

**From:** Bryan Sweetland, Cabinet Member - Environment,  
Highways and Waste  
Paul Crick – Director of Planning & Environment

**To:** Environment, Highways and Waste Cabinet Committee

**Date:** 4 July 2012

**Subject:** Gypsy and Traveller Pitch Allocation Policy

**Classification:** Unrestricted

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**Summary:**

This item reports the outcomes of a consultation over a proposed new Traveller site pitch allocation policy for sites both owned and managed by KCC, and proposes a revised policy for Cabinet Member decision.

**Recommendations:**

It is recommended that

- a) Cabinet Committee endorse this review of the allocation policy, and
- b) the new policy, as in Annex 1 to this report, is approved by the Cabinet Member.

**1. Introduction**

1. (1) This report:

- a. Describes the proposed new policy
- b. Highlights the key points arising from the consultation
- c. Proposes the policy for approval by the Cabinet Member

1. (2) KCC's objective in owning and managing sites for Gypsies and Travellers is to provide a high quality site pitch for those in need. Allocation of pitches must comply with relevant legislation and case law, in particular the Equality Act, 2010, the Human Rights Act 1998, and allocation decisions must be "reasonable" "fair" and "proportionate". The policy proposed in this item

endeavours to ensure that site pitches will be rented to those Gypsies and Travellers in greatest need, and to those who may have great difficulty in securing pitches on privately owned Traveller sites which are available for rent or which have the benefit of permanent planning consent

1. (3) The proposed policy would ensure an appropriate 'needs assessment' is completed, applying a points system. Each applicant would be given a point score based on the information they provide and supporting evidence. The Gypsy & Traveller Unit will treat all applicants and applications fairly. However, there are only a limited number of pitches, and it is not possible to provide a pitch for everyone who wants one.

## **2. Relevant Priority Outcomes**

2. (1) The attached documents in Annex A set out the full purpose and agreed detail of the Gypsy and Traveller Allocations Policy Review. This includes details of the documents that were subject to a public consultation that ran from 5 March – 25 May 2012.

2. (2) The documents recommend that the allocation policy be brought in line with social housing, as far as is possible by using a similar system to that used by most social housing accommodation providers such as Borough, District and Unitary Councils and Registered Social Landlords (RSLs).

2. (3) If the proposed policy is implemented, as recommended, it will ensure a more sophisticated and fairer system for the allocation of Gypsy and Traveller pitches on KCC sites, ensuring that both local needs and priority need are carefully considered and each of them are met as fairly as possible.

2. (4) This policy will not have any significant impact on the Kent taxpayer but should reduce the risk of legal challenge, and the costs that are likely to be associated with that.

## **3. Financial Implications**

3. (1) There will be no negative impact on capital and revenue budgets nor spending plans.

3. (2) Income from pitch fees will be maintained more consistently under the proposed system. The family (or, in a few cases, individual) with most points will have been decided and be ready to occupy a pitch as soon as it is vacated. This will help to maximise pitch fee income.

## **4. Legal Implications**

4. (1) The risks of challenge, either over equality impact assessment, or challenges over specific allocation decisions, are minimised by the policy proposed, and the processes detailed in this report.

## **5. Bold Steps for Kent and Policy Framework**

5. (1) The proposal to adopt the new pitch allocation policy links with Kent County Council's Medium Term Plan by ensuring that it supports the need for a new approach. The Council's overall plan is set out in the document "Bold Steps for Kent". The Medium Term Financial Plan supports this overall plan. Bold Steps for Kent recognises that we will need to deliver our services with less funding and that the Council structure will have to be as efficient as possible. Ensuring that we have made the correct allocation decision before the pitch becomes empty will reduce the loss in revenue to Kent County Council at the same time as ensuring that our assets are being used for their intended purpose.

5. (2) New partnerships will arise from the new communities that will be created on our sites. These families will need access to health care, education, police services and all other local services that are found around any other type of social housing. The residents on those sites can become more independent, become contributors to their local communities, and help to shape future services.

5. (3) Putting the citizen in control will be achieved by the policy being open and transparent. It will empower the communities it is intended for to understand how the application is processed and how the decision is made. This will provide residents and other members of the community with the information to hold KCC to account if KCC were not to follow the policy as it is written.

5. (4) It will allow those that are homeless, or threatened with homelessness, and have a history of not being employed to have a stable place to live, increasing the potential for them to secure full time education and employment that matches their skills and abilities.

5. (5) This proposal is not related to a plan or strategy as set out in the Councils Policy Framework therefore will be subject to referral to the Scrutiny Committee

## **6. The Report**

6. (1) The way vacant pitches are allocated on KCC's Gypsy and Traveller sites is to be replaced with a system that is clearer, fairer, more certain, and less open to challenge.

