

Powers to issue notices to deal with dilapidated buildings and neglected sites

Note: These provisions are summarised and should not be taken to be a definitive statement of the law.

**Sections 79 and 80, Environmental Protection Act 1990:
Statutory nuisances and summary proceedings**

- Power:** Under this section, the Council is obliged to inspect its area for nuisances, which may include any accumulation or deposit which is prejudicial to health or a nuisance, for which evidence will be required from an Environmental Health Officer.
- Costs:** The Council may recover expenses incurred in abating the nuisance.
- Limitations:** It is a defence to show that the "best practicable means" were used to prevent the nuisance.

**Section 76, Building Act 1984:
Defective premises**

- Power:** Under this section, the Council may issue an abatement notice when it believes that any premises are in such a state as to be prejudicial to health or a nuisance and unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by section 80 of the Environmental Protection Act 1990. The Council can carry out the works in default nine days after service of the notice.
- Costs:** The Council may recover expenses incurred in abating the nuisance.
- Limitations:** Notice may not be served if the works would be in contravention of a building preservation order under the Town and Country Planning Acts.

**Sections 77 and 78, Building Act 1984:
Dangerous buildings**

- Power:** Under this section, the Council may apply to the magistrates' court for an order where the building or structure, or part of the building or structure, is in such a condition, or is used to carry such loads, as to be dangerous. The order will require to execute such work as may be necessary to obviate the danger. The council may execute the works in default. Failure to

comply with the notice is a criminal offence.

Costs: The Council may recover expenses incurred in carrying out the works in default.

Limitations: An order does not override any need to obtain any necessary consents for listed buildings, buildings subject to building preservation notices and buildings in conservation areas.

Emergency measures: On giving notice, the council may take such steps as are necessary to remove danger and may recover expenses incurred.

**Section 79, Building Act 1984:
Ruinous and dilapidated buildings and neglected sites**

Power: Under this section, the Council may serve notice where:
(a) the building or structure is in a ruinous or dilapidated condition, or
(b) where rubbish or other material resulting from, or exposed by, the collapse of a building or structure is lying on the site or on any adjoining land,
and, in either case, is seriously detrimental to the amenities of the neighbourhood.

The notice will, as the case may be, require the owner to execute such works of repair or restoration and take such steps as may be necessary in the interests of amenity.

Costs: The Council may recover expenses incurred in carrying out the works in default.

Limitations: An order does not override any need to obtain any necessary consents for listed buildings, buildings subject to building preservation notices and buildings in conservation areas.

**Section 215, Town and Country Planning Act 1990:
Power to require proper maintenance of land**

Power: Under this section, the Council may issue a notice when it believes that the condition of land adversely affects the amenity of the area. This will be a judgement made in planning terms. The Council can carry out the works in default.

Costs: The Council may recover expenses incurred in carrying out the works in default.

Limitations: Appeal provisions limit the extent of the powers. Notice may be appealed to the magistrates' court and, thence, to the Crown Court. Does not apply to anything done in consequence of the ordinary course of events under a planning permission or which is otherwise lawful under Part III of the 1990 Act.

**Section 34, Public Health Act 1961:
Accumulations of rubbish**

Power: Under this section, if "any land in the open air" has on it any rubbish which is seriously detrimental to the amenities of the neighbourhood, the Council can take such steps for removing the rubbish as they may consider necessary in the interests of amenity. In this context, "rubbish" includes "rubble, waste paper, crockery, metal and any other kind of refuse".

Costs The Council cannot recharge for work done.

Preliminaries The Council must give the owner and occupier of the land at least 28 days advance written notice; the owner or occupier can then serve a counter-notice or appeal to the magistrates' court.

**Section 38 Planning (Listed Buildings and Conservation Areas) Act 1990:
Listed building enforcement notice**

Power: Under this section, where it appears to the local planning authority that any works have been, or are being executed, to a listed building in their area or that the works are such as ought to have been the subject of listed building consent, they may issue a listed building enforcement notice, having regard to the effect of the works on the character of the building as one of special architectural or historic interest. As well as prosecuting for non-compliance, the authority may carry out the works in default.

Costs The Council can recharge for work done.

**Section 54 Planning (Listed Buildings and Conservation Areas) Act 1990:
Urgent works to preserve unoccupied listed building**

Power: Under this section, the local planning authority may execute any works which appear to them to be urgently necessary for

the preservation of a listed building in their area. If a building is occupied, this power extends only to those parts which are not in use.

Costs The Council can recharge for work done.

Preliminaries: The Council must give the owner and occupier of the land at least 7 days advance written notice of the intention to carry out the works.

Sections 47 and 48 Planning (Listed Buildings and Conservation Areas) Act 1990:

Compulsory purchase of listed building in need of repair

Power: As a preliminary to compulsory purchase, but not otherwise, under this section the local planning authority may serve a repairs notice on the owner of the building specifying the works reasonably necessary for the proper preservation of the building. The Council cannot carry out the works in default without first acquiring the building.

Costs The Council cannot recharge for work done to the building.

Sections 94 and 95 Town and Country Planning Act 1990:

Termination of planning permission by completion notice

Power: This power applies where a planning permission is subject to a condition that the development to which the permission relates must be begun before the expiration of a particular period, that development has been begun within that period, but that period has elapsed without the development having been completed. If the local planning authority are of the opinion that the development will not be completed within a reasonable period they may serve a completion notice stating that the planning permission will cease to have effect at the expiration of the further period specified in the notice. Such a notice requires confirmation by the Secretary of State after a public inquiry. If the notice takes effect, the planning permission will become invalid as regards works permitted by the permission which have not been completed. However, there is then no ability to require completion of the development.