

## PART C : IMPLEMENTATION

READERS ARE STRONGLY ADVISED TO READ PART B (YELLOW) OF THIS HANDBOOK, WHICH DEALS WITH “PREPARATION” BEFORE ATTEMPTING TO IMPLEMENT ANY OF THE CONTENTS OF PART C.

Part C comprises:

Ch 7: The Incorporation of Informal Settlements

Ch 8: Dealing with Land Invasions

Ch 9: Types of Improvements Projects

Ch 10: Improvement Projects: Technical

Guidelines

C 11: Betterment Programmes

Ch 12: Forward Planning Process

This part of the Handbook provides details on the many and important actions that may be appropriate with regard to informal settlements. Many of these are inter-related so take your time to read all of this

### CHAPTER 7 THE INCORPORATION OF INFORMAL SETTLEMENTS

- 7.1 Definition and identification
- 7.2 Approval of the settlement
- 7.3 Decision-making structures
- 7.4 Dispute resolution
- 7.5 Settlement management
- 7.6 Payment for services

#### 7.1 DEFINITION AND IDENTIFICATION

This section suggests a process that should be applied to each informal settlement (with more than 10 structures) that is within the local authority's jurisdiction. The process checks the nature of the area where the settlement is located and identifies the scope and characteristics of the settlement. The intention of the process is to find the answer to the question of whether the settlement should be legitimised, and then upgraded in phases.

## 7.1.1 Assessment

The assessment should be applied to each informal settlement (over 10 structures) : this will assist in obtaining the first sense of where the greatest priorities are for action.

### 7.1.1.1 Boundary

For the settlement under consideration, show on a plan (or aerial photos) the existing boundary around the settlement (as determined by a site survey or a recent photo, confirmed by site visit). Show the relevant property boundaries which will clarify the erven that are occupied, and indicate their ownership. Record the date when this information was obtained.

### 7.1.1.2 Survey and numbering

Without an accurate picture of the number of structures and the number of people residing in an informal settlement it is not possible to recognise growth and, where necessary, to stop it.

The marking of numbers on dwellings (in a way that precludes easy duplication or modification) should be done at the same time that the occupants are surveyed and recorded.

This information should be checked at least once every 6 months, while the settlement should be visited at least a few times a week to monitor growth. It should be included in the duties of all officials who visit the settlement that they must monitor changes in the settlement as they go about their duties, and report these to the relevant official.

GIS/GPS systems have been used to great effect in recording the features of informal settlements, and provide the facility to record a great deal of data regarding each property/household.

### 7.1.1.3 Engineering Characteristics

This assessment for each settlement needs to be approached in a consistent way, across the local authority, so that comparisons become easy to observe.

- **nature of the ground** - contours and slope, type of soil, rock outcrops and wet areas or flood plains, tree belts and other vegetation can be observed on site and recorded on a plan.

- **created features** - the presence of detention ponds, overhead power lines and formally built structures (old farmhouses) should also be noted on the plan.
- **other features** - establish the position of any servitude, underground services in proximity to the site (including water, sewers & telephone) and indicate them clearly on the plan.

#### 7.1.1.4 **Land Usage/Zoning and other planning documents**

Obtain the zoning of the area, and perhaps the zoning of adjacent properties, which will provide the context for the settlement. Ensure that the zoning has not lapsed, and if it will do so in the near future. Check whether any Guide Plans, Structure Plans, etc. exist and obtain them.

#### 7.1.1.5 **Environmental Characteristics**

Flowing from the assessment made in 7.1.1.2 above, and the density of the settlement, it will be apparent whether a special study is required to investigate the existence of special fauna, flora, heritage sites, etc.

Where this is required, it should be done through consultation with the local community leadership.

#### 7.1.1.6 **Impact on Surroundings**

The plan of the settlement should also show the existence of neighbours/other suburbs and their proximity to the settlement. By observation the approximate value of the surrounding properties can be shown on the plan (eg houses in range R80 000 - R150 000, or R160 000 - R300 000). There could be 3 neighbouring properties, or 300.

The impact of the settlement upon the neighbours could be checked by informal surveys. This will require sensitivity, otherwise the fact of the survey could stir up opposition to the initiative

### 7.1.2 **Clarify Key Factors** (see also 4.5)

#### 7.1.2.1 **Size of Settlement**

Because of the need to control and contain growth, the date of this information is important to record.

