



**Lisburn &  
Castlereagh  
City Council**

**Building Control Services**

# **Dangerous Buildings & Structures Policy**

## **OBJECTIVES OF POLICY**

The objectives of this policy are to:-

1. Protect the public from dangerous buildings as applicable to legislation relevant to Council,
2. Ensure the Council's statutory duty – under the relevant legislation is carried out effectively,
3. Determine procedures, responsibilities and resources in the application of this service policy, and
4. Ensure the safety of Building Control staff undertaking Dangerous Buildings Surveys and investigations.

## **BACKGROUND**

The Council is empowered to take action in relation to dangerous buildings and structures, under the following legislation: -

### *1. Building Control Functions*

- a) The Towns Improvement Clauses Act 1847 – Section 75 as adopted by the Towns Improvement (Ireland) Act 1854 – Section 39 (Ruinous & Dangerous Buildings)
- b) The Public Health Acts Amendment 1907 – Section 30 (Dangerous Places to be repaired or enclosed)

### *2. Environmental Health Functions*

- a) The Pollution Control and Local Government (NI) Order 1978 – Articles 65 & 66 (Defective premises, ruinous and dilapidated buildings and neglected sites)
- b) The Health and Safety at Work (NI) Order 1978

## **LEGISLATION**

### **BUILDING CONTROL FUNCTION**

The Council is empowered to take action, in relation to dangerous buildings and structures, under the following legislation:

#### **a) Towns Improvement (Ireland) Act 1854 – Section 39**

This adopted so much of the Town Improvement Clauses Act 1847 as applies to **Ruinous and Dangerous Buildings**.

#### **Applies to;**

- Ruinous and Dangerous buildings, i.e., you could not apply it to a building which has loose slates but is otherwise in good condition.
- Only the part relating to buildings has been transferred to Local Councils, walls are excluded.

### **The Purpose of this Act is to protect;**

- Passengers travelling along any street and/or footpath (excludes trespassers) or
- Occupiers of neighbouring buildings

This legislation was originally designed for urban areas, although it now applies to the entire City Council Area.

### **Action to be taken by the Council;**

- Immediately cause proper board or fencing to be erected if there is a concern of imminent danger.
- Give a written notice to the owner or occupier if known, and place a notice on the door or other conspicuous part of the building. The notice will require the owner or occupier to forthwith take down, secure, or repair the danger, (notice and letter template in appendix).
- Agree the course of action proposed by the owner or occupier and/or ask for additional structural qualification for any such proposed works.
- Where appropriate action is not taken, the City Council may take the case before the Magistrate's Court to obtain an order to be placed on the owner, or the occupier if appropriate, to carry out such work. (3 days after issue of Notice)
- Where the owner or occupier is not found, the Council may do the work themselves, and may claim the expenses from the owner if found later.
- If the owner cannot be found, the Council may place a notice on the door or other conspicuous place (as well as the press) giving 28 days notice that it intends to sell the building and land or chattels and deduct the cost of the work from the proceeds (Article 77 & 78)

### **Note:**

Photographs, sketches, notes etc., must be taken to illustrate, not only that the Notice has been fixed in a prominent position, but also to show the condition of the premises. All photographs and evidence must be endorsed on the back with details of the address and dates and signed by the Designated Officer.

The City Council will require the permission of the Roads Service to erect a hoarding on a public road or footpath.

There is no appeal against the notice for take down or repair. However, the owner can seek an injunction to stop the City Council doing the work.

### **b) Public Health Act Amendment Act 1907 – Section 30**

#### **Applies to;**

- Dangerous places which are fronting, adjoining or abutting any street or public footpath including any building, wall, fence, steps, structure or other thing, or any well, excavation, reservoir, pond, stream, dam, or bank.

- The danger may occur due to the want of sufficient repair, protection or enclosure. Thus you could apply this legislation to a building, which has loose slates.

**The purpose of this is to protect;**

- Persons lawfully using the street or footpath. (Note: a public footpath can be a right-of-way; however this legislation cannot be used to protect trespassers).

**Action to be taken by council;**

- Notice may be served in writing upon the owner, requiring, within the 'prescribed period,' to repair, remove, protect, or enclose the work so as to protect any danger, (letter template in appendix).
- If the owner does not comply with the notice, the council may do the work and claim the expenses from the owner as a civil debt.

**Note:** *The owner does have the right of appeal to a court of quarter sessions should he/she feel aggrieved by the notice; such appeal to be lodged within the court within 21 days. In effect this means that the City Council cannot do anything about removing the danger until 21 days has elapsed. Thus, this is not very effective for dealing with imminent danger, ('Owner' includes person receiving the rack rent).*

Notice to be signed by the Council 'Designated Officer'.

