

Isle of Wight Council

Building Control Enforcement Policy

1. Introduction

This statement sets out the current approach to enforcement by the Building Control Service of the Isle of Wight Council.

We recognise that most businesses and individuals want to comply with the law, and we will therefore take care to assist them in meeting their legal obligations without unnecessary expense. We will, however, take firm action, including prosecution where appropriate, against those who deliberately flout the law or act irresponsibly.

This policy has been prepared in accordance with the Cabinet Office Enforcement Concordat. This means that when carrying out enforcement the Building Control Service will be open about its actions, demonstrate fairness and impartiality, take a consistent yet flexible approach, be considerate to complaints, treat matters with proportionality and assist service users wherever possible.

2. Duty of others

It is the responsibility of all designers, builders and building owners to make every effort to ensure that they comply with the requirements of the Building Regulations and associated legislation.

3. Statement of Intent

The role of the Isle of Wight Council Building Control Service is principally to ensure that all building works, works of demolition and dangerous structures falling under its control are dealt with in such a manner so as not to prejudice the health, safety, welfare and convenience of people in or about buildings.

Enforcement action should not constitute a punitive response to minor contraventions of legislation. We will strive wherever possible to ensure compliance with the legislative powers available through informal processes, using verbal and/ or written advice/ notification. The enforcement action adopted in each case will however be based upon an assessment of risk, coupled with the nature and extent of the defect involved.

Through close liaison with other internal and external agencies, a co-ordinated approach will be made to enforcement.

4. Enforcement practice

We believe that prevention is better than cure, and our role therefore involves being pro-active to advise on and assist with compliance. All Building Control Surveyors are suitably qualified and competent in the handling of all cases, and are always willing to offer advice about the best way of securing compliance either before or during building works.

Formal enforcement powers available are laid down within the Building Regulations 2000, the Building Act 1984 and the Local Government (Miscellaneous Provisions) Act 1982, and the council has various means at its disposal to ensure that these legislative requirements are met. These range through:

- Giving verbal or written advice together with contact name and telephone number
- Publishing and making available guidance notes and other educational aids
- Issuing warning letters
- Serving statutory notices
- Prosecution through the criminal courts

When deciding what degree of enforcement to exercise, the Building Control Service will give consideration to the following:

- The seriousness of the offence in terms of its impact on people's health, safety, welfare and convenience
- The previous history of the offender(s)
- The consequences of non-compliance
- Likely effectiveness of various enforcement options

The choice of remedies available to the Building Control Service will range from:

- Taking no action
- Taking informal action
- Taking emergency action to carry out the work
- Serving a statutory notice
- Taking action in default
- Prosecution

Where emergency action is necessary the Building Control Service will make every reasonable effort to inform the owners before carrying out the work, and if this is not possible, seek to contact them as soon after carrying out the works as possible.

Building Control Surveyors will primarily initiate enforcement action and follow through to compliance. The Building Control Manager will however authorise the instigation of any formal enforcement action. Liaison with other internal and external agencies, (such as Planning, Highways, Environmental Health, Southern Water, Environment Agency) should be considered at every stage of the enforcement procedure and undertaken as necessary in order to achieve solutions acceptable to all parties.

Before initiating any enforcement action, all relevant legislation, including the Human Rights Act 1998, will be taken into consideration.

Criminal prosecutions will generally follow where there has been a serious offence or a blatant disregard of the legislation, although instigation of a prosecution will not commence without the prior agreement of the Council's Legal Services Manager.

All written or verbal documentation will contain clear instruction as to what is required and why it is required. It will set out the legislative requirement considered to have been contravened, the measures necessary to comply and any alternatives that will be accepted. A clear distinction will be made between what is goodwill advice and what is a statutory requirement.

Where appropriate, reasonable and realistic time limits will be set to allow remedies to be carried out. Flexibility will be exercised where a degree of good will is expressed by the offending person.

Where there is an appeal procedure against a formal notice, this will be clearly explained and any time constraints made apparent.

5. Anonymous complaints

Anonymous communications that allege contraventions of Building Regulations will not normally be followed up. We may choose to act upon an anonymous complaint if there is reason to believe both that it is genuine, and that the matter at stake is serious enough to warrant the use of resources that any investigation might require. Such an investigation would be subject to the normal prioritisation procedure applicable to that type of report.

6. Review of Policy

This Policy shall be reviewed every three years, or in the light of any changes in legislation or other relevant policies.

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