



# Public Document Pack Housing and Community Overview and Scrutiny Agenda

*Scrutiny making a positive difference: Member led and independent, Overview & Scrutiny Committee promote service improvements, influence policy development & hold Executive to account for the benefit of the Community of Dacorum*

**Wednesday 8 July 2015 at 7.30 pm**

**DBC Bulbourne Room - Civic Centre**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

#### Membership

Councillor Mahmood (Chairman)  
Councillor McLean (Vice-Chairman)  
Councillor Adshead  
Councillor Banks  
Councillor Hazel Bassadone  
Councillor Conway

Councillor Hearn  
Councillor Imarni  
Councillor Silwal  
Councillor Timmis  
Councillor Wyatt-Lowe

#### Co-Opted Members:

#### Substitute Members:

Councillors Howard, Collins and Clark

For further information, please contact

## **AGENDA**

**1. MINUTES** (Pages 1 - 6)

To confirm the minutes from the previous meeting

**2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence

### **3. DECLARATIONS OF INTEREST**

To receive any declarations of interest

A member with a disclosable pecuniary interest or a personal interest in a matter who attends a meeting of the authority at which the matter is considered -

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent

and, if the interest is a disclosable pecuniary interest, or a personal interest which is also prejudicial

- (ii) may not participate in any discussion or vote on the matter (and must withdraw to the public seating area) unless they have been granted a dispensation.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Members' Register of Interests, or is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal and prejudicial interests are defined in Part 2 of the Code of Conduct For Members

[If a member is in any doubt as to whether they have an interest which should be declared they should seek the advice of the Monitoring Officer before the start of the meeting]

### **4. PUBLIC PARTICIPATION**

An opportunity for members of the public to make statements or ask questions in accordance with the rules as to public participation

### **5. CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN RELATION TO CALL-IN**

### **6. MOBILE HOMES POLICY (Pages 7 - 18)**

### **7. ENFORCEMENT POLICY 2015 (Pages 19 - 32)**

### **8. EXCLUSION OF THE PUBLIC**

To consider passing a resolution in the following terms: That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the items in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during these items there would be disclosure to them of exempt information relating to: information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.(Item 13).

## MINUTES

### HOUSING AND COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

WEDNESDAY 10 JUNE 2015

**Present:**

**Councillors:**

S Adshead	Imarni
Banks	Mahmood (Chairman)
Bassadone	McLean (Vice-Chairman)
Conway	Silwal
Link	Timmis
	W Wyatt-Lowe

Councillor Griffiths (Portfolio Holder for Housing) and Councillor Marshall (Portfolio Holder for Environment Sustainability and Regulatory Services)

Co-Opted Member: M Cook.

**Officers:**

Dave Austin	Assistant Director – Neighbourhood Delivery
Elliott Brooks	Assistant Director – Housing
James Deane	Corporate Director (Finance & Operations)
Jim Doyle	Group Manager – Democratic Services (Minutes)
Julie Still	Group Manager – Resident Services
Chris Troy	Group Manager, Regulatory Services

The meeting began at: 7:30pm.

**OS/107/15 MINUTES**

The minutes of the Housing and Community OSC meeting on 8 March 2015 were agreed by members present and signed by the Chair.

**OS/108/15 APOLOGIES FOR ABSENCE**

Apologies received from Councillor Harden and Co-Opted TLC Members Howard and Horn.

**OS/109/15 DECLARATIONS OF INTEREST**

There was no declaration of interest.

**OS/110/15 PUBLIC PARTICIPATION**

There was no public participation.

**OS/111/15 CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN RELATION TO CALL IN**

None.

**OS/112/15                      CO-OPTED MEMBERS**

The status of the Tennant and Leaseholder Committee (TLC) representatives as co-opted members of the Housing and Community OSC was considered. It was suggested that they need to be re-appointed by the TLC and that their voting rights and participation be confirmed and agreed at a future meeting of this committee.

**OS/113/15                      PROVISIONAL OUTTURN 2014/15**

James Deane (JD), Corporate Director (Finance & Operations) outlined the Provisional Outturn for 2014/15, prior to the closure of the Council's accounts. JD took the committee through the report and explained the Capital and Revenue elements of the General Fund, the Housing Revenue Account (HRA), and the Capital Programme.

Members then raised various issues arising from the report.

Councillor W Wyatt-Lowe drew attention to line 142 dealing with The Elms and asked how the accounts will show a 'retention'. JD said that this would form part of the annual budget reporting which would be identified by officers and reported at the end of year.

Councillor McLean highlighted the remedial works carried out around Highbarns and confirmed that the project is now complete.

E Brookes (EB) was asked if the efficiency saving of £400k across the areas of Responsive Repairs and Void Repairs arising from the new Total Asset Management contract with Osborne would end up in the General Fund and he replied that it would remain in the HRA.

Reasons were sought for the less than expected take up of Home Improvement Loans and Chris Troy (CT) put forward that this may be due to the scheme not being advertised widely enough, an issue currently being addressed.

