

Item No.	Classification: Open	Date: 11 March 2013	Decision Taker: 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. The Overview and Scrutiny Committee is asked to note the actions taken and commitments made following on from the call-in of the Individual Decision Making (IDM) report relating to a new written agreement for Gypsies and Travellers.
2. The Overview and Scrutiny Committee is asked to note the actions taken and future actions to be taken following on from further review of the new written agreement for Gypsies and Travellers.
3. The Overview and Scrutiny Committee is asked to note the next steps, including dates for the revised IDM.

BACKGROUND INFORMATION

4. Following on from a call in November 2012, the Deputy Leader and Cabinet Member for Housing Management was asked to bring back a report to the Overview and Scrutiny Committee addressing the following areas:
 - The need to amend the agreement for gypsies and travellers to bring it 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, as contained in the agreement
 - 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.
 - How we will improve existing consultation and ensure effective consultation in the future.

KEY ISSUES FOR CONSIDERATION

Action taken since the November meeting

Fire safety

5. Officers worked with Mears, the council's repairs and maintenance contractor for the south of the borough, to distribute and install free smoke alarms for all pitches on all sites. A total of 72 fire alarms were distributed in January 2013.
6. Further fire safety visits took place in partnership with the Fire Brigade, with two sites visited in February and two sites scheduled for March 2013. The purpose of these visits is to:
 - Provide Gypsies and Travellers with specially designed fire safety packs
 - Provide specific fire safety advice to individual residents
 - Offer to install smoke alarms
7. Feedback from the Southwark Travellers' Action Group (STAG) has been that the Mears repairs service is running well and they are pleased with their performance. Improved relationships are being built between Mears and residents of the sites.

The keeping of animals

8. Officers worked with colleagues in community safety and enforcement to hold dog chipping sessions at each site in January 2013. The dog chipping days were very successful.
9. A total of 19 dogs were chipped across the sites, and we are aware of 4 dogs which had already been chipped. Based on our information, this means that more than 50 per cent of dogs on the sites are now chipped.
10. Officers will continue to offer dog chipping sessions on a regular basis on all of the sites.
11. National government has recently announced plans to make dog chipping compulsory by 2016, with a £500 fine for owners who do not have their dogs chipped. We will work in advance of any change in legislation to ensure all dogs are chipped on our Gypsies and Travellers sites.

Benefits

12. All Gypsies and Travellers have been issued with documentation, in advance of the new agreement. The documentation is accepted as proof of occupation by Revenue and Benefits.
13. Officers have worked with colleagues in Revenue and Benefits to resolve any other issues affecting Gypsies and Travellers. Outcomes include:
 - A new process has been established. A single point of contact in Revenue and Benefits has been identified. All applications by Gypsies and Travellers will in future go directly to the Gypsies and Travellers officer, who will liaise directly with the single point of contact.

- Concerns relating to a new third party landlord have been resolved through the same single point of contact process.
 - All outstanding issues for individuals on the sites have been resolved.
14. The Gypsies and Travellers officer will in future undertake joint site visits with Blackfriars Advice Centre to ensure residents of the sites are able to access full benefits advice and guidance.

A new written agreement

15. The agreement has been amended in line with OSC recommendations:
- The agreement has been amended to allow Gypsies and Travellers eight weeks away from their site before requiring agreement from the council.
 - Officers have updated all requirements within the agreement that relate to the need for written communication between occupiers and the council. It has been made clear in the agreement, and will be made clear to all who sign the agreement that the Gypsies and Travellers Officer will provide full support to create any written documents.
 - We cannot compel a third party landlord through the agreement to provide an Electrical Safety Certificate at their cost. The Gypsies and Travellers Officer will provide full support to Gypsies and Travellers if they require the certificate and we will provide an Electrical Safety Certificate at our own cost if necessary.
16. Officers have reviewed the agreement in further detail, working closely with colleagues in legal and finance. Further changes have been made, including:
- Increased the parity of terms with the tenancy agreement
 - The use of similar language where possible to the previous licences. This ensures a better understanding as well as parity of terms across agreements and licences.
 - Reviewed some of the requirements in the agreement in line with the new Equalities Impact Assessment (EQIA) and removed some clauses from the agreement as a result
17. The amendments can be seen in full in the attached revised agreement (Appendix 1). The new agreement, once approved, will apply to all new occupiers of the sites. We will ensure effective management to deal with issues emerging from any differing agreements.

