

Item No.	Classification: Open	Date: 2 May 2013	Meeting Name: Deputy Leader and Cabinet Member for Housing Management
Report title:		A new written statement (agreement) for Council Gypsy and Traveller sites	
Ward(s) or groups affected:		All	
From:		Gerri Scott, Strategic Director of Housing and Community Services	

RECOMMENDATION

1. That the Deputy Leader and Cabinet Member for Housing Management approve the new written agreement for residents of Southwark's Gypsy and Traveller sites.
2. That the Deputy Leader and Cabinet Member for Housing Management instruct officers to commence the process of signing up residents of the Gypsy and Traveller sites to the new agreement.
3. That the Deputy Leader and Cabinet Member for Housing Management request a biannual update from the newly established Gypsies and Travellers officer working group.

BACKGROUND INFORMATION

4. On the 30 April 2011, Section 318 of the Housing and Regeneration Act 2008 came into force and applied amended provisions of the Mobile Homes Act 1983 ("the Act") to local authority permanent Gypsy and Traveller sites.
5. Regulations under the Act prescribe a model form of agreement. The model agreement sets out prescribed information and terms implied by the Act and provides for the insertion of express terms under part three.
6. A written agreement was accordingly developed by officers. The agreement was called in by the Overview and Scrutiny Committee (OSC) in November 2012. Particular concerns highlighted by OSC were:
 - The need to bring the agreement into line with Department of Communities and Local Government (DCLG) guidance e.g. allowances for time off site
 - Reviewing the emphasis on the requirement for various applications in writing
 - Requirements in respect of fire safety and electrical safety
 - Consent for keeping of animals to be for an appropriate number and consideration to be given to help in micro chipping
 - Reviewing the Equality Impact Assessment (EQIA) following concerns over the standard (please see appendix 2 for the final revised version)
 - How we will improve existing consultation and ensure effective consultation in the future

7. Officers worked to address all of these issues and also identified and resolved a number of others, including:
 - Housing benefit processing problems
 - Increased further the parity of terms with the tenancy agreement
 - The use of similar language where possible to the previous licences. This ensured a better understanding as well as parity of terms across agreements and licences.
8. A report, including the revised agreement and equality impact assessment went to OSC in January 2013. OSC made some further comments, which have been revised into the agreement (please see Appendix 1), including:
 - Removal of the word 'stay' in points 4.3 and 4.4 of part 3 of the agreement
 - Addition of further terms to the glossary within part 3 of the agreement

ISSUES FOR CONSIDERATION

Consultation

9. After revising the agreement based on the feedback from OSC, officers ran a new consultation process, working with colleagues in community engagement and Southwark Travellers and Gypsies (STAG) to ensure that the consultation was meaningful and robust.
10. Upon discussion with STAG, officers consulted all Gypsies and Travellers on the new agreements. All Gypsies and Travellers were given the opportunity to input to the agreement and all have the opportunity to gain enhanced rights and responsibilities by signing up to the agreement if they choose to do so.
11. The consultation process ran from 21 February to 28 March 2013. Officers attended the following locations to talk through the agreements:
 - 21 February 2013 – Spring Tide Close
 - 25 February 2013 AM – Ilderton Road
 - 25 February 2013 PM - Ilderton Road
 - 26 February 2013 – Burnhill Close
 - 27 February 2013 – Brideale Close
12. STAG captured all of the questions asked as part of the consultation and also submitted two responses themselves. For a full record of the consultation responses received, please see Appendix C.
13. The agreement has been revised further as a result of the consultation, including:
 - Amending the definition of Gypsy and Traveller to include the definition contained within the Circular 1/06 Planning for Gypsy and Traveller Caravan Sites to acknowledge that travelling may have stopped temporarily or permanently due to education, health etc.
 - Lengthening the maximum period Gypsies and Travellers are allowed off site in any 12 month period to 12 weeks.
 - Amending the wording to state that unrestrained animals are not allowed in communal areas when there are council or contractor staff on site.

14. Opinions over the inclusion of water charges were split, with some in favour and some not. Residents did not favour the introduction of meters. It is an issue of fairness and parity that we recover the water charges. The proposal to charge for water therefore remains in the new agreement.
15. Water rates will be recharged having regard to guidance issued by Ofwat and on a per capita basis. Officers will undertake an annual audit of all sites to ensure our records are up to date and the recharge is accurate and fair. This audit will be undertaken during May and June 2013. The charges will be dated from the date the new agreement is signed.
16. The final version of the new agreement can be found at Appendix 1.

Emerging issues

17. As part of the consultation process, two other issues were identified as concerning for residents of the Gypsy and Traveller sites:
 - Concerns over the allocation policy, including the process of consultation and the outcomes. Please see the next section for proposals to address this issue.
 - Overcrowding – this is of particular concern at Spring Tide Close, Peckham. This is a long term issue. OSC recommended this issue is addressed as part of the Housing Commission consultation. Please see the next section for proposals to address this issue.

