

London Borough of Redbridge

Building Control Enforcement Policy

(Including amendments by way of the Building Safety Act 2022 and the Building Regulations 2010 as amended October 2023)

May 2024

Introduction

The London Borough of Redbridge has adopted this policy to ensure that individuals, businesses, and others can understand what to expect from its Building Control Inspectors whilst seeking to improve compliance in terms of the Building Regulations where necessary.

The aim of proper enforcement is to protect the public, the environment and groups such as consumers or workers, whilst supporting economic progress. This document sets out the basic principles followed in enforcing Building Control legislation in the Council's area.

The Building Safety Act

The [Building Safety Act 2022](#) (BSA22) introduced a range of regulatory reforms following recommendations made by the Grenfell Inquiry, mainly through amendments to the [Building Act 1984](#) (BA84). Among these was the creation of Building Safety Regulator (BSR) with powers to:

- oversee the safety and standards of all buildings.
- help and encourage the built environment industry and building control professionals to improve their competence, which must be validated.
- lead implementation of the new regulatory framework for high-rise buildings.

The BSR has a series of escalating sanctions and enforcement measures to maintain standards and deal with poor performance in terms of the regulation of the building control profession. It will conduct investigations into the Building Control profession and publish findings on the performance of building control bodies as they are a regulated profession. This approach to Building Control oversight will help Building Control Bodies (BCBs) across the profession efficiently plan and deliver their functions to consistently high standards.

The BSR is also the building control authority for higher-risk buildings (HRBs) in England. HRBs are buildings with 7 or more storeys or that are 18 metres or higher, and either:

- Have at least 2 residential units or
- Are hospitals or care homes (during design and construction).

The BSR assesses whether duty holders are considering both building safety and regulatory compliance. It has a range of enforcement powers throughout the design and construction of an HRB development, and the enforcement powers under the BSA22 and the BA84 will be a matter for the BSR. Any building work to an HRB (new build or existing) will mean an application to the BSR before commencing any work.

Local Authority have the formal enforcement powers for all other types of buildings covered under the [Building Regulations 2010](#) (as amended) and the BA84.

Local Authority Enforcement

The work of Building Control includes:

- Processing Building Regulations applications and checking plans for compliance.
- Inspecting work under construction.
- Controlling building demolition, dealing with dangerous structures, and securing empty properties.
- The preparation and enforcement of general and special safety certificates and the enforcement of fire safety standards for sports stadia and certificated stands in sporting venues.

Building Control is responsible for using a wide range of Legislation. “Enforcement” means action carried out in the exercise of, or against the background of legislation. This includes studying documents, reviewing drawings and making inspections of premises to check compliance with legislation. Local Authority Building Control teams can also take formal enforcement action that may escalate through a staged process that involves more formal correspondence and /or the issue of legal notices and ultimately prosecution.

Deciding When to Take Enforcement Action

Building Control inspectors work in line with the requirements of the [Regulators code](#) and will consider several (non-exhaustive) factors before deciding when to act:

- The seriousness of the breach. This may involve a blatant breach of the law.
- Where the offence involves failure to comply with a statutory notice or order either immediately (if necessary) or within a reasonable period.
- Where there is obstruction of an Inspector or where an Inspector is given false or misleading information.
- The history of non-compliance or a history of similar offences.
- The continued risk to health, safety, or the environment.
- The effects of non-compliance.
- The effectiveness of enforcement choices.
- Legislation and guidance issued nationally or locally.
- The need to consult with other authorities and enforcement bodies.
- The consideration of the Crown prosecution code meeting the evidential and public interest test.

The Council recognises that most people want to comply with the law. We will, therefore, focus on prevention and, wherever we can, helping applicants meet their legal duties. However, we will take firm action against those who act illegally or behave irresponsibly. In doing so, we will be:

- Open – we will be open about how we set about our work and will provide information and advice in plain language.
- Consistent – 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.
- Proportionate – 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.
- Have a targeted approach - we will target action on those whose activities result in the most serious risks or least well- controlled hazards.

The Stages of Enforcement Action

Stage 1 (Intervention) - Informal Action

The Council will endeavor to resolve any issues where the law may have been broken quickly and 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 speedily. The situation will be set out in writing in a clear manner with an explanation as to why any remedial work is necessary and over what timescale it should be completed. When writing to residents and businesses legal requirements will be clearly distinguished from recommendations.

