

HARINGEY BUILDING CONTROL ENFORCEMENT POLICY

Introduction

Our primary role is to secure the health, safety, welfare and convenience of people in and about buildings, further the conservation of fuel, prevention of waste or misuse of water and protection of the environment. In addition, we support the protection of public health, environmental quality and quality of life by responding to dangerous structures, emergency incidents and administering the demolition of premises.

This involves, enforcing the Building Safety Act 2022, Building Act 1984, the Building Regulations and other allied legislation, the London Building Acts (Amendment Act) 1939 (or superseding similar legislation), the Safety of Sports Grounds Act 1975, Fire Safety and Safety of Places of Sport Act 1987 and the Greater London Council (General Powers) Act 1966. In so doing, we aim to enforce in an equitable, practical and consistent manner.

Why do we need an enforcement policy?

The purpose of the Building Control Enforcement Policy is to explain the ways in which this particular service will enforce its powers. It is important that our customers, businesses and others who might be affected by enforcement action have access to a clear statement of what they can expect from our Building Control Surveyors. It also commits us to following good enforcement policies and procedures.

Carrying out enforcement works in an equitable, practical and consistent manner helps to promote a thriving local economy. We are committed to these aims, to ensure the health, safety and well-being of all residents, visitors and workers.

The work of Building Control includes:

- Supporting the Building Safety Regulator
- Processing Building Regulations applications.
- Inspecting work under construction.
- Administering building demolition and dealing with dangerous structures.
- Enforcing the requirements of The Greater London Council (General Powers) Act 1966 at Alexandra Palace
- The preparation and enforcement of general and special safety certificates and the enforcement of fire safety standards, under the Regulatory Reform (Fire Safety) Order 2005, for Sports Stadia and certificated stands in sporting venues.

What is enforcement?

Haringey Building Control Services are responsible for using a wide range of Acts of Parliament and Statute Laws. "Enforcement" means action carried out in the exercise of, or against the background of, the Acts and Laws mentioned above. This includes studying documents and reviewing drawings, making inspection of premises to check compliance with legislation and providing advice to aid compliance – this we term 'interventions' since they are an aid to achieving and supporting compliance and aren't what is traditionally referred to as 'enforcement'. Local Authority Building Control can also take enforcement actions that escalate through a staged process that involve more formal correspondence, the issue of legal notices and ultimately prosecution.

Our enforcement activity is informed by risk assessment to ensure our regulatory efforts and resources are targeted to be most effective and in the best interests of the public.

Enforcement action is intended to:

- Ensure that we enforce the law in a fair, equitable and consistent manner.
- Assist businesses and others in meeting their legal obligations without unnecessary expense.
- Focus on prevention rather than cure.
- Take firm action against those who repeatedly offend, or act irresponsibly, or whose actions could cause serious harm.

How do we apply this policy fairly?

- Openness – we will be open about how we set about our work and will provide information and advice in plain language.
- Consistency – arrangements are in place to ensure that our Building Control Surveyors take a similar approach in similar circumstances to achieve similar aims, and that our approach is consistent with other local authorities and enforcement bodies.
- Proportionality – any action we take to secure compliance will be proportionate to the risks to public health and safety and to the seriousness of any breach.
- Targeted – we will target action on those whose activities result in the most serious risks or least well controlled hazards.

How do we decide when to take enforcement action?

Building Control Surveyors will consider several factors before deciding when to act:

- The seriousness of the breach.
- The track record of non-compliance.
- The continued risk to health, safety or the environment.
- The effects of non-compliance.
- The likely effectiveness of enforcement choices.
- Legislation and guidance issued nationally or locally.
- The need to consult with other authorities and enforcement bodies

How do we decide what action to take?

No action

If we cannot prove any breaches of legislation then we will take no action other than to tell the relevant people.