The meeting returned to the slight overspend on the Elms and were told that this addressed three elements: the Kitchen which required a higher specification; the outside area extension; and lastly furniture and fittings; all of which were not in the original project build but were necessary additions.

Action: None

Outcome: The report was noted.

**OS/114/15                      2014/15 QUARTER 4 PERFORMANCE REPORT, SERVICE PLAN UPDATE & RISK REGISTER**

This item was introduced by Elliot Brookes who drew the attention of committee members to the service plan structure chart detailing who does what and the services for which they are responsible.

He also highlighted positives including the improved end of year figures for Empty Homes Performance and the benefits arising from the Osbourne contract.

He then went on to cover the good results achieved by the Tenancy Sustainment Team due to the concentrated effort by one or two officers to get high rewards.

He drew attention to the efforts to increase tenancy involvement including the tenants and leaseholders fun day to be held at Hemel Hempstead school and advertised in the recent edition of Housing News.

He concluded with the New Homes Redevelopment Programme encompassing the Elms and St. Peters Court – both completed on time, to schedule and with tenants in them.

Councillor Imrani asked for examples of what makes a property 'hard to let'. EB listed certain sheltered schemes, e.g. bedsits, willow edge in Kings Langley, properties above garages, all characterised as 'less desirable' in choice based letting terms.

A short discussion then took place on homelessness targets and the gold standard in provision of homelessness support. DBC had worked with three other authorities in herts in a peer review considering the 10 key elements in the gold standard. As a result DBC has been working on improving the areas of 'advice given' (a service provided through phone scripts); and consultation on the homelessness strategy.

Councillor Silwal asked if the Key Amnesty had impacted on sub letting and was informed that this internal initiative has resulted in keys being handed back

Councillor W Wyatt-Lowe raised the issue of how DBC might categorise the recording of complaints from different sets of tenants – e.g. private householders complaints about Council tenants. EB advised that tenant complaints are recorded and we look at themes; identifying issues and behaviour rather than who it is about. We then record any enforcement action taken.

The committee next considered the Performance Indicators.

Councillor Imrani drew attention to the capital programme and her impression that some properties seem to be left off the repairs lists while the rest of the street is repaired. EB explained that the list is compiled not by street but by need. He suggested that residents who feel they have a need to be addressed should alert the council.

Councillor Conway sought clarification on the passive house standard. EB clarified that it relates to the standard of build quality which will result in lower heating and energy bills. St Peter's is a pilot and the performance will be monitored. The tenants have been trained and, used correctly, it should result in lower bills.

Councillor W Wyatt-Lowe welcomed the efforts involved in improving digital access. He looked forward to the programme being pushed out to the wider community and not just council residents. He questioned how we will measure any outcomes from this and suggested 'less visits to the civic offices'; more contacts by phone, App or website.

He raised the issue of the young persons housing strategy including special provisions for those leaving care. EB agreed that this will be considered when the strategy comes to this committee for approval.

The members suggested that the current format of the Performance report needs reviewing and a short summary included in the report.

## **OS/115/15                      QUARTER 4 - RESIDENT SERVICES**

Julie Still, (JS) Group Manager: Resident Services took the committee through the various reports from her remit.

- The Old Town Hall  
The Satisfaction Survey was suspended during the refurbishments but the intention is to restart it in the future.  
The New Cellar Bar has been completed and has been well received.

- Community Safety Partnership – is operating well and recorded instances of Anti-social behaviour are reduced.
- Neighbourhood Action – The Love Your Highfield event was a success and a full analysis of the project will be produced in the summer.
- Verge Hardening – ongoing
- Dacorum Youth Forum – prior to the UK General election all senior schools in the borough were visited and 600 first time electors were added to the electoral register
- CCTV – Presented at a recent sector conference – recognised as a nationwide leader.
- Safeguarding – Member Training underway

Councillor Mclean noted that the verge hardening budget has been used: is this to be reviewed? JD advised that the current budget has been utilised and that members may wish to consider a further allocation as part of the budget process later in the year.

Councillor W Wyatt-Lowe requested a little more interpretation to accompany the stats provided by the fire service. He also asked that figures for 'fraud and cyber crime' should be included in the crime statistics

Councillor Mahmood praised the neighbourhood action team efforts that went into organising the Highfield Love your neighbourhood project and looked forward to the scheme being rolled out further.

Councillor McLean requested that officers consider developing a policy for the use of drones?

Councillor Timmis sought clarification on what constituted a deliberate secondary fire and was informed that they include things like fires in skips.

## **OS/116/15                      QUARTER 4 - REGULATORY SERVICES**

C Troy, (CT) Group Manager, Regulatory Services discussed the report highlighting: that 100% Food Hygiene Inspections over the year have been achieved despite an earlier back log; a successful prosecution against Royal Mail under Health & Safety Enforcement; efficient handling of infectious diseases outbreaks; and two successful prosecutions for fly tipping.

He went on to draw attention to the review of Emergency Planning which has now prioritised this area of work as well as the achievement of a successful audit; DBC involvement in the Herts-wide air quality strategy which will soon be on Hertsdirect website; and the setting up of the new corporate Health & Safety service including the Health & Safety Committee.

Councillor W Wyatt-Lowe asked if DBC has to take action on air quality and fly-tipping which should be the responsibility of HCC. He wondered if DBC might reclaim costs for littering/flytipping on the highway from the county council? CT's response was that it is difficult for DBC alone to address air quality issues as the main source of pollution is from vehicles. It is hoped that the new County Air Quality Strategic Group, which has representation from all district LA's, highways, planners and public health, will positively influence action across all districts. The districts continue to have a key role in monitoring levels of pollution contributing.

Dave Austin said that DBC take a pragmatic view and will take action if it is required on issues such as Fly tipping; A41 litter picking and gulley cleansing, even if HCC have certain responsibilities.

Councillor Timmis stressed that fly-tipping is the number one issue for farmers and for the villages. She went on to say that they are also anxious to see further provision of 'dog waste bins'. CT advised that the team are looking at the worst areas to ensure that there is sufficient dog bin provision and will be looking at additional signage. The team are also planning Environmental Action Days to address issues of dog fouling, littering and flytipping. He stressed, however, that these areas require significant cost and effort to acquire the necessary evidence in order to take successful legal action.

Councillor Mahmood suggested DBC might organise a conference to train landlords and those running houses in multiple occupation. . CT was of the opinion that landlords generally know the rules and we take actions where necessary. HMOs have to have a license and have to be inspected and the DBC policy is to target those that are the worst.

**OS/117/15                      APPENDIX A – WORK PROGRAMME 2015/2016**

Love your neighbourhood - update in the autumn.

The meeting closed at 21:05

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## AGENDA ITEM: 6

### SUMMARY

<b>Report for:</b>	<b>Housing &amp; Community Overview and Scrutiny Committee</b>
<b>Date of meeting:</b>	<b>8 July 2015</b>
<b>Part:</b>	<b>1</b>
<b>If Part II, reason:</b>	

<b>Title of report:</b>	Mobile Homes Policy 2015
<b>Contact:</b>	Councillor Janice Marshall - Portfolio Holder for Environmental, Sustainability and Regulatory Services David Austin – Assistant Director Neighbourhood Delivery Nicholas Egerton - Team Leader Environmental Protection & Housing
<b>Purpose of report:</b>	To provide an opportunity for Members to comment on the Regulatory Services – Mobile Homes Fees Policy
<b>Recommendations</b>	That Cabinet approves the Regulatory Services – Mobile Homes Fees Policy
<b>Corporate Objectives:</b>	To produce a Mobile Homes Fees Policy in line with current best practice and one that provides value for money and most economical use of resources.
<b>Implications:</b>	<u>Financial</u>  There are limited financial implications relating to this report. The fees proposed and detailed in this policy should ensure that the actions can be funded (cost recovery only) from the site licence fees. All officers costs associated with delivering the actions should therefore be achieved within existing resources.
<b>'Value For Money Implications'</b>	<u>Value for Money</u>  Improvements in the quality of the mobile home parks located in the borough will reduce the risks to residents, and ensure compliance with the Site Licence conditions.

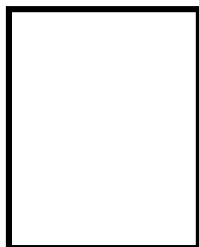
Risk Implications	Dacorum Council has a duty to develop a Mobile Homes Fees Policy which sets out how fees and charges will be administered. Failure to comply with this requirement could leave this authority open to legal challenge, be unable to charge annual fees, and therefore be unable to recover costs incurred or have to repay fees already charged.
Community Impact Assessment	This policy is drafted in accordance with the Mobile Home Act 2013 and associated guidance <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285926/140227_A_guide_for_Local_Authorities_on_setting_site_licensing_fees.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285926/140227_A_guide_for_Local_Authorities_on_setting_site_licensing_fees.pdf</a> . The legislation and guidance has been subject to consultation and negative impacts will have been minimised
Health And Safety Implications	There are no additional health and safety implications associated with this report.
Consultees:	<ul style="list-style-type: none"> <li>• Councillor Janice Marshall, Portfolio Holder for Residents and Regulatory Services</li> <li>• All relevant Dacorum Borough Council Departments</li> </ul> <p>Dacorum Borough Council website for general public access</p> <p>The comments received were considered and where appropriate included.</p>
Background papers:	Department for Communities and Local Government (DCLG), The Mobile Homes Act 2013, A Guide for Local Authorities on Setting Site Licence Fees.
Glossary of acronyms and any other abbreviations used in this report:	Not provided as none used.