6. (2) The previous policy on allocations dates from 1998, and although it has been updated since by practice, it is a good time to consult on an overall review of the policy.

6. (3) The new proposed policy has been drafted to be as similar as possible to that used to allocate social housing, and is also designed to reduce the risk

of applicants challenging - through the law - decisions not to offer them specific pitches.

6. (4) It will allow applicants, and those supporting them, to detail their circumstances and their needs, and help KCC to meet their accommodation needs with the most appropriate pitch offer.

6. (5) Under the new system, applicants will have a clear understanding of what happens when a pitch becomes vacant. It sets out the points that will be allocated for an applicant's circumstances and needs.

6. (6) Each applicant will be able to check the number of points they have accumulated and understand how any changes in their circumstances will affect this.

6. (7) Each applicant will have to provide the same types of information. They will need to verify their identity, include an address for correspondence, and provide other relevant information.

## **7. Consultation and Communication**

7. (1) The public consultation that was held between 5 March – 25 May 2012 is detailed in Annex 2.

7. (2) An Equality Impact assessment has been undertaken which shows that all areas of consideration have been taken into account. It is attached as Annex 2.

7. (3) Every District/Borough and Parish Council in Kent were invited to take part in the consultation as were all of the residents on all of the sites that are owned or managed by Kent County Council.

7. (4) The questionnaire was available on line and the Community Engagement Officers of Kent County Council assisted with the forms for those with more limited literacy.

7. (5) Allocation policies from other County Councils were used to create the draft policy

## **8. Risk and Business Continuity Management**

8. (1) There are no identified risks as a result of this policy proposal, and no other implications that have to be picked up under Business Continuity Management.

## **9. Sustainability Implications**

9. (1) The Policy will enhance social justice and meet the diverse needs of all those from Gypsy and Traveller Communities who are eligible to apply for pitches and live in existing and future site communities. A high quality pitch on

a well-managed and secure site promotes personal well being as well as social cohesion and inclusion and helps to create equal opportunities for all.

## **10. Conclusions**

10. (1) The present system needs to be updated and made more robust. It does not allow for priority need to be addressed in as much detail, nor does it address the local accommodation assessments for Gypsy and Traveller needs (GTAAs) which were carried out from 2006 onwards.

10. (2) In conclusion, the documents will show that the policy is needed to help tackle disadvantage within the Gypsy and Traveller Community. It will allow for a fairer more transparent system to be in place.

## **11. Recommendations**

11. (1) It is recommended that

- a) Cabinet Committee endorse this review of the allocation policy, and
- b) the new policy, as in Annex 1 to this report, is approved by the Cabinet Member

## **12. Background Documents**

11. (1) None

## **13. Contact details**

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## **ANNEX 1 TO ITEM B3**

### Proposed KCC Gypsy and Traveller Pitch Allocation Policy

#### **Aims of the policy**

To provide a high quality site pitch for those in need. This policy aims to make sure that site pitches will be rented to people who apply because they are homeless, vulnerable and in priority need, and to those who may have great difficulty in securing pitches on privately owned Traveller sites with planning consent.

To make sure all applicants meet the criteria a “needs assessment” is completed and a points system applied to this. Each applicant is given a point score based on the information provided. The Gypsy and Traveller Unit must treat all applicants and applications fairly. However, there are only a limited number of pitches, and it is not possible to provide a pitch for everyone who wants one. If Kent County Council cannot help by offering a pitch, advice will be offered on other options.

#### **Eligibility to apply for a pitch on sites and managed by Kent County Council**

The following people are eligible for inclusion onto Kent County Council’s Gypsy and Traveller Unit waiting list:

1. Gypsies or Travellers 18 years old or above who have lived in the county of Kent for at least 12 months continuously or have close family that have lived in the county of Kent for the past three (3) years continuously. Close family means grandparent, parent or sibling. Members of the Gypsy and Traveller community who are transient will have their application assessed on priority need, as defined within section 189 of the Housing Act 1996 (as amended by the Homelessness Act 2002).

OR

2. Gypsies or Travellers who apply as qualifying persons and meet the criteria because of exceptional circumstances or special needs (as defined above in section 189), regardless of their previous address.

#### **The following people are not eligible to apply for a pitch**

- a) Any person applying for a pitch in their own right who is under 18 years old unless they are deemed as meeting priority need, in exceptional circumstances.