Where the breach is not considered to meet the public interest test and the history of compliance and competency of the person carrying out the work is good, and where non-compliance will not pose a significant risk to public health, safety, or welfare then the Council may consider informal action. This will result in verbal and/or written advice or warnings by letter or e-mail.

Stage 2 - Written Notice of the impending service of a Notice

Where there are breaches of legislation, a history of non-compliance, poor demonstration of competency, or a lack of confidence in management, with potentially serious effects or where legislation requires it, then the Council will inform all relevant parties of the breach and set a time scale for resolution. We will, where necessary, serve a statutory notice. We will give an opportunity to discuss the issues unless immediate action is needed. (See below for details of these notices).

The time limit on notices will be realistic and we will tell recipients of their rights. In the unlikely event of a summons then the legal process will be explained under the terms of the [Magistrates Courts Act 1986](#).

If the contravention is not minor, the Council will communicate this to the applicant / designer and / or contractor and client advising on the breach by directing them to relevant guidance where possible solutions can be found. As a regulator the Council cannot design the solution therefore the person carrying out the work will need to refer to their own competent designer/contractor in terms of the design element. We will indicate what action will be taken if contraventions are not removed within a given period of time.

Stage 3 - The service of a legal notice

The Building Control legislation that the Council enforces provides for the service of formal notices on individuals, businesses or other organisations requiring them to meet specific legal requirements. Where a formal notice is served, the method of appealing against the notice and the timescale for doing so will be provided in writing at the same time. The notice will explain what is wrong, and what the likely consequences are if the notice is not complied with.

In most situations, before formal action is taken, the Council 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, to prevent an imminent risk to health, or to protect the environment.

Stages 4 & 5 – Caution or Prosecution

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 Magistrates' Court, or Crown Court, following which formal prosecution action may be commenced to seek an injunction in a higher Court if necessary. As an alternative a caution alone may be administered by the courts.

Appealing Against Enforcement Action

Those affected by enforcement decisions have a right of appeal. The Council will set out these rights in writing at the same time that we act or serve notice.

Competency and Duty Holders

The [Building Regulations etc. \(Amendment\) \(England\) Regulations 2023](#) consider the subject of duty holders and competence. A lack of demonstrable competence is considered a breach of the Building Regulations. However, the [Circular letter](#) issued by the Department of Levelling up, Housing &

Communities (DLUHC) on 1st February 2024, clarifies the connection between competency and compliance as follows:

“Anyone undertaking design work or building work will need to plan, manage, and monitor the work to ensure that it complies with all relevant requirements. When carrying out design work the designer or the principal designer, will be required to take all reasonable steps to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would comply with all relevant requirements, and when carrying out building work, the contractor or principal contractor, will need to ensure the building work they carry out is in compliance with all relevant requirements.”

As such there is not an expectation that proactive inspections of the duty holder and competence regime will be necessary when the work is compliant. However, when there is a failure to comply with the building regulations the duty holder and competence regulations will enable the building control authority (BCA) to track back through the design and building process for the project for each of the relevant duty holders and take appropriate action for non-compliance as appropriate.

The Council will consider the following (non-exhaustive) factors when deciding whether to prosecute:

- The role of the client, (domestic or otherwise) Principal designer and /or Principal contractor both before work starts and as work progresses.
- The seriousness and effect of the offence.
- The foreseeability of the offence, or the circumstances leading to it.
- The intent of the offender.
- The skills, knowledge, and experience of the person(s) carrying out the work where there is a suspicion of failing or evidence of non-compliance with the building regulations.
- Any history of offending.
- The deterrent effect of a prosecution.
- The quality of evidence to prove the offence.

Timescales

The time limits within which the Council can enforce against contraventions of building control will depend on a number of factors including the date of the offence. The Council will determine the relevant actions and associated timescales on a case- by-case basis having regard to all relevant considerations.

Types of Notice

The BSA 22 enables local authorities and the Regulator to issue **compliance and stop notices** where building regulations have been breached. Compliance notices will be issued for each contravention, require specified or unspecified remedial action by a set date and must be served within 12 months of any contravention.

Stop notices can only be issued in certain situations. These are:

- that carrying out work would contravene certain prescribed building regulation
- an existing compliance notice has not been complied with, or
- works carried out that contravene regulations and could potentially cause a risk of serious harm. (no 12-month time limit attached to this notice)

The stop notice will require work to be stopped altogether until remedial action has been taken.