**PROCEDURE**

Upon receipt of a complaint of a dangerous structure, the following information must be recorded within the Service operating system.

- **Name and address of Complainant,**
- **Address of alleged dangerous property,**
- **Element of alleged danger,**
- **Owner of property if known,**
- **Means of access**
- **Any other agencies contacted, including, NIEA, NIHE, DRD Road Service or PSNI,**
- **Any other relevant information**

The Head of Building Control Services, or in his / her absence the Senior Building Control Officer, is then required to categorise the nature of the danger as follows:

**Category A**

- Where the complainant has specifically stated that the building or structure is, in their opinion, in a dangerous condition or such conclusion can be drawn from their statement.
- Where possible, the response time proposed for any such report is to involve a site investigation promptly upon its notification.

**Category B**

- All complaints which do not fall into category A
- Response time involving a site investigation to take place within 24 hours from first report.

## **INVESTIGATION OF COMPLAINT**

The complaint, as categorised above, will be forwarded to an Area Officer to carry out the investigation within the stipulated response time. In the case of Category A complaints, an Officer/Manager will be asked to investigate the report forthwith, or contacted on mobile phone to do so if they are out of office on requested calls.

A list of mobile contacts is provided in Appendix 6 of this service policy should any report be made 'out of hours' i.e. between 5pm and 8am on weekdays and at weekends.

The site investigation must commence within the prescribed response periods to confirm:

- What level of danger exists?
- What is the degree of danger?
- What is the possible effect of the danger on passers-by or to the users of adjacent property/properties?
- Who is the owner / occupier / agent legally responsible for the building or dangerous structure?
- What actions are required to remove the danger and in what timeframe?
- Which legislative Act is best suited to the form of danger posed to the public?

## **ACTION TO BE TAKEN**

### **No Danger**

Where, in the opinion of the Officer, there is no element of danger or the property is secure, or where the danger is not covered by the above legislation, the Officer shall record as such and advise the Designated Officer and all other relevant persons and agencies of his/her decision, including the person who made the complaint.

- **Danger of Category A:**

Where, in the opinion of the Officer, the structure is on the point of collapse, or is in a ruinous & dangerous condition, the Officer should take the necessary action as required under the Town Improvement (Ireland) Act 1854 (previously listed). The Officer should not leave until the site is secure. This may involve liaison with the DRD Road Service, the PSNI and the City Council Central Maintenance Depot and contractors.

- **Danger of Category B:**

Where it is established that certain works are required to render the property safe but such works are not immediate, the Officer should take the necessary action as required under the Public Health Act Amendment 1907 (previously listed). The period specified in the notice must reflect the degree of danger but also must be reasonable.

Note: All site investigation matters, including photographic evidence pertinent to the full inspection should be recorded on the Management Information System (notes section). Officers should maintain adequate contemporaneous notes for production in court and ensure that any photographs taken as supporting evidence are complete with the address of the property, the date the photograph was taken and signed by the officer who produced it

## **DETERMINE OWNERSHIP**

Notices, where possible, should preferably be served on the owner, or agent in the case of rented property. Conclusive proof of ownership is often difficult; however there are several avenues of enquiry, which may be used to obtain this information:

- **Valuation and Lands Agency section within Land and Property Services**
- **Northern Ireland Housing Executive (Grants, Land and Property, Housing Action Teams)**
- **Local Estate Agents**
- **Building Register in Public Records Office**
- **Land Registry**
- **Local Knowledge through neighbours**
- **Local Police Authority (Register of key holder)**
- **Electoral Register**

The extent to which these lines of enquiries should be followed will be directed by the degree of urgency warranted by the danger, i.e. if the structure is in a very dangerous condition, time may not be available to allow lengthy correspondence and in such cases telephone enquiries maybe all that is possible before action is necessary.

As information learned through any of these sources constitutes hearsay, then legally speaking, the person should be directly questioned (face to face) as to whether he/she owns the property, (evidence taken under terms of PACE).

Where the property is owned by an individual or an individual acts as agent for a rented property, the notice must be served on that individual stating his full name and served at his/her normal place of residence.

In the case of a Registered Company, the notice should be served on the Company Secretary at the company address or offices.

If ownership is determined to belong in a partnership agreement, all partners are served with a Notice (or where a partner has specific responsibility for that area of the company's operation), on that particular partner.

Where the ownership of a property is held by trustees the Notice should be served on all trustees or on the person the trustees have elected to represent their interests, (normally a solicitor).

