



Private Rented Sector Enforcement Panel Terms of Reference

Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper

• A clean, safe and enjoyable environment • Building strong and vibrant communities • Ensuring economic growth and prosperity • Providing good quality affordable homes in particular for those in need • Delivering an efficient and modern council

Contents

- 1.0 Scope and representation
- 2.0 Membership
- 3.0 Frequency
- 4.0 Remit of the panel
- 5.0 Decisions beyond the remit of the housing panel
- 6.0 Referring cases to the panel
- 7.0 PRS Enforcement panel process
- 8.0 Factors when considering harm
- 9.0 Aggravating factors
- 10.0 Multiple Offences
- 11.0 Factors when considering culpability
- 12.0 Record of decisions
- 13.0 Right to appeal
- 14.0 Confidentiality

Appendices

Appendix A Panel referral form

Appendix B Financial Penalty Matrix

1.0 Scope and representation

1.1 Dacorum Borough Council's housing service seeks to provide a fair and consistent service to all. On occasions the service will be required to make important decisions in line with statutory legislation and our policies, the housing service recognises the importance of considering proportionality in respect of such decisions.

1.2 The purpose of the enforcement panel is to ensure all decisions where the council is seeking to take enforcement action, which will impact on an individual and local residents are made in line with legislative requirements, council policy and are proportionate to the circumstances of the case.

1.3 The panel may decide to postpone action pending further information or suggest further action is taken. Where a case has been postponed the panel will then review the decision at a later date.

2.0 Membership

2.1 The Dacorum Borough Council housing panel will consist of the Group Manager, Strategic Housing, Strategy, Improvement and Engagement Team Leader, Lead Officer Private Sector Housing, Corporate Safeguarding Officer, local Police Community Safety Officer and a representative for the Legal Department. Additional invites will be sent requesting other specialist input for complex cases as and when required, this may include (but is not limited to); Corporate Anti-Fraud, Planning Department and Regulatory Services.

2.2 The Council's Portfolio Holder and Assistant Director, Housing may attend meetings in a monitoring role, but are not members of the Panel.

2.3 The Group Manager for Strategic Housing is primarily responsible for the Housing Panel.

2.4 Meetings are chaired by the Group Manager for Strategic Housing.

3.0 Frequency of meetings

3.1 Housing panel meetings will take place on a monthly basis. Additional meetings can be arranged for urgent cases.

4.0 Remit of the Panel

4.1 Consider requests to implement Civil Penalties and agree level of fine up to £30,000.

4.2 Consideration of requests to impose Banning and Rent Repayment Orders.

4.3 Consider steps taken and agree further actions required to bring empty properties back into use.

4.4 Review cases in advance of prosecution, to review remedial steps taken and consider any further action proportionate to the case prior to further enforcement.

5.0 Decisions beyond the remit of the Panel

5.1 Standard day to day enforcement action and approval of notices.

5.2 Granting or refusal of Houses in Multiple Occupation (HMO) licences.

5.2 Approval of applicants to obtain warrant to gain entry

6.0 Referring cases to the panel

6.1 Prior to referring to panel Officers will ensure that an interview under caution (IUC) has been undertaken. This is to ensure that a robust case has been compiled and all mitigating circumstances have been considered, prior to requesting further enforcement action.

6.2 The panel will consider written and/or photographic evidence, submitted on the standard referral forms (see appendices).

6.2 The dedicated Environmental Health Officer (EHO) from the Private Sector Housing Team can refer a case to the panel for consideration.

6.3 The EHO officer referring the case may be asked to present it if required.

6.4 In the case of referral to panel the Officer presenting the case will need to complete Appendix A 'Enforcement Panel request' form and indicate the request being made.

7.0 Private Rented Sector Enforcement panel process

7.1 The EHO or Private Sector Lead Officer will provide the detail of the case, including any evidence or other opinions to be considered to the rest of the panel.

7.2 The Enforcement Panel should ensure that decisions made at panel are considered in line with the Private Rented Sector Enforcement policy, have regard to the Code for Crown Prosecutors and refer to and associated guidance when deciding how to proceed, the panel has to be satisfied that they have sufficient evidence to prove that an offence has been committed and this needs to be to the criminal burden i.e. beyond reasonable doubt.

7.3 Panel will be required to determine whether to issue a civil penalty as opposed to prosecution, each case will be considered individually and will take into consideration factors including the seriousness of the offence; the culpability of the offender; the harm, or potential harm to tenants; and the impact on the wider community.

7.4 Due regard must also be given to any potential defences and it may be appropriate to undertake an interview under caution in accordance with the Police and Criminal Evidence Act 1984 (PACE) to explore this. When the panel is satisfied that a relevant offence has been committed and that it is in the Public interest to proceed formally it must decide whether to prosecute or issue a civil penalty.

7.5 Panel members are then required to consider the following factors such as:

- Other occupants within the household
- Vulnerability or safeguarding concerns
- Consideration of factors such as risk of harm, culpability and multiple offences
- Any actions that have been taken prior to the case being referred to the housing panel
- Previous enforcement action for similar Housing Act offences

7.6 In the first instance the Panel will seek a decision by consensus. In the cases where consensus cannot be reached a majority opinion will be sought.

7.7 Panel reserve the right to reject consideration of a case on the basis of incomplete or inconsistent information.

8.0 Factors when considering harm

8.1 In determining the level of harm the panel will have regard to;

- The persons affected in terms of physical injury, negative impacts on their health, and any psychological distress;
- Any vulnerability of the persons affected
- The number of persons affected
- The community in terms of economic loss and the effects on public health, public complaints and the effects of poor housing condition on the neighbourhood.

8.2 The degree of harm will depend on the personal characteristics and circumstances of the person affected, normally the tenant. Where no actual harm has resulted from the commission of the offence the panel will consider the relative danger and the potential of harm that could have resulted as a result of the offences.

9.0 Aggravating Factors

9.1 The amount of penalty can be increased if there are any relevant aggravating factors. Furthermore, the amount of penalty can be reduced if any relevant mitigating factors are disclosed by the offender.

10.0 Multiple Offences

10.1 Where the panel are satisfied that more than one offence has been committed a multiple Civil Penalty Notice can be issued, for example multiple breaches of the Management regulations in a House in Multiple Occupation. However, the panel will consider whether the issuing of multiple penalties would result in an excessive cumulative amount and this policy gives discretion in this situation. For instance, the panel could decide that it is appropriate to issue a penalty for the most significant offences and warn the offender that continuation or repeating of the other offences may result in further formal enforcement action being taken.

11. 0 Factors when considering culpability

11.1 In determining the level of capability the panel will have regard to the following;

- Whether there was the intention to commit the offence
- Whether the offence has resulted from reckless behaviour for example where the offender had some appreciation of the effects their actions would have but proceeded regardless.
- Whether the offender had knowledge of the risks of harm that their actions could cause
- Whether the offender's actions are considered to be negligent.

12.0 Record of Decisions

12.1 The panel will record all decisions made.

12.2 Outcomes of decisions will be communicated by the referring Officer to the relevant party, advising of actions to be taken.

12.3 The Enforcement Panel will keep a record of the cases considered and their outcome.

13.0 Right to review

13.1 Any appeal to a decision made by the Enforcement Panel would need to be referred to the Tribunal process.

14.0 Confidentiality

14.1 The Council may also seek information from other parties when necessary to provide verification of, for example, allegations of anti-social behaviour, violence or harassment, for the provision of support services, to prevent crime or detect fraud.