- b) Any person who is ineligible under the law because they are subject to immigration controls or a person from abroad who is ineligible for housing assistance.
- c) Any applicant or member of their household who knowingly gives false or misleading information, or withholds information that has been reasonably requested. They will be removed from the waiting-list and a fresh application will not be accepted for a year from the date of the removal. Should they have been allocated a pitch, that pitch agreement may be terminated.

### **Existing Family Groupings**

Existing family groupings will be considered when allocating pitches to new licensees to minimise potential conflicts, both within any council-run Gypsy and Traveller site and with individuals living near, or businesses operating near, a site. But the fact of such groupings will not, of themselves, prevent allocation to someone on the waiting list not previously linked to those families.

The allocation decision is made by KCC, taking all relevant facts and factors into account. Any behaviour or actions designed to interfere with that process by a pitch occupier or a member of their household may lead to loss of their pitch agreement.

### **Applicant response to offer**

An applicant has ten working days to respond to an offer made to them. These ten days begin with the first contact with their latest provided details.

Any applicant who rejects two suitable offers of accommodation will remain on the list, but unable to take advantage of any points priority for a year from the second rejection.

A fresh application can be considered if the applicant's immigration status changes to allow them to live in Britain.

### **Help with applications**

Care should be taken to fill out the application form in line with the notes provided in the waiting list guidance information. An officer from Kent County Council's Gypsy and Traveller Unit can help applicants complete the form, if required. If a pitch is offered to an applicant on the basis of information that is subsequently found to be untrue, or information is omitted that would have affected the decision to offer a pitch, the applicant will be liable to eviction.

### **Allocations Panel**

The above criteria will be considered by an allocations panel made up from officers of Kent County Council and, subject to availability, an officers from the local Borough or District Council. Consultation will be offered to one residents

association from any site, set up in accordance with the Mobile Homes Act 1983. Any information provided by an applicant will be kept confidential and its use will comply with data protection legislation.

### **Pitch agreement and its terms**

All successful applicants will be offered a pitch agreement (both applicants where the licence is jointly held) regulated by the Mobile Homes Act 1983. The pitch agreement sets out the requirements governing good conduct of sites, advises that any breach of pitch agreement is likely to result in formal action being taken to remove the pitch occupier responsible, and their household, from the site. The requirements are set out in the licence and are made up of implied terms inserted by the Mobile Homes Act 1983 and express terms, which are site specific. Once agreement is concluded under the procedures in the Mobile Homes Act 1983, each joint or individual applicant will be issued with a copy of their pitch agreement.

It is a requirement of the Mobile Homes Act that the pitch is the sole or main home of the pitch occupier. If that is not the case, or ceases to be, then the pitch agreement can be terminated.

### **Right to request a review**

Individuals have a right to ask for a review of any decision to refuse or terminate their application, and they can seek to be re-included on the waiting list.

### **Grievances/complaints**

Any applicant or would-be applicant can complain under KCC's formal complaints procedure. A copy of this can be obtained from:

Kent County Council

County Hall

Maidstone

ME14 1XX

By ringing 08458 247247

Or online at [www.kent.gov.uk](http://www.kent.gov.uk)

## ANNEX 2 TO ITEM B3

### **Results to the public Consultation**

(i) There were 60 respondents 23 to the online survey and 37 hard copies. There were also 7 email responses from Parish and Town Councils to the consultation but these were not in the format of the questionnaire.

(ii) There was a fairly equal response from Councils 42% and residents 45%

**Statement 1. People over 18 who have lived in the area for 12 months, or have close family, (grandparent, parent, brother or sister) who have lived in the area for the past three years in a row, should be able to apply for a pitch.**

(iii) 85% of respondents strongly agreed or agreed with Statement 1. The 8 respondents who strongly disagreed and disagreed were all from District and Parish Councils

Those disagreeing included those who felt that the qualification time should be similar to housing, i.e. 3 or 4 years, rather than 1. There was also a request that the eligibility rules should specify that only Gypsies or Travellers can apply to be on the waiting-list.

**Response:** Policy, as proposed, should be confirmed, but wording should be adjusted so it is clear that only Gypsies or Travellers may apply.

**Statement 2. Members of the Gypsy and Traveller community who move around and do not have a permanent pitch should have their application for a pitch assessed on whether they meet a priority need.**

(iv) **77% of respondents strongly agreed or agreed with Statement 2**

Of those who disagreed, one felt that “need” was a misnomer because no historical link between Kent and Irish Travellers, another felt that sites should not be open to Irish Families, while one respondent suggested that “priority need” should be as defined in housing legislation.

**Response:** Policy, as proposed, should be confirmed. But the policy wording will clarify that “priority need” does mean that which complies with the definition set out within the Housing Act 1996, Part VII Section 189 (as amended by the Homelessness Act 2002)

**Statement 3. People with a very high level of need or special needs should be able to apply, even if their last address was out of the area.**

(V) 54% of respondents strongly agreed or agreed with statements 3. 38% strongly disagreed or disagreed. The views of the District/Parish Councils were evenly split with 24% agreeing and 32% disagreeing. This compares to 56% of residents who agreed

This was the statement on which respondents were most divided. The concerns from those disagreeing mostly centred round Kent not having to accommodate lots of needy people from elsewhere, when there is plenty of need in Kent. In part, though, it was because of uncertainty about what “priority need” would mean in practice.

**Response:** Policy, as proposed, should be confirmed. But definition of “priority need” confirmed as in question before. 20 points to applicants who are local gives them a head start against those applying from outside Kent.

**Statement 4. People under the age of 18 should not be able to apply for their own pitch, unless they have a priority need.**

(vi) 72% of respondents strongly agreed or agreed with Statement 4. 88% of District/Parish Councils strongly agreed/agreed and 63% of residents strongly agreed/agreed

There were a range of views on this issue. One site respondent felt that Gypsies and Travellers grow up quicker, and so should be able to apply at 16, while others felt that the priority should be for families. One felt that applicants of 16 could apply, but could not get offered a pitch until 18.

**Response:** Policy, as proposed, should be confirmed. In very exceptional circumstances, a Gypsy or Traveller might be offered a pitch agreement, with a guarantor, between 16-18, but this would be very rare.

**Statement 5. Due to the short supply of pitches, KCC will make people a maximum of 2 suitable offers. After this no offers will be made for 12 months.**

(vii) 72% of respondents strongly agreed or agreed with statement 5. 88% of District/Parish Councils strongly agreed/agreed and 63% of residents strongly agreed/agreed

There was very broad support for this proposal. The main concerns of those disagreeing was that the definition of “suitable offer” by KCC might be quite different from an applicant’s interpretation.

**Response:** Policy, as proposed, should be confirmed. “Suitable offer”, if challenged, might need an independent view, or a legal interpretation.

**Statement 6. Existing family groupings on sites should be considered before new people are allocated pitches to minimise potential conflicts.**

(viii) 85% of respondents strongly agreed/agreed with statement 6. 80% of District/Parish Councils strongly agreed/agreed and 92% of residents strongly agreed/agreed

The vast majority of responses from those who live on sites currently was against allocations to anyone they do not know or trust. District/Parish respondents want to avoid conflict.

**Conclusion:** Genuine conflicts between families need to be considered, as the statement says, but the allocation decision is by KCC, having considered all the facts, and it needs to be carried out in accordance with the law.

**Response:** Site residents will be encouraged to set up residents’ associations, with whom there can be consultation, in general terms, over allocation proposals. But the allocations panel will only include local authority officers, and allocation decisions will be made by KCC in accordance with the law, but taking all relevant facts and factors into account.

It is vitally important that no family, or group of families, prevent others being allocated pitches on the same site, by any sort of behaviour, and such behaviour could lead to a pitch agreement being terminated.

**Statement 7. If an applicant cannot be contacted within 7 days of a pitch becoming available, the pitch should be offered to the next suitable applicant on the waiting list.**

(ix) Respondents were evenly split on statement 7. 46% strongly agreed/agreed and 41% strongly disagreed/disagreed. 20 respondents felt the time period was too short.

There were a variety of views on this issue, including those who felt that it should be a two week period to those who felt 7 days was OK.

There are financial implications for KCC if a pitch remained vacant for a long period (loss of pitch fee, unauthorised occupation or measures to prevent it), but it is also important to allow a family at the top of the points list a reasonable time to respond, including if they are abroad, or ill.

**Response:** Response time will be increased to ten working days, to take account of the responses, and bank holidays etc.

**Statement 8. Do you have any other comments about the Points Allocation System?**

**Statement 9. Do you have any other comments you would like to make about the Pitch Allocation Policy**

**Statement 10. Thinking of these characteristics, please tell us if you know of any other ways that the policy might be unfair to people because of who they are.**

**Statement 11. We want to know about any difficulties people face because of their protected characteristics (listed above). Do you know of any other ways we can find out about these difficulties?  
This will help us to better understand how the policy will affect people.**

(x) The final statements, 8.,9,10 and 11 asked for opinions on the consultation on the points system and the allocation policy. There were a mixture of views but most were supportive of the policy as a whole, although other issues were raised. These do not relate to the allocation policy, but will be addressed separately.