## **1.0 Background**

- 1.1 The [Caravan Sites and Control of Development Act 1960](#) has been amended by the [Mobile Homes Act 2013](#) , which came into force on the 1 April 2014.
- 1.2 As part of the changes, a new licensing scheme came into force on 1st April 2014. This enables local authorities to monitor site licence compliance more effectively. Authorities will now have the tools to take enforcement action where owners are not managing and maintaining their sites and its services. This will ensure residents' health and safety are better protected and the value of their homes is safeguarded.
- 1.3 These Acts lay down 'model standards' that should be included in the licences for the site. These standards specify conditions relating to:
- the road
  - speed limits
  - signage within the site
  - the distance between mobile homes
  - boundary fences
  - other structures within the plot area
  - the information that should be provided on the site by the manager and
  - the fire precautions that must be in place within the site

## **2.0 Recovery of Costs Associated with Licensing.**

- 2.1 From the 1st April 2014 local authorities can charge Mobile Home Sites fees for:
- considering applications for the issue or transfer of a site licence;
  - considering applications for altering conditions in a site licence; and
  - administration and monitoring of site licences.
- 2.1 These fees have been included in the 2015/16 budgeting process and fees and charges set accordingly.
- 2.2 The fee for administration and monitoring of licences is levied as an annual fee. Where a local authority decides to charge fees these must be published in its Fees Policy document and must be transparent and reasonable.
- 2.3 A risk rating inspection system will be used that introduces a sliding scale of annual charges based on the risk/inspection frequency. This means a site which is more problematic will pay a higher licence fee than one which requires little regulatory involvement from the council.



# **Dacorum Borough Council**

**Mobile Homes Fees Policy  
Effective from 1<sup>st</sup> January 2015**

# Dacorum Borough Council

## Regulatory Services Mobile Homes Fees Policy

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## **1.0 Introduction**

- 1.1 Dacorum Borough Council ('the council') has powers under the Caravan Sites and Control of Development Act 1960 (the Act) as amended by the Mobile Homes Act 2013 to issue licences in respect of 'relevant protected sites' and to charge fees for the provision of our licensing functions.
- 1.2 All of the residential mobile home parks currently licensed by the council come under the new licensing regulations; these sites are referred to as "relevant protected sites". The following sites are exempt:
- sites granted for holiday use only
  - sites which have restrictions at certain times of the year (such as planning conditions)
  - sites owned by local authorities.
- 1.3 The council can charge:
- a licence fee for applications to grant or transfer a licence or an application to alter the conditions on a licence
  - an annual licence fee for administering and monitoring licences
  - a fee for assessing the depositing of site rules.
- 1.4 The legislation allows the site owner to pass on each year to residents, through their annual 'pitch fees', the annual licence fee imposed by the council in the first year.
- 1.5 Before the council can charge a fee, it must have a fees policy. When fixing a fee the local authority:
- must act in accordance with their fees policy
  - may fix different fees in different cases
  - may determine that no fee is required in some cases.
- 1.6 Any fees charged must fairly cover the costs (or part of the costs) incurred by the council under its functions in Part 1 of the Act, other than the costs of enforcement action. They must be reasonable and transparent and whilst different fees can apply to different types of cases, there must be consistency in the fee structure and its application.
- 1.7 This document outlines the policy adopted by the council. Implementation, monitoring and review of this policy will be undertaken by the Team Leader for Environmental Protection and Housing, along with the Group Manager (Regulatory Services). Cabinet will be consulted if significant amendments to the policy are proposed, while minor changes may be agreed by the Group Manager (Regulatory Services) in consultation with the Portfolio Holder.. Where legislation dictates that elements of the policy must be changed, these changes will be implemented as soon as practicable following the notification of the changes.

1.8 Any person who operates a business of owning/managing a mobile homes relevant protected site within Dacorum must apply to the council for a site licence.

## **2.0 New applications**

2.1 Applicants must apply (or apply for a variation) using the prescribed form, enclose a copy of all relevant documentation and submit the correct fee.

Incomplete licence applications, including those not accompanied by the correct fee, requested supporting documentation or all relevant disclosure certificate/s will not be processed. Incomplete applications may be returned to the applicant.

## **3.0 New applications fees and existing site licence fees**

3.1 Application fees and site licence fees will be reviewed every year as part of the council's fees and charges review and will be published on the council's website.

## **3.2 Site Licence fee**

3.2.1 Annual Costs will be incurred for any reasonable cost incurred as part of the administration and monitoring of site licences, these may include for example:

- letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process;
- Site inspections and re-inspections including associated travel costs;
- handling enquiries and complaints;
- updating hard files/ computer systems;
- updating the EU Directive website if appropriate;
- processing the licensing fee;
- time for reviewing necessary documents and certificates;
- downloading photographs;
- preparing reports on contraventions;
- review by manager or lawyers; review any consultation responses from third parties;
- updating public register;
- carrying out any risk assessment process.

3.2.2 The annual fee for the site licence will be based on a risk rating that takes into account the size of a site, the level of compliance of the site with the conditions of the site licence and confidence in management. Further details of the risk based approach can be seen in Appendix A of the policy. The fees

are set in accordance with the provisions of the 2013 Act and based on a risk based inspection regime. This approach complies with the regulators code.