Next steps

18. Upon final sign off of the new agreement, officers will continue to work with STAG to offer all occupants of the sites the opportunity to sign up to the new agreement.
19. Officers will review the Allocations Policy and undertake a consultation process, using the model developed with STAG for the new agreement consultation. If amendments are required, a further report will be brought to the Deputy Leader and Cabinet Member for Housing Management.
20. Officers in housing operations have established the Gypsy and Traveller officer working group. The purpose of the group is to ensure we work across the council effectively to improve outcomes for this community group. The group includes representation from community safety and enforcement, community engagement, planning and health. This group will:
 - Coordinate key responses to recommendations from the scrutiny report into access to maternal health and early years services for Gypsies and Travellers, including providing the overarching framework for engagement with and providing services for the Gypsy and Traveller communities in Southwark Council.
 - Ensure coherent and coordinated consultation of Gypsies and Travellers, along the best practice lines developed for the consultation of the new agreement, including in relation to the allocation policy and overcrowding as part of the Community Conversation approach. Consultation will start as soon as possible.

21. Officers are meeting with Thames Water to explore alternative mechanisms for the charging of water on the sites in the medium term future.
22. Officers have secured funding to work with STAG to hold events as part of Gypsy and Traveller History Month, in order to promote and embed positive community relations.

Community impact statement

23. The council is under a duty through the Human Rights Act 1998 to 'facilitate the Gypsy way of life' in relation to ethnic Gypsies. By providing a more coherent and practical pitch agreement, with greater clarity as to the occupants' rights and responsibilities, the council helps facilitate this way of life. Amendments to the agreement have been made to allow longer periods of absence from site, and the operation of businesses at the site (subject to reasonable restrictions) in order to facilitate the Gypsy way of life and help reduce unemployment and economic exclusion.
24. The agreement will benefit Gypsies and Travellers regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Part three of the agreement has been improved in order to help occupiers who have particular needs arising from their health or age to remain in their homes where possible.
25. The express terms, added by the council, have parallel terms to the Southwark tenancy agreement. Where there are differences, these are reasonable in light of the particular characteristics of a mobile home site.

Resource implications

26. The new agreement will allow for the collection of the pitch fee and other site related charges, including water charges. Water charges on the Gypsies and Travellers sites are currently paid through the General Fund.
27. There are no other resource implications in the introduction of the new agreement.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

28. The amendment of the Mobile Homes Act 1983 by virtue of Section 318 of the Housing and Regeneration Act 2008 prescribes a model agreement for all new agreements for the letting of local authority gypsy and traveller sites from 30 April 2011. The prescribed agreement enables the Council to include its own express terms at Part 3 subject to the provisions of the Act and the prescribed implied terms.
29. The body of the report sets out the basis on which the express terms in Part 3 have been drafted and that the Council has undertaken consultation on the new agreement with the Council's current gypsy and traveller residents, gypsy & travellers currently on the waiting list and the Southwark Travellers Action Group and the responses received and consideration given.

30. The principles of consultation, so as to achieve procedural fairness to reach a reasonable decision are that the Council must:
- Consult when the proposals are still at a formative stage;
 - Include sufficient reasons for the proposals to allow any interested party the opportunity to consider the proposal and formulate a response;
 - Allow adequate time for interested parties to consider the proposal and formulate their response; and
 - Conscientiously take all the results from interested parties into account when the ultimate decision is taken.
31. The Equality Act 2010 introduced a single public sector equality duty (PSED). This duty requires us to have due regard in our decision making processes to the need to :
- Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
 - Foster good relations between those who share a relevant characteristic and those that do not share it.
32. There has been compliance with the Council's Equalities and Human Rights Scheme 2008-2011 as well as the public sector equality duty as contained within section 149 of the Equality Act 2010. The relevant equality strands have been duly considered and assessed; this is evidenced at paragraphs 22-24 above and in the attached Equalities and Human Rights Impact Assessment (EqIA). The proposed policy falls under s158 of the Equality Act 2010 as a positive action measure to alleviate disadvantage experienced by people who share a protected characteristic.

Strategic Director of Finance and Corporate Services

33. The Director of Finance and Corporate Services notes the principles and conditions pertaining to the introduction of the new travellers site pitch agreement in accordance with legislative requirements. It is also noted that agreement includes the future payment of water charges by residents.

BACKGROUND PAPERS

Title:	Held at	Contact
OSC paper January 2013	160 Tooley Street, SE1 2QH	Angela d'Urso Tel: 020 7525 0800
November 2012 IDM	160 Tooley Street, SE1 2QH	Richard George Tel: 020 7525 3293

APPENDICES

No.	Title:
Appendix 1	New agreement
Appendix 2	Equalities and human rights impact assessment
Appendix 3	Consultation log

AUDIT TRAIL

Lead Officer	Gerri Scott, Strategic Director of Housing and Community Services	
Report Author	Angela d'Urso, Business Manager, Housing Operations	
Version	Final	
Dated	2 May 2013	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		2 May 2013