continue to benefit from our considerable experience and our officers can assess the implications for EFDC continuing to operate outside ECTU. This position will also be reconsidered at the first meeting of the Board.

3. ECTU has recently completed its initial review of the Code for Travellers, which is a guide on how to deal with illegal encampments, and enables travellers to remain in-situ for a period of time provided that basic behavioural rules are adhered to. The new ECTU code has not changed in any substantial way, the basic message of the code is that an unauthorised encampment may be tolerated for an agreed period (less than 28 days maximum) subject to a number of factors regarding the behaviour of the occupiers, i.e. immediate action will not be taken to evict the occupiers if the encampment is causing little negative impact. This Council has in the past generally worked within the previous code for travellers in Essex and the intention is to continue to apply the same principles, using a slightly revised version of the new ECTU code, that reflects the procedure adopted by Epping Forest District Council, but still follows the principle that unauthorised encampments may be tolerated for a short period, subject to satisfactory compliance with the factors listed in the code. The Council has always sought to evict travellers from Council owned land if they were not in compliance with the code or were situated in wholly unsatisfactory locations e.g. playing fields, car parks etc.

4. The Environment & Neighbourhood Manager has expressed concerns about the suggested "mutually agreed departure date" in the ECTU code. The "mutually agreed" departure date in effect is an approval to stay on a site whereas the old wording of the code was in effect "no approval to stay on the site, but we may not actively pursue eviction if you choose to stay and behave". We also know from experience that any mutually agreed departure date cannot be relied on at all, so it is unrealistic to include that in the code. We also know that many encampments fail to comply with the code almost immediately.

5. In practice the Council does not rely at all on any suggested departure date, because we know this cannot be relied on and we will normally start proceedings immediately irrespective of compliance with the code, due to the timescale involved in obtaining an order to evict the occupiers. If it transpires that we obtain an order for eviction very quickly, within the maximum 28 day period, we may choose not to enforce the order immediately if the encampment is complying with the code. But, we also know that encampments do not normally comply with the code, which supports our initial decision to start proceedings

immediately, to avoid any delay in the eviction process.

6. We therefore propose that the Council adopts its own version of the ECTU code, with the exactly the same factors to consider, but replacing paragraph two of the ECTU code that states:

“Subject to the satisfactory assessment of the following factors, the Essex Countywide Traveller Unit, representing partner Essex authorities will not normally pursue immediate action subject to a mutually agreed departure date, and continued compliance with the code”;

with the following paragraph,

“EFDC does not approve any unauthorised encampment (UE) to stay on land owned or managed by EFDC and retains the right to pursue formal proceedings immediately to remove UE. However, subject to the satisfactory assessment of the following factors, EFDC will not normally enforce the removal of UE from any land on which they are stationed for a period of up to 28 days.”

7. The proposed code for unauthorised encampments in Epping Forest is attached at appendix 1. The proposed changes compared with the new ECTU code are shown in italics.

8. The initial difficulty with membership of ECTU was the requirement for the Council to cede control of the eviction process in the event of an illegal encampment. Illegal encampments generate considerable local resident and political concern, and the Council is often put under considerable pressure to take swift action to seek eviction. Whilst Essex Police has powers under section 61 of the Criminal Justice and Public Order Act, they are often reluctant to utilise them, and this reluctance may increase following the formation of ECTU which has a specialist police officer seconded to it. There is a clear message from Essex police that they consider the use of section 61 to be an emergency power only to be used in extreme circumstances after other measures to evict have been considered. Therefore, the Council has hitherto been reluctant to cede the ability to take action itself, and therefore remains outside of formal membership of ECTU. However, most recently after a number of authorities raised concerns about ceding control of enforcement decisions wholly to the Head of the ECTU, a clause has been added to the legal agreement allowing member authorities to take matters forward themselves, subject to notifying the ECTU and applying the spirit of the Code for Travellers adopted by ECTU. In effect the clause allows us to join ECTU but continue with our normal eviction process, rather than relying on ECTU taking a more County wide approach to the eviction decision.

9. At this moment in time, and whilst ECTU is in its formative stages, it may be considered prudent to continue to remain outside of formal membership and wait to see how it develops and the degree to which other Essex authorities engage. Remaining active as part of the current informal membership is entirely sensible, reviewing the position from time to time over the forthcoming months, enabling us to assess whether the ECTU will provide additional benefits to the difficult issue of managing gypsy and traveller issues with respect to welfare, health and education.

Resource Implications:

The current cost of formally joining ECTU is £7,000 per annum. The current budgeted sum for “Gypsy matters” in the 2012/13 budget is £15,770, but it should be noted that the officers who deal with illegal encampments also undertake a wide variety of other environmental related enforcement matters within the Environment and Neighbourhoods Team (part of the ESS Directorate) and that the budget is only utilised when an illegal encampment problem arises. Furthermore, the actual spend on dealing with illegal encampments per se is

substantially lower than the allocated budget and will be reviewed as part of the 2013/14 budget preparation.

Legal and Governance Implications:

Membership of ECTU requires that member authorities deal with illegal encampments in line with the ECTU code for travellers.

Alongside the right to seek the eviction of travellers from their own land, the Council also has powers within the Criminal Justice and Public Order Act to manage illegal encampments. In practice they are rarely used due to constraints applied by human rights considerations and case law.

As indicated in the report, the Council does apply the Code for Travellers in respect of illegal encampments/trespass on its own land.

Where illegal encampments arise on privately owned land, landowners are offered advice on the action they should take. In this regard town and parish councils are regarded as private landowners. It should be noted that ECTU state that where districts/boroughs join ECTU, the towns and parishes within them shall be entitled to the same level of service without charge to them.

Safer, Cleaner and Greener Implications:

Although a relatively rare event, illegal encampments, when they take place, do cause concerns and sometimes difficulties for local residents. These difficulties can include noise, accumulations of rubbish, obstruction of car parks/open spaces. The Council is always under pressure to take immediate steps to deal with such encampments.

Consultation Undertaken:

None, other than with ECTU itself, who are aware of the Council's present view.

Background Papers:

Presentation from ECTU representatives to Management Board on 2 March 2011

Impact Assessments:

Risk Management

The management of illegal encampments is inevitably sensitive, especially if the travellers' community includes very young children and elderly. The public reaction to such encampments is generally one of expectation that the Council/police will react speedily to move travellers on. Considerable care has to be exercised to ensure that all legal steps are followed precisely to avoid difficulties should Court action be required.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

What equality implications were identified through the Equality Impact Assessment process?

It should however be noted that gypsies and some traveller groups are recognised ethnic groups under equalities legislation. As the unit is not yet operational, it is not clear whether full participation would have any impact in terms of equalities. Further equality impact analysis will be carried out if in future our rationale for staying outside of the Unit should change.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

N/A.