**Note:** *It is also possible to serve Notice on the occupier or agent where the owner cannot be identified or located. However, this course of action will only be pursued as a final resort. In all cases, the Notice is served on the recipient by Registered Post or Special Delivery.*

## **WRITING THE NOTICE**

The wording on the Notice should resemble, as closely as possible, the wording stated in the legislation, it must give the recipient the choice of the following actions and ask that they provide confirmation of their proposed choice of action to remove the danger:

- **Demolition**
- **Adequately repair, or**
- **Securing, to remove the danger.**

See **Appendix** for copies of notices.

The notice shall state the time period within which, the works to remove the danger must be carried out. It is preferable for the Service to also contact the recipient and confirm the appropriate time period.

The notice should identify to the recipient their obligation to consult and comply with all other statutory requirements, including obtaining planning consent (where necessary) and to undertake such works with due regard to Health and Safety legislation.

## **CONTINUING INSPECTION AFTER ISSUE OF NOTICE**

The site should be monitored regularly following the issue of the Notice to confirm that the condition of the structure has not deteriorated and that actions to remove the danger are progressing as instructed/proposed.

If during this period, the requested work has been satisfactorily completed and the danger adequately removed, the Officer will ensure that all necessary details are recorded on the Service MIS and noted in the Dangerous Structures file. No further action will be required.

If at the end of the Notice period or the period agreed with the owner/agent, the requested works have not been completed or are not to the satisfaction of the Officer, legal proceedings shall be instigated. The Service shall instruct legal representation to prepare a summons to the appropriate court for **“Failure to comply with the Notice”**.

## **ATTENDANCE IN COURT**

These cases are heard in the Petty Sessions, Officers should arrive in plenty of time to allow the Solicitor to discuss any aspects of the case if necessary – Ensure you bring with you all relevant documentation:

- **Extract from relevant legislation**
- **Contemporaneous notes taken as a result of inspection**
- **Copy of Notice**
- **Copy of Summons**
- **Photographs, Maps and Sketches etc. (To be endorsed, at the time taken / prepared, with signature, date and time of action.)**
- **Any other relevant information.**

Depending on the outcome of the case the City Council should obtain an Order from the Court to get the work carried out in a set number of days. The solicitor should be instructed to recover all costs.

The building should always be inspected on the morning of the court date to determine current condition.

***Actions to be undertaken are identified in Appendix Six: Flow Chart.***

## **PROACTIVE MEASURES**

In order to protect its community, the City Council has adopted the following proactive strategy.

Building Control will:

- Advise the public about the dangers and the legislation.
- Facilitate the easy reporting of dangerous buildings
- Respond promptly to walls and structures reports both during and outside normal working hours.
- Review training of staff in the legislation and in judging dangerous buildings, structures etc., and in Health and Safety issues.
- Have available, or have access to, suitable materials and labour for erecting hoarding, stabilising buildings etc.
- Have available and review regularly the contact numbers for staff in other agencies, e.g. Roads, Water, Police, Fire Brigade, Northern Ireland Electricity.(See **Appendix**)
- Keep available a list of contractors willing to undertake work on behalf of the Council.
- Notify, and where relevant, seek approval from all the appropriate external agencies. E.g. Roads Service for hoarding and closing of streets, Environment and Heritage for listed buildings etc.
- Keep appropriate records of the building in question and all action taken
- Issue all necessary Health and Safety equipment and other equipment such as torches.
- Assess extent of danger and categorise into immediate, imminent, long term.
- Provide notification to HSE NI under the Construction Design Management Regulations, of any works of demolition that are to be



carried out by the City Council. (Note: This will only be required in the event of appointing a sub-contractor to carry out the work on behalf of Lisburn & Castlereagh City Council).

- Put into place an effective out of hours contact arrangement service to cater for reports of dangerous structures or places

## Appendix One

Our Ref:

Plan Ref:

DATE

NAME

ADDRESS

Dear

### **NOTICE REGARDING DANGEROUS BUILDING TOWN IMPROVEMENT (IRELAND) ACT 1854 – SECTION 39**

Notice is hereby given that you are required, forthwith, from the date hereof to take down, secure or repair the building situate at (ADDRESS OF WORKS), so as to prevent any danger there from.

Should demolition form part of your intentions, it will be your obligation to consult and comply with all other statutory requirements, including the obtaining of planning consent (where necessary) and to undertake such works with due regard to Health and Safety legislation.

In the event of your failure to comply with the requirements herein, Lisburn & Castlereagh City Council may take this case before the magistrates court to seek an order that you carry out such work.

Please advise Lisburn & Castlereagh City Council of your intended actions by return post.

Yours sincerely

XXXