

**DACORUM BOROUGH COUNCIL**

**ENVIRONMENTAL HEALTH**

**ENFORCEMENT POLICY**

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**Date: 31<sup>st</sup> December 2001**

**Latest revision: 11<sup>th</sup> May 2005**

Dacorum Borough Council has signed the central and local government “Concordat on Good Enforcement” which commits us to effective enforcement policies and procedures.

This document states the principles and practices that officers of the Environmental Health Division apply when deciding what enforcement action should be taken. We have specific enforcement policies that cover our health and safety, and food safety enforcement roles.

## **Policy Statement**

***Our primary enforcement duty is to protect and improve the health and the environment of all those who live, work and take their leisure in Dacorum. At the same time we are committed to promoting a thriving national and local economy by carrying out our enforcement functions in a fair, practical and consistent manner.***

## **Enforcement Principles**

### **Standards**

We have drawn up clear standards setting out the level of service and performance the public and business people can expect to receive. We publish these standards and our annual performance against them.

### **Openness**

We are open about how we set about our work and actively seek the views of those receiving our services. Where enforcement action is taken we ensure that our reasons and any appeals procedures are clearly explained and set out in writing at the time the action is taken. The existence of our enforcement policies is actively promoted by giving copies of them out when formal enforcement action is taken and making copies available on request.

### **Helpfulness**

We believe that prevention is better than cure. We seek to work with and assist individuals and businesses (especially small and medium sized enterprises) by providing practical advice on how to comply with the law. We provide a courteous and efficient service. Officers identify themselves by name, show their identification and provide a contact telephone number for further dealings with us.

Where it is reasonable to do so, we make provision for the particular interests of consumers within the Borough. This includes, for example, making visits outside of office hours to businesses, their employees and members of the public. Translation services are available for use where necessary.

## **Complaints about the Service**

We ensure that complaints about the service are investigated fairly and thoroughly using the Council's Complaint Procedure. We regard complaints as opportunities for learning and improving our service. In cases where disputes still cannot be resolved, we ensure that any rights of complaint or appeal against the Council's action are explained with the likely time-scales involved.

## **Shared enforcement**

A number of other agencies have a shared or complementary enforcement role with officers of the Environmental Health Division e.g. the Police, the Fire Service and other local authorities. We have effective arrangements in place to liaise with these enforcement bodies to promote consistency, effectiveness and to minimise unnecessary overlaps and delays.

## **Proportionality**

We try to minimise the cost of compliance for businesses by ensuring that any required action is proportionate to the risks or other consequences. As far as the law allows, we take into account the circumstances of the case and the attitude of the operator when considering enforcement action. We take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense.

## **Fairness**

We carry out our duties in a fair, equitable and consistent manner. We ensure that our officers are properly trained and suitably qualified. Their enforcement actions are monitored and their knowledge is kept up-to-date. Unless immediate action is required, officers will provide an opportunity to discuss the case and, if possible, resolve points of difference before any formal enforcement action is taken. Where immediate action is considered necessary, an explanation of why such action was required is given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.

## **Enforcement Options**

Depending on the circumstances, we use the following enforcement options:

- Informal action
- Statutory notices
- Direct action
- Licensing powers
- Formal cautions
- Prosecutions
- Injunctions

## **Informal action**

This includes offering verbal and written advice. Informal action may be used if:

- past history indicates that informal action will achieve compliance; and/or
- the officer's confidence that the matter will be resolved is high; and
- consequences of non-compliance will not pose a significant public health risk

However, if the legislation being used states that there is an obligation to do so, formal action will be taken.

Officers' advice is put clearly and simply. On request, it is confirmed in writing explaining why any remedial work is necessary and over what time-scale. Legal requirements are clearly distinguished from best practice advice.

## **Statutory notices**

These are notices that require:

- works to be carried out within a set time period and/or
- the abatement of a statutory nuisance

Statutory notices may be used if:

- significant (not minor technical) contraventions exist; and
- there is a record of non-compliance with legislation; and/or
- the officer believes that an informal approach will not be successful

However, if the legislation being used states that there is an obligation to do so, a statutory notice will be served.

A prosecution in respect of certain offences identified may be taken at a later date or if there is a failure to comply with the notice.

## **Direct action**

This option is available for non-compliance with a notice and includes arranging:

- for work to be carried out; and/or
- any necessary action to abate a statutory nuisance

Direct action may be taken if:

- there is sound evidence of flagrant or deliberate disregard of a notice; and/or
- failure to comply has resulted in a serious public health risk or nuisance

Any expenses reasonably incurred will be recovered. A prosecution may still be taken for failure to comply with the notice.

## **Licensing powers**

It is illegal to operate certain activities without the Council's written permission.

For those activities, we may decide to refuse, suspend or revoke the permission if:

- conditions are not met and/or
- there are relevant breaches of related legislation

## **Formal cautions**

In certain cases a formal caution may be offered instead of prosecuting. This caution may be cited in Court should there be a subsequent conviction for related offences.

We may offer a formal caution if:

- it is a first offence; and
- evidence of offences warranting prosecution exist; and
- serious prejudice to health or nuisance has not occurred; and
- the offender admits the offence, understands the significance of the Caution and is clearly determined to minimise any re-occurrence; and
- it is in the public interest as detailed in the "Code for Crown Prosecutors"

The following factors are also be considered:

- the wilfulness with which the offence was committed
- the subsequent attitude of the offender
- the views of the anyone directly affected by the offence

## **Prosecution**

Offences can be tried in either the Magistrates or Crown Court and can result in fines and/or imprisonment.

A prosecution may be taken if:

- considerable harm has arisen from the breach, or there is the potential for such harm; and/or
- it is appropriate to draw general attention to the need for compliance with legislation (for example, a conviction may deter others from similar failures) and/or
- there is a failure to correct identified and serious public health risks after a reasonable opportunity to comply has been given; and/or
- there is non-compliance with the requirements of a statutory notice; and/or
- an activity requiring written permission is operated without it after repeated warnings; and/or
- there is a serious breach of conditions under a written permission; and/or
- there is a history of similar offences related to risks to public health or nuisance

**N.B. We will take a serious view of any attempt to deceive or obstruct our officers**

The case must also pass both the “evidential” and the “public interest” tests (as detailed in the “Code for Crown Prosecutors”), before a decision is made to prosecute.

## **Injunctions**

In certain cases, we may apply to the Courts for an injunction requiring action to be taken. Anyone breaching an injunction would be in contempt of Court and liable to severe penalties.

We may apply for an injunction if:

- there is no remedy available under statute law, or a more rapid solution is required; and/or
- penalties available under legislation are likely to be an insufficient deterrent: and/or
- taking ‘direct action’ is not practicable

## **Review of the Enforcement Policy**

We will review this policy annually and in response to changes in legislation and relevant enforcement guidance.

If significant amendments to the policy are planned, we will consult those that may be affected by the service.

We will consider and act upon viable and sensible recommendations made during consultation (unless they are not in line with central or local government policy and legislation).