- 3.2.3 This means that a site which is historically more problematic than another site and therefore requires more officer involvement and more monitoring, would pay a higher licence fee than a well managed site that requires very little local authority involvement.
- 3.2.4 As sites have historically been visited sporadically, with various frequencies of inspection or advisory visits it is considered reasonable that all sites will be charged as low risk for the first charging period. The risk assessment determined on the initial visit will determine the frequency of the next visit. The risk based methodology will consider breaches against the site licence conditions. Issues identified which are included in the site licence will increase the risk even if these are not enforced by this authority. The risk rating methodology is shown below in Appendix A. Non compliance issues will be dealt with in accordance with the Council Enforcement Policy and the requirements of the Regulators Code.
- 3.2.5 A subsequent visit will be undertaken during the 2015/16 financial year and based on this inspection the site will be risk assessed in terms of the cost and the frequency of the next visit. This will allow a year for any issues identified on a site and raised to the owner of the site during the initial visit in 2014 to be rectified.
- 3.2.6 Site Licence Fees will be charged annually from the 1st January. The fees will be reviewed annually in accordance with the Council's fees and charges policy. Any surpluses and deficits will be considered when the annual fees are reviewed, and approved by Members.

#### **4.0 Appeals against the fees charged**

- 4.1 A licence holder has the right to apply to the First Tier Tribunal if they disagree with the licence fee being charged.

#### **5.0 Fees for depositing, varying and deleting site rules**

- 5.1 Site rules are different to the site licence conditions and are put in place by the owner of the site to ensure acceptable standards are maintained. The new Act has changed the way site rules must be agreed between the park owner and residents. Councils are now required to keep a register of site rules and assess the park owner's consultation process over those rules. If the council deem the consultation process to be inadequate, the park owner can be required to re-consult the residents and re-apply.
- 5.2 The council will charge a set fee for assessing the park owner's consultation process, depositing, varying and deleting site rules. If the park owner has



completed an inadequate consultation process, a new depositing of site rules fee must be paid by the park owner to cover the council's costs.

## **6.0 Exemptions**

6.1 A site licence is not required for:

- incidental use within the curtilage of a home (e.g. a caravan kept on a domestic driveway for private use by the owners)
- single caravans for not more than two nights and 28 days in 12 months
- holdings of five acres or more if not more than 28 days in 12 months and maximum three caravans at any time
- sites occupied and supervised by exempted organisations (e.g. the Caravan Club)
- sites approved by exempted organisations for up to five caravans
- meetings organised by exempted organisations
- seasonal agriculture and forestry workers
- building and engineering sites
- travelling showmen
- sites occupied by a local authority
- gypsy sites occupied by county or regional councils

View a copy of the Act at <http://www.legislation.gov.uk/ukpga/Eliz2/8-9/62/schedule/FIRST> detailing the exemptions in full.

## **7.0 Timescales**

7.1 The council aims to process applications within two months. There is no deemed approval of applications until a licence is granted.

7.2 Depending on the status of the site's planning permission, a licence will be granted either permanently or for a fixed period. If the licence is for a fixed period the expiry date will be stated on the licence.

## **8.0 Renewal of licences**

8.1 It is the applicant's responsibility to apply and ensure that the necessary planning permission is in place before an application for renewal of a licence is submitted.

## **9.0 Appeals and complaints**

10.1 Concerns about how an application is handled should initially be with the case officer dealing with the application. If the applicant is still not satisfied, they can lodge a formal complaint which will be investigated in accordance with the Council's published complaints procedure. .

10.2 If an applicant is dissatisfied with a condition attached to their licence, they have the right of appeal to a magistrate's court within 28 days.

11.0 Appendix A **Park Home risk rating system**

<b>Park Home risk rating system</b>	<b>Penalty</b>	<b>Total</b>
<b><u>Occupancy</u></b>		
1 - 5 units	0	
6 - 10	5	
11 - 20	10	
21 - 50	15	
51 - 100	20	
>100	25	
<b><u>Complaints</u></b>		
Enquiries and complaints not substantiated	0	
1 substantiated unique complaint in 12 month period	5	
2-3 substantiated complaints in 12 month period	10	
> 3 substantiated complaints in 12 month period	15	
<b><u>Compliance with site conditions</u></b>		
<b><u>Spacing</u></b>		
All park homes spaced correctly	0	
5% of Park Homes closer than 6m	5	
5-10% Park Homes closer than 6m	10	
> 10% Park Homes close than 6m	15	
Other spacing issues	5	
Combustible items erected/constructed between PH	15	
<b><u>Roads/Footpaths/Communal areas</u></b>		
Defective surfaces to site	5	
Insufficient lighting	5	
Infringement of width of pathways	5	
Emergency vehicle access	5	
Lack of adequate Communal waste bins	5	
Trees/ hedges/ grass/ vegetation not maintained	5	
<b><u>Fire Fighting Equipment</u></b>		
Lack of Risk Assessment made available (RRO 2005)	10	
Lack of test certificate of equipment	5	
Lack of fire notices on 1 or more unit	5	
Alarm failure on 1 or more unit	10	
<b><u>Site Information</u></b>		
Lack of Site Plan on display in Park	5	
Lack of Licence/ Licence Holders details on displayed	5	
<b>Other - more homes than licenced for</b>	5	
Storage of gas/ oil fails to meet correct statutory requirements	5	
Electrics not maintained in accordance with current statutory requirements	5	