Equality Impact Assessment (EQIA)

18. Officers have completed a new EQIA, working closely with colleagues in legal services (Appendix 2).
19. Following on from the revised EQIA, further amendments have been made to the agreements, including:
- Support in relation to adaptations for disabled and elderly residents
 - The offer of access to mediation and other services for Gypsies and Travellers who feel discriminated against
 - Removing the ban on businesses conducted from the pitch, subject to reasonable conditions
 - Removing the ban on breeding dogs
 - Offers to support Gypsies and Travellers on all written applications required by the council.

20. Further actions emerging from the EQIA include:
 - The need to improve our data to better inform future decision making
 - The promotion of Gypsies and Travellers to foster improved attitudes across the rest of our communities
 - The erection of notice boards to ensure the council's requirements are clear. This will be done in a way that recognises potential low literacy levels.
21. The Gypsies and Travellers officer continues to work to build good relationships with Gypsies and Travellers.

Consultation

22. Officers have worked in partnership with STAG to agree a further consultation mechanism for the new agreements.
23. Upon discussion with STAG, officers will be consulting all Gypsies and Travellers on the new agreements. All Gypsies and Travellers will now have 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.
24. Officers attended STAG's service users' forum on February 4 2013 to agree the best consultation mechanisms. The advice was to hold individual site meetings to outline the new agreements through a presentation which highlighted the content of the previous agreements and the rights and responsibilities afforded through the new agreements – concentrating on the key differences. Smaller group or individual meetings will be held with those unable to attend.
25. The consultations were led by officers from the council and representatives from STAG. The consultations were held on:
 - 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
26. Officers and STAG met with the nominated representative for Spring Tide Close and Ilderton Road met with officers. At Burnhill Close and Brideale officers met with a number of individuals. Minutes from our meetings have been captured by STAG. Initial feedback is largely positive in relation to the agreements.
27. Following on from these initial meetings across the sites, consultation and engagement will continue. Residents of the sites are able to feed back to officers or to STAG.
28. STAG has also been consulted on the new agreement. STAG welcomes Southwark Council's move to bring in tenancy agreements for residents on Gypsy and Traveller sites in the borough to replace the old site licences. STAG has made suggestions for improvement within Express Terms of the agreements.

29. Formal consultation will end 28 March 2013. Based on responses to the consultation officers will finalise the proposed agreement. Sign off of the new agreement will be through the Individual Decision Making (IDM) process. The report is currently scheduled for April 2013.
30. Parts 1 and 2 apply to all occupiers. For those who do not wish to sign up to the new agreement, their old agreements will continue to apply, whether they have Parts 1, 2 and 3 or Parts 1 and 2 only.

Community impact statement

31. 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 security through the agreement the council helps facilitate this way of life.
32. 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 by providing security and protection from unfair eviction and therefore help facilitate their culture and way of life.
33. 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

34. The new agreement will allow for the collection of the pitch fee and other site related charges.
35. Officers will be consulting as part of the new process proposals to include water recharges in the agreement. Water charges on the Gypsies and Travellers sites are currently paid through the General Fund.
36. There are no other resource implications in the introduction of the new agreement.

NEXT STEPS

37. Based on feedback from the Overview and Scrutiny Committee and the outcomes of consultation, a revised IDM will be submitted to Cllr Wingfield, Deputy Leader and Cabinet Member for Housing. This is currently scheduled for April 2013.
38. We will continue to consult all Gypsies and Travellers on the agreements to ensure all have the opportunity to sign up.
39. There are a number of teams across the council who work to support Gypsies and Travellers. We will continue to build links and improve outcomes for this community group.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

40. 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.
41. 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. .
42. The principles of consultation, so as to achieve procedural fairness to reach a reasonable decision are as follows:
 - Be undertaken 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;
 - The Council must allow adequate time for interested parties to consider the proposal and formulate their response; and
 - Take all the results from interested parties must be conscientiously taken into account when the ultimate decision is taken.
43. 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.
44. 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 12 -13 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

45. 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 consultation is to take place on the future payment of water charges by residents.

BACKGROUND PAPERS

Title:	Held at	Contact
IDM report	160 Tooley Street, SE1 2QH	Angela d'Urso Tel: 020 7525 0800

APPENDICES

No:	Title:
1	New agreement
2	Equalities impact assessment

AUDIT TRAIL

Lead Officer	Gerri Scott, Strategic Director of Housing and Community Services	
Report Author	Angela d'Urso, business manager, housing operations Paul Jeffery, Gypsies and Travellers officer	
Version	Final	
Dated	28 February 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		28 February 2013