The Council can also require the alteration or removal of a contravention by way of an **enforcement notice** where a serious contravention occurs, and the Council intends for it to be removed or altered. The Council will require the owner to remove the contravention themselves. Should powers of persuasion fail then the Council may remove or alter the work and recover those reasonable expenses

in doing so subject to relevant provisions within the Act regarding challenge and appeal of the notice. The Council will also register any unresolved notice included in the land charges register for the property.

In the case of dangerous structures, the Council has powers to issue a **dangerous structure notice** requiring the relevant structure to be made safe. The Council also has powers, where buildings are considered to be dilapidated and causing a serious detriment to the amenities of the neighbourhood, to require the owner to make good the amenity.

The Council will comply with the legal requirements for serving the above notices, including the taking of all reasonable steps to notify concerned parties and the setting out of any rights of appeal. It will also follow the relevant provisions for the payment of compensation for damages and the imposition of any penalty for continuing offences or breach of a notice.

In some instances, such as in emergencies, there might not be the time available to make enquiries about ownership and appropriate emergency action will be taken under the relevant Acts. Following this full enquiry will be undertaken as soon as it is practical to do so and a notice then served on the owner as indicated on the Land Registry records.

Irrespective of any notice above, where a person has committed an offence of contravening the Building Regulations, the Council may take proceedings for a fine in respect of the contravention. The Council will consider the necessity of this action on a case-by-case basis.

There are also powers available for the Council to seek an injunction on application to the court where appropriate.

Inspection of Premises and Powers of Entry

As a part of its normal routine, evidence will be gathered by the Council through the process of notified inspections for Building Regulations matters.

Where a matter is by way of complaint, Council inspectors will make all reasonable attempts to gain entry to a property to carry out an inspection through invitation by the owner/occupier. However, where the matter is considered to be serious or access is being unreasonably withheld, inspectors have the authority to enter premises (other than private dwellings, where a warrant is required) at reasonable hours – unless the matter relates to a dangerous building and/or emergency measures are necessary outside normal working hours.

Failure to allow entry to an authorised Inspector will result in a warrant being obtained from a Magistrate and the warrant will be used and entry gained – by force if necessary and accompanied by the Police.

Inspectors should carry photographic identification badges, which will be displayed on request. The Council will, in the application of gathering evidence and inspecting any allegation of an offence or dangerous and dilapidated building, have regard to and apply the principles set out in relevant codes of practice.

Private Sector Compliance

Where the Building Control application is not being dealt with by the Council the private sector assessor has an important role in terms of compliance. Whilst they do not have formal enforcement powers, they identify non-compliance and will seek to resolve these as far as practicably possible. They may serve a notice of contravention on the client under the relevant regulations which will specify the areas of non-compliance and a timescale to remedy the contravention.

Where the private sector assessor cannot achieve a compliant outcome, they will formally revert the

application to the Council where the necessary enforcement action will be considered, as outlined above.

The Council cannot consider enforcement action for any contravention while an application is in force through the private sector assessor.

Action by a Local Authority Post Completion

Once a completion/ final certificate is given by a BCB then it is evidence of compliance with the Building Regulations but not conclusive evidence. The Council will investigate any report of a non-compliance and will take the appropriate enforcement action where it is found to be justified.

Recovery of Reasonable Costs.

Where the Council incurs any costs or charges to enforce a notice then this will be recovered from the owner or placed as a specific financial charge on the Land Charges register. Charges not paid in good time may accrue compound interest and it is in the interest of property owners to resolve any outstanding debt(s) made against the property, as quickly as possible. Anyone purchasing a property after a notice has been served, and after costs have been incurred for the enforcement of a notice, may become responsible for the debt and noncompliance.

Large debt amounts or debts left unpaid for a length of time may result in the Council seeking an application of sale to recover all or part of the debt.

Accountability

When delivering this enforcement policy, the Council will remain independent in its decision making and accountable for its actions. It will strive to provide effective consultation and remain cooperative in relationships with people when undertaking enforcement.

Complaints

If your concern is with the way in which the Council has handled your case, you can complain using the Council's complaints system details of which can be found [Redbridge - Tell us what we did wrong](#)

If your complaint is that you have suffered injustice as a result of maladministration, you can ask for your case to be investigated by the Local Government Ombudsman after exhausting the Council's complaints process. The Ombudsman is independent from the Council.