<p><b>Confidence in management</b>  (to include RRO Risk Assessment/Electrical Certs/Public liability Insurance/Site Licence and Conditions/Flood Plan)</p> <p><b>High confidence</b> e.g. documented management procedures in place, no unactioned complaints received in last 3 years, good history of compliance with site conditions in last three years</p> <p><b>Reasonable confidence</b> e.g. no formal management procedures but site management still satisfactory, &gt;1 substantiated complaints per year in last 3 years but less than 5 complaints in total in last 3 years, advisory letter sent about some site conditions but no formal action taken</p> <p><b>Low confidence</b> - no documented management procedures, evidence of poor site management, &gt;5 substantiated complaints in last 3 years, formal enforcement action undertaken in last 3 years</p>	0	
	10	
	20	
<b>Total</b>		0
<b>Risk category</b>		
Low	0-30	
Medium	35-85	
High	90-165	

**Comments:**

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## Agenda item: 7

### Summary

Report for:	<b>Housing &amp; Community Overview and Scrutiny Committee</b>
Date of meeting:	<b>8 July 2015</b>
Part:	<b>1</b>
If Part II, reason:	

Title of report:	<b>Dacorum Borough Council Enforcement Policy</b>
Contact:	Councillor Janice Marshall - Portfolio Holder for Environmental, Sustainability and Regulatory Services  David Austin – Assistant Director Neighbourhood Delivery Nicholas Egerton - Team Leader Environmental Protection & Housing
Purpose of report:	To provide an opportunity for Members to comment on Dacorum Borough Council's Enforcement Policy
Recommendations	To provide an opportunity for Members to provide comments on the Draft Enforcement Policy prior to its presentation to Cabinet.
Corporate objectives:	To produce an Enforcement Policy in line with current best practice and one that provides value for money and most economical use of resources.
Implications:	<u>Financial</u>  This policy sets out the council approach to enforcement. There are no expected financial implications relating to this report. All officers costs associated with delivering the enforcement actions should be achieved within existing resources.
'Value for money' implications	<u>Value for Money</u>  The Enforcement Policy should help to target action against those who decide to flout the law and minimise action against good businesses. This should help good/compliant businesses to thrive.
Risk implications	Dacorum Borough Council has a statutory requirement to develop an Enforcement Policy and a requirement to comply with the Regulators Code. Failure to comply with this

	requirement could leave this authority open to legal challenge.
Community Impact Assessment	Community Impact Assessment completed
Health and safety Implications	There are no additional health and safety implications associated with this report
Consultees:	<ul style="list-style-type: none"> <li>• Councillor Janice Marshall, Portfolio Holder for Residents and Regulatory Services</li> <li>• All relevant Dacorum Borough Council Departments</li> </ul>
Background papers:	The Regulators' code: <a href="https://www.gov.uk/government/publications/regulators-code">https://www.gov.uk/government/publications/regulators-code</a>
Historical background <i>(please give a brief background to this report to enable it to be considered in the right context).</i>	The Regulators' Code was issued in 2014 and is in accordance with section 23 of the Legislative and Regulatory Reform Act 2006. Regulators whose functions are specified under section 24(2) of the act must have regard to this statutory Code when developing policies and operational procedures.
Glossary of acronyms and any other abbreviations used in this report:	

## Background

- 1.0 In 1998 the Cabinet office published the "Enforcement Concordat" to help promote consistency in the UK regulatory enforcement regime. The Enforcement Concordat laid down the principles of good enforcement policy and was a voluntary code.
- 1.1 Following the Hampton report (2005) into regulatory functions and the burden created by regulation, the Legislative and Regulatory Reform Act 2006 came into force. Following this a statutory Code of Practice for Regulators was developed to promote the Government's Better Regulation agenda.
- 1.2 In the Autumn Statement 2012, Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline. The review of the Regulators' Compliance Code found that although regulators had largely adopted its principles, its delivery was inconsistent and it had not changed regulatory culture and practice. The Regulators' Code has been designed to address these concerns. It is part of a package of measures to improve the relationship between regulators and those that they regulate, and to overcome barriers to growth by improving the way regulation is delivered.
- 1.3 This policy illustrates how the Council will apply its enforcement powers.

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# Dacorum Borough Council

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## Enforcement Policy



Version Control	Version 1
Status of Strategy	Draft 2
Sponsor	
Author/Reviewer	Nicholas Egerton, Team Leader for Environmental Protection and Housing
Approved	
Review Date	





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## **1.0 Background**

- 1.1 In 1998 the Cabinet office published the “Enforcement Concordat” to help promote consistency in the UK regulatory enforcement regime. The Enforcement Concordat laid down the principles of good enforcement policy and although a voluntary code of practice it was adopted by The Council.
- 1.2 Following the Hampton report (2005)<sup>1</sup> into regulatory functions and the burden created by regulation, the Legislative and Regulatory Reform Act 2006 came into force.  
<sup>1</sup> Reducing administrative burdens: effective inspection and enforcement – Philip Hampton 2005
- 1.3 The ‘Regulators’ Compliance Code’ a statutory Code of Practice for regulators was brought in under the provisions of the Act to promote the Government’s Better Regulation agenda. The Regulators’ Compliance Code came into force on the 6<sup>th</sup> April 2008.
- 1.4 In the Autumn Statement 2012 Government announced that it would introduce a package of measures to improve the way regulation is delivered at the frontline. The review of the Regulators’ Compliance Code found that although regulators had largely adopted its principles, its delivery was inconsistent and it had not changed regulatory culture and practice. The Regulators’ Code has been designed to address these concerns. It is part of a package of measures to improve the relationship between regulators and those that they regulate, and to overcome barriers to growth by improving the way regulation is delivered.

## **2.0 Introduction & Scope**

- 2.1 This policy seeks to illustrate how Dacorum Borough Council will apply its enforcement powers. This could range from criminal prosecutions at one end of the spectrum to informal warnings or advice at the other. This policy is underpinned by procedures that ensure consistency of approach by officers.
- 2.2 The Enforcement Policy sets the procedures to be adopted by all services and officers exercising any enforcement functions. The Council is stating its commitment to services which are to be courteous, helpful and work with individuals and businesses, wherever possible, to help them comply with the law.

- 2.3 The Council, nevertheless, acknowledges the need for firm action against those who flout the law and put consumers and others at risk. The Council expects all officers taking enforcement decisions to take the Policy as a guide when making their decision. Every case must be decided on its own individual facts. Officers must ensure that, if they depart from the Policy when they make their decision, they can provide reasons for doing so.
- 2.4 This document represents the Council's Corporate Policy, which may be supplemented in some cases, by more specific and detailed service policies.
- 2.5 The purpose of this policy is to outline the Council's approach when securing compliance with the law, and should leave most readers in no doubt as to what they can expect by way of enforcement action from Dacorum Borough Council. The policy cannot be absolutely prescriptive due to the complexity and variety of activities enforced and also the frequency of changing guidance and legislative requirements.
- 2.6 This document has been prepared with regard to the current principal legislation and statutory guidance including:
- The Regulatory Enforcement and Sanctions Act 2008
  - Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009 SI665/2009
  - Co-ordination of Regulatory Enforcement (Procedure for References to LBRO) Order 2009 SI670/2009
  - Legislative and Regulatory Reform Act 2006
  - Legislative and Regulatory Reform (Regulatory Functions) Order 2007
  - Regulators' Code 2014
- 2.7 The Regulatory Enforcement and Sanctions Act established The Local Better Regulation Office (LBRO) which has now been replaced by BRDO (Better Regulation Delivery Office). It also imposed upon Regulation and Enforcement a duty to:
- (a) have regard to any guidance given to a Local Authority by BRDO,

(b) a duty to comply with guidance where we are directed to do so by BRDO,

(c) a duty to have regard to any list of enforcement priorities published by BRDO.

2.8 The Regulators' Code is in accordance with section 23 of the Legislative and Regulatory Reform Act 2006. Regulators whose functions are specified under section 24(2) of the act must have regard to the Code when developing policies and operational procedures. This policy is based on the six principles of good regulation as identified in the code.

2.9 These include:

- 1) Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- 2) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- 3) Regulators should base the regulatory activities based on risk
- 4) Regulators should share information about compliance and risk
- 5) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- 6) Regulators should ensure that their approach to their regulatory activities is transparent.

2.10 The Council has signed up to 'Better Business for All' (BBfa). BBfA is Hertfordshire Regulators' response to reducing regulatory burdens on business and aims to support growth by building stronger relationships between businesses, local regulators and other interested parties. The partnership, which has been endorsed by all of the county's local authority Leaders, was formed in 2013 and includes representatives from both business and regulators.

### **3.0 The Principles of Good Enforcement- Policy and Procedures**

3.1 The primary function of central and local government enforcement work is to protect the public and the environment. However, at the same time, carry out enforcement functions in an equitable, practical and consistent manner to promote a thriving national and local economy. The council is committed to promoting compliance and maintaining a fair and safe environment.

3.2 The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those

regulated. It is recognised that most people and/or organisations want to comply with the law, therefore care will be taken to help businesses and residents meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety

#### **4.0 The Principles of Good Regulation.**

4.1 This Policy is based on the six principles of good regulation in accordance with the Regulator's Code.

#### **4.2 Carry out activities in a way that supports those regulated to comply and grow**

4.2.1 The Council will avoid imposing unnecessary regulatory burdens through their regulatory activities and where suitable shall assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. The Council will make sure that we take a proportionate approach to those they regulate, based on relevant factors including, for example, business size and capacity.

4.2.2 When designing and reviewing policies, operational procedures and practices, The Council will consider how we may be able to support individuals, or enable economic growth for compliant businesses and other regulated entities, for example, by considering how we can best:

- understand and minimise negative economic impacts of our regulatory activities;
- minimising the costs of compliance for those regulated;
- improve confidence in compliance for those regulated; and,
- encourage and promote compliance.

4.2.3 The Council will ensure that officers have the necessary knowledge and skills to support those regulated, including having an understanding of those regulated to enable us to choose proportionate and effective approaches.

4.2.4 The Council will ensure that their officers understand the statutory principles of good regulation as detailed in the Legislative and Regulatory Reform Act 2006 and of the Regulators Code, and how the regulator delivers its activities in accordance with them.

We recognise that our enforcement should be carried out in a way which is:

- i) Proportionate
- ii) Accountable
- iii) Consistent
- iv) Transparent
- v) Targeted to situations which need action.

### **4.3 Provide simple and straightforward ways to engage with those regulated and hear their views**

4.3.1 The Council will ensure that we have mechanisms in place to engage with those we regulate, citizens and others to offer views and contribute to the development of policies and service standards. Before changing policies, practices or service standards, The Council will consider the impact and where suitable engage with resident and business representatives.

4.3.2 In responding to non-compliance The Council will clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. The Council will provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that we acting in a way that is proportionate and consistent.

4.3.3 The above paragraph does not apply where immediate enforcement action is required to prevent or respond to a serious breach, or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

4.3.4 Where action is taken The Council will provide an impartial and clearly explained route to appeal against a regulatory decision made, or a failure of this authority to act in accordance with The Regulators Code. This will be in plain language and include practical information on the process involved. Individual officers involved in the initial decision or action against which the appeal is being made will not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.

4.3.5 The Council will maintain a corporate complaints database, allowing those regulated to easily make a complaint about the conduct of the regulator.

- 4.3.6 The Council will maintain or develop a range of mechanisms to enable and regularly invite, receive, and take on board customer feedback, including, for example through customer satisfaction surveys of those we regulate.

#### **4.4 Base the regulatory activities on risk**

- 4.4.1 The Council will take an evidence based approach to determining the priority risks in their area of responsibility, and will allocate resources where they would be most effective in addressing those priority risks.
- 4.4.2 The Council will consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.
- 4.4.3 Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.
- 4.4.4 When assessing risk, The Council will consider where possible the compliance record of those they regulate, including using earned recognition approaches
- 4.4.5 The Council will periodically review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

#### **4.5 Share information about compliance and risk**

- 4.5.1 The Council will where possible collectively follow the principle of “collect once, use many times” when requesting information from those they regulate, avoiding where possible repeated visits or requests for information.
- 4.5.2 When the law allows, both internal department and external regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication. This may include for example Data sharing protocols between this authority and the Police to tackle incidents of crime and disorder.

## **4.6 Ensure clear information, guidance and advice is available to help those regulated to enable them to meet their responsibilities to comply**

- 4.6.1 The Council will provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be clearly distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 4.6.2 Regulators should publish guidance or signpost to external sources of information. Where the Council has produced the guidance this should be presented in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience, and review the effectiveness of the guidance they produce to ensure that it meets their needs.
- 4.6.3 The Council shall seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action. And when responding to requests for advice, our primary concern shall be to provide the advice necessary to support compliance, and provide advice that can be relied on.
- 4.6.4 The Council will work with other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement and enable a single response to be coordinated.

## **4.7 Ensure that the approach taken for our regulatory activities is transparent**

- 4.7.1 Each department has clear enforcement strategies which are attached as appendices to this Policy, these enforcement strategies should include:
  - a) how they communicate with those they regulate and how they can be contacted;
  - b) their approach to providing information, guidance and advice;
  - c) their approach or the nationally set approach to check on compliance, including details of the risk assessment framework used to target those checks and protocols for their conduct, clearly setting out what those they regulate should expect;



d) an explanation of how they respond to non-compliance, however action taken will normally aim to:

- change the behaviour of the offender (inc negotiation/mediation)
- eliminate any financial gain or benefit from non-compliance
- protect those affected by non-compliance
- be responsive and consider what is appropriate in the particular circumstances
- be proportionate to the nature of the offence and the harm caused
- where appropriate reinstate to prior status to eliminate/reduce the harm caused by the non-compliance.
- deter future non-compliance

Where available government guidance, circulars, codes of practices etc. will be considered.

e) their fees and charges, if any. This information will be updated in the Councils Fees and Charges Policy/Strategy but if requested individual services should be able to explain the basis on which these fees are calculated. Exception to this may include nationally set fees and charges, or charges detailed in legislation. The fees and charges policy/strategy should include an explanation of whether compliance will affect fees and charges; and

f) how to comment or complain about the service provided and routes to appeal.

- 4.7.2 The Council will publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions. Mechanisms shall be put in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.