The perimeter and area of the settlement must be recorded, as well

as the details (e.g. numbers, area, owners) of the underlying erven.

#### 7.1.2.2 **Approximate Number of Structures and Population**

Without the assistance of recent aerial photos, the assessment of numbers can be very difficult depending on the size of the settlement. Once an approximation of the number of structures has been obtained, the approximate total population can be obtained by doing a random survey (say 10%) of the people per shack.

#### 7.1.2.3 **Approximate Density**

The approximate density can be obtained by dividing the area of the settlement by the approximate number of shacks. The comparison of densities gives a picture of relative overcrowding (For example, Kosovo in Cape Town has a density of approximately 127 shacks per ha).

#### 7.1.2.4 **Non-residential Land Uses**

The aerial photo will show, and a site visit will confirm, whether there are major land uses other than residential. These could be structures used as churches, shops or shebeens, or spaces used as sportsfields, or initiation sites. These should be recorded as such.

#### 7.1.2.5 **Description of Surrounding Areas**

Probably the best way to provide the context of the settlement is to put notes on the plan (or aerial photos) which describe the nature and character of the surrounds. This description should provide an answer to the question: are there directions in which the settlement is likely to grow? The context should also show obvious access routes to the area.

The key issues to indicate would be: vacant land, developed land (what with), access routes, environmental problems.

#### 7.1.2.6 **Negative Factors**

Any negative factors that inhibit permanence should be identified. These could be in various categories:

**natural factors** - ground conditions, environmental factors, slope, national park.

**Man-made factors** - power lines, detention ponds, tip site, airport noise zone

**planning factors** - zoning, planned road, canal

**surrounding objectors** - developed suburb with strong objections

#### 7.1.2.7 Positive Factors

Factors that will support permanence :-

- length of existence
- ownership of land (already owned by govt).
- relative ease of making site suitable
- major de-densifying is not needed
- community relatively stable and unified
- broad acceptance by nearby communities

#### 7.1.2.8 Requirement for Relocations to Reduce Density

While the matter of relocation is extremely sensitive, but often absolutely necessary, it is important that a process be followed on a consistent basis within each local authority. The process may not find acceptance by settlement residents, but at the end of the day it must be shown that there was a transparent and fair process applied to each settlement.

The following is a possible process :-

- 1) Reach agreement that upgrading (provision of access routes and services) cannot take place without a certain number of shacks having to move.
- 2) Reach agreement that some land must be allowed for non-residential purposes (eg sports field, 3 church sites and a community centre).
- 3) Reach agreement that the shacks which must be moved to enable the installation of services or to provide land for non-residential purposes must be relocated to land outside of the informal settlement (N.B. The agreement must be for the number of shacks, not which families - the objective is to get the shacks moved.).
- 4) Establish some options as to where alternative land is to be offered to the families who have to move.
- 5) Reach agreement about which families must move (this could be the families whose shacks have to move, or it could be the latest families who moved into the area).

#### 7.1.3 Conclusion - Should the Settlement be Legitimised

The analysis above will identify the 'for' and the 'against' factors. Broadly the conclusion could then fall into one of three categories: "yes", "no", or "more consideration is required".

The next step should probably be to convene a meeting with the relevant councillors and the settlement leadership to canvas views and attempt to reach a consensus way forward. This would be reported to the Council for approval.

## **7.2 APPROVAL OF THE SETTLEMENT**

This section poses a series of steps to follow to incorporate the informal settlement into the developed urban area. This means not only legally but also socially and economically, with clear linkages to the essential services and facilities available to the rest of the community.

### **7.2.1 The Statutory Process**

#### **7.2.1.1 The land usage approval process**

This is the mechanism whereby limitations to development are identified and brought into consideration for planning. Often this has to do with existing claims to the land by other authorities or individuals as part of their long term planning vision. Road, military, educational and other service providing organizations must be given an opportunity to comment on the suitability of land for low income development in order to avoid costly planning mistakes. As Local Municipalities are granted greater authority within their areas of jurisdiction, it can be expected that the regularisation process will become simplified.

Problems emerge when there is a tension between the perceived suitability of a portion of land and the legal unsuitability thereof for housing development as determined by land ownership or land use limitations as defined in zoning schemes relevant to the area. It should be the responsibility of the project manager/planner to identify these possible mismatches as early on in the development as possible.

Within the Western Cape Province, the existing land regularization legislation provides a suitable framework for low cost developments which are of the "greenfields" type (see 11.6). Both the Land Use Planning Ordinance, (Ord.15 of 1985) (see 2.5.2.3) and the Less Formal Township Establishment Act (Act 113 of 1991) (see 2.5.2.9) have been used successfully as legislative vehicles.

If the project is to be within an already proclaimed township it is important to establish which legislation was originally used for land use approval, and then continue acting in terms of that legislation.

All town planning schemes in the Province have been adapted to make provision for an "Informal Residential Zone" and this is the recommended zoning for the housing component of any proposed infill or greenfields development (see 10.3.3). It is important to be concerned with all aspects of township development in "informal settlements" which would include the non-residential land uses such as clinics and schools. It is recommended that existing zoning scheme regulations pertaining to such land uses be adhered to as far as possible for these land uses. However, factors such as the dimensions of the erven should be the subject of healthy debate, including with community representatives, in the planning and regularisation process.

#### **7.2.1.2 Inform Community Leadership of Implications**

As these planning decisions have to be taken by the public authorities it is essential that the local leadership is kept informed and invited to contribute to the process. Without their full support the project could well grind to a halt down the road.

Where there are physical modifications required to the position of shacks and the creation of routes for services, the community needs to be informed on an ongoing basis. Clearly the proposals need to be developed on an interactive basis.

Particularly where there are low levels of literacy, it is likely that advertising any proposal to re-zone land will have to be workshopped with the settlement community to allow some understanding of the process. Adverts in papers will probably not be appropriate.

#### **7.2.2 Political Process**

Housing (and informal settlements are a sub-set of housing) is probably one of the most critical areas for local government. The local authority's chief political spokesperson for housing (eg the Executive Councillor for Housing) should be kept informed, and involved, on an ongoing basis with the assessment of informal settlements - particularly in respect of their proposed permanence and upgrading.

##### **7.2.2.1 Place Proposals before Relevant Council/ Community for**

## **Consideration and Support**

Before proposals are formalised and submitted to committees, it is essential that points of (potential) conflict are discussed in a forum with relevant councillors, settlement leadership and officials. At times it may take several meetings of this nature before a clear proposal can be formulated.

When there is agreement, a report can be submitted for consideration and support, so that actions can be taken towards implementation.

### **7.2.2.2 Strategise Best Ways of Obtaining Support from Surrounding Communities**

The obvious way of approaching surrounding communities is through their leadership structures - this could be via the councillor, civic structures, ratepayers or tenants associations

Generally the worst way is via public meetings, where it is frequently difficult to keep to the agenda and stop personal differences arising

At times it may be helpful for a senior official to chair the meeting (to rule 'party politics' out of order), or even consultants have proved successful in certain areas.

The best strategy is the one that works for the situation being addressed. In one case it may be the councillor, in another it may be an external facilitator.

The challenge is to find out what the real concerns are on all sides and can these be addressed in a reasonable way. If so, then progress can be made, even on a phased basis.

### **7.2.3 If the Settlement is not Approved / Legitimised ...**

Then the matter must be reported to the Council, and the onus placed on the Councillors to find a political solution to the impasse.

## **7.3 DECISION-MAKING STRUCTURES**

Communities within informal settlements must be encouraged to

establish representative, consultative and effective leadership structures. There has been a significant shift from the trend where civic and political structures used to autocratically assume leadership responsibility within informal settlements to a system where local leadership is elected at public meetings. This system produces local leadership that is drawn from across the political, gender, age and interest group spectrum. Residents should elect individuals on the strength of their leadership capacity and experience. It is recommended that an elected committee serve for 12 months, after which another election should take place.

These structures and combinations of them are likely to be in operation both before a settlement is legitimised and afterwards. It is vital that they be appropriately organised. (See Chapter 3.)

## **7.4 DISPUTE RESOLUTION**

Disputes are common in informal settlement communities. It is commonly believed that they are a result of the over crowding and the sharing of scarce resources that characterise informal settlements. They are often caused by struggles for power and the control of land and resources. The elected local leadership structure is the only meaningful vehicle through which disputes should be settled. Such a committee should first understand the nature of the dispute, its origin and the parties involved. This should happen at an early stage to avoid more people getting involved as that could threaten the stability of the entire community.

### **7.4.1 Understanding disputes**

Before setting out to resolve a dispute, it is imperative to understand the nature of the dispute, its causes, and the possible consequences. Rushing in unprepared may worsen the dispute and most likely lead to its rapid spread.

### **7.4.2 Identifying role players**

The elected committee of an informal settlement should take time to study the unfolding dispute and identify the role players. It would be advisable for the committee to attempt to get the parties involved together to discuss the problem. If the committee / mediator is viewed by all the parties to be neutral, then intense

dialogue should start without delay. If the committee's neutrality is questionable in the eyes of some of the parties, an outsider should be brought in to mediate. This would be a person without the "proverbial baggage", whose involvement would commit the parties towards an immediate solution to the dispute.

(See also Ch. 3)

## **7.5 SETTLEMENT MANAGEMENT**

The local authority management of an informal settlement can broadly be done in one of two ways. A local office within or on the edge of the settlement is preferable where the size of the population warrants this service. Alternatively a mobile vehicle must be used to facilitate interaction with the residents.

### **7.5.1 Managing Expansion**

It is imperative to undertake a baseline study - to number the structures and to record the residents per structure. Aerial photo's would be a great help, and where agreed, photos of the families have also been taken as a record. Without these facts, growth is difficult to observe and impossible to measure.

Growth in size of structure and growth in number of structures are both cause for concern. In terms of the PIE Act (Act 19/1998) (see 1.5.2.6 and Chapter 8), it is possible to demolish an unauthorised structure which is still unoccupied.

The object therefore of regular site visits is to spot shacks (or extensions) in the course of erection (thus unoccupied) and demolish them.

Experience has shown that the local community committees will verbally declare they are against new shacks, but often do not take practical steps to stop the growth.

### **7.5.2 Tenure Management and the Sale of Structures**

The aim is for the land to be sub-divided and the erf transferred to the accepted beneficiary. This means that the beneficiary is located on an (owned) erf, and able to erect his/her own top

structure.

Unfortunately the buying and selling of top structures frequently proceeds with no reference to the ownership of the land. This process may suit the residents, but causes undue confusion for the authority's records. It will also cause distress at the National Housing Department's Data Bank, which may record the names of intended beneficiaries who may have sold "their plot", without receiving any Housing Subsidies. (It is beyond the scope of this Handbook to address this problem).

A solution is to ensure improved education for residents in the whole arena of land ownership, homeownership, the receipt of subsidies, and the maintenance of urban services.

An interim practical proposal, when there is a local office, is for an effective record system to be kept of house and/or plot sales. This could be encouraged on a voluntary low-key basis.

### **7.5.3 Eligibility for Benefits**

Informal settlements are by definition unauthorised, yet families (at least 100 000 in Cape Town) live in them. The existence of these families must be accepted and that they need essential services (see chapter 9 for a description of these).

Thus in the first instance people should be considered eligible for access to essential services (which will probably have to be provided on a phased basis).

Assuming that the goal is to upgrade settlements on a phased basis, the next proposal would be to "structure" the settlement so that each family could be granted secure tenure, with services at an upgraded level.

Thus the second level of eligibility would be for the right to secure tenure.

The third level of eligibility would be for gaining access to finance to provide a formal top structure.

### **7.5.4 Information and Education Programmes re: Housing and Development**

It is surmised that part of the friction between informal communities

and local authorities is caused by a lack of understanding about what local authorities can and should do. (See 2.2.4, 10.13 and 10.14)

There is a critical need to address this gap - on an ongoing basis.

- This communication should start where people are today (eg the status of the settlement, and the desires of the authority).
- It should explain what the desire for the future is (eg upgrade in phases, with each phase explained).
- It should explain how we hope to get to the future, and what the roles and responsibilities of each party are.
- It should describe what agreements need to be reached between the two parties, and the proposed programme of meetings to achieve this.
- It will explain the local authority requirements re: internal committee processes and budgeting provisions.
- It should explain how physical improvements will be made, and whether that will provide jobs for community members.
- It should give guidelines for any actions that must be taken immediately.
- It should propose steps to minimise start of fires, and spread of fires.
- It should propose the naming of thoroughfares and/or blocks, and numbering of houses for postal deliveries.
- When started, this programme will generate its own momentum.

#### **7.5.5 Building Control**

Many local authorities have inadequate resources to fully guide/control ongoing growth of structures in informal settlements in circumstances where growth is permitted as part of upgrading a

legitimised settlement).

It is recommended that local authorities use the information and education process (see 7.5.4), by means of which residents visit the local housing office for guidance. This guidance is meant to encourage safety and improve the quality/functionality of the structure.

A simple leaflet giving a few simple guidelines could provide a great improvement to the end product.

### **7.5.6 Rules of the Settlement**

Although rules and penalties are important the imposition of socially acceptable behaviour in many settlements has proved nearly impossible.

It is considered that the creation of communally-held rules, as well as penalties for contravention, should be discussed with the community committee. Only if they accept the notion can there be any possibility of any broader support.

### **7.5.7 Arrangements for an address**

An address gives dignity to households. Every dwelling should be provided with an address.

A proposal to split the settlement into "blocks", separated by access ways, and with structure numbers could be discussed. The implementation could be done (and preferably led by) community representatives, with assistance from the local authority.

## **7.6 PAYMENT FOR SERVICES**

### **7.6.1 Determination of service charges**

#### **7.6.1.1 Free basic services**

In terms of National legislation Local Authorities are, where possible, obliged to provide 6kl of water and 20 KW of electricity on a monthly basis free to every household. The aim of this legislation is

to ensure that every South African has access to life line services.

The State, according to a set of objective formulae that embody the principles of equity, efficiency and democracy, allocates to Local Authorities an equitable share of nationally raised revenue. This equitable share is aimed at allowing Local Authorities to sustainably provide an essential minimum package of services to all indigent households.

The responsibility to determine mechanisms for passing this subsidy on to the poor and to establish appropriate targeting mechanisms for this purpose is left to Local Authorities.

#### **7.6.1.2 "User pays" principle**

Every effort must be made to ensure that payment is made for services delivered over and above for the free services as described in paragraph 7.5.1 above.

A service levy duly structured to cover the costs of services provided should be calculated by each Local Authority and accounts prepared and delivered to each dwelling within the settlement. As postal services are generally not operational in informal settlements Local Authorities will need to make their own arrangements for delivery of accounts in these areas.

Close liaison needs to be kept with Community Leaders and it be made clear that non payment of services will result in the termination of the service.

#### **7.6.1.3 Real cost of services**

Cost of service delivery varies from place to place but every Local Authority is encouraged on an ongoing basis to keep track of the actual cost of services delivered and to make these costs known to the public. Where cross subsidisation is found to be necessary this must be brought to the fore.

### **7.6.2 Arrangements for payments for services**

The following steps must be taken:

1. Discussion within local authority regarding level of payment for services.
2. The tariffs must be uniform across the local authority area (equity). Draw in Informal settlement leadership and put the

- proposals on the table. Attempt to reach consensus.
3. Local Authority takes the proposals to the settlements, and has meetings, explaining why people have to pay for services, how much is proposed, and where payments can be made (maybe modify proposals).
  4. Set up a process for delivering accounts/charges. Ensure that each family has an address.
  5. Set up payment points so that residents can pay without difficulty.

### **7.6.3 Dealing with payment problems**

#### **7.6.3.1 Unemployment**

The experience in formal rental dwellings is that a special policy to deal with people who are unemployed shows a fairness on the part of the local authority. The onus should be on the person who is unemployed to visit the offices and describe the circumstances, and reschedule their payments.

#### **7.6.3.2 Boycotts**

It is appropriate to put pressure on those who choose not to pay for services received. It can be a sensible approach to limit or cut off services where consumers choose not to pay. A local authority must establish strategies for dealing with this - if possible, by negotiating an agreement with the community leadership.

#### **7.6.3.3 Multiple dwellings / occupancy**

Properties within informal settlements, even after they have been upgraded, often house more than one family or household. If possible, one household per erf should be regarded as the primary household, which has a contract with the local authority for service provision. That household can then recover costs from the others through its own arrangements. It may, however, be possible to offer each household a separate pre-payment electricity connection.