Informal action

Where the act is not serious, the history of compliance is good, confidence in management is high and where non-compliance will not pose a significant risk to public health, safety or welfare then we will take informal action. This will result in verbal and/or written advice or warnings. The Building Control Surveyor will clearly distinguish between legal requirements and elements of good practice. Best efforts are taken to resolve any issues where the law may have been broken without issuing formal notices or referring the matter to the courts. This is the first option when the circumstances indicate that a minor offence may have been committed and there is confidence that appropriate corrective action will be taken.

Formal action

In most situations, before formal action is taken, Building Control will provide an opportunity to discuss matters and hopefully resolve points of difference. However, this may not always be possible where immediate action is considered necessary, e.g. in the interests of health and safety, or to prevent an imminent risk to health, or to protect the environment.

If the contravention is not minor, Building Control will write to the applicant / agent and / or contractor advising what work should be undertaken and what action will be taken if contraventions are not removed within a given period of time (usually 28 days).

Where there are serious breaches of legislation, a history of non-compliance, lack of confidence in management, potentially serious effects or where legislation requires it, then we will serve a statutory notice under Section 35 and/or Section 36 of the Building Act 1984. We will give an opportunity to discuss the issues unless immediate action is needed.

Where a formal notice is served, the method of appealing against the notice and the time-scale for doing so will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what the likely consequences are if the notice is not complied with. The time limit on notices will be realistic and we will tell recipients of their rights.

Dangerous Structures

In some instances, there might not be the time available to make enquiries about ownership – where the nature of an incident, such as a severe dangerous building occurs. In these cases, simple enquiries about ownership will still be made, but if these come to no avail, surveyors are authorised to take appropriate action under London Building Acts (Amendment Act) 1939. For all dangerous structures, this service will undertake an assessment in respect of the appropriate procedure to be followed and will carry out works in default. A written confirmation of the works carried out and any further responsibilities of the owner (or other interested party) will be sent as soon as practicably possible.

In some instances, a Dangerous Structures Notice may be served. The decision regarding the most appropriate course of action will be a matter of professional judgment made by the Surveyor attending the incident. Non-compliance with a Notice could result in Court action.

Safety of Sports Grounds and Exhibitions

This service will:

- (i) Check details provided to ensure proposals satisfy the requirements of the appropriate legislation and where changes made to existing premises, carry out pre-event inspections.
- (ii) Carry out During Performance inspections to establish terms and conditions of Safety Certificates are being upheld by the sports grounds. Where contraventions occur, we will exercise judgment on the severity of the contravention and address the matter through informal oral communication or ultimately a Prohibition Notice as appropriate. Informal oral communication will also be recorded in a match day report in written form.
- (iii) Initiate court proceedings wherever necessary, only after satisfying ourselves that there is sufficient admissible evidence and that proceedings would be in the public interest.

What are the penalties for non-compliance?

Failure to comply with a statutory notice may result in Prosecution or Formal Caution or Injunction and undertaking works in default.

When is it necessary to prosecute?

Prosecution is always a last resort. Where the circumstances warrant it, because of the seriousness of the matter or due to repeat offending, and the alternative actions mentioned previously in this policy are considered inappropriate, then prosecution may result. This formal prosecution action will be in the first instance, to seek summary conviction in the Magistrate's Court following which is formal prosecution action to seek an injunction in a higher Court.

We will consider prosecuting:

- Where the offence involves a blatant breach of the law.

- Where the offence involves failure to comply with a statutory notice or order.
- Where the offence results in an imminent risk to public health, safety, or the environment.
- Where there is a failure to correct an identified serious risk within a reasonable time.
- Where there is a history of similar offences.
- Where there is obstruction or assault of a surveyor or where a surveyor is given false or misleading information.

How can I appeal against enforcement action?

Those affected by enforcement decisions have a right of appeal to a Court or Tribunal. Appeals must be made within a certain time – usually 21 days. We will set out these rights in writing at the same time that we take action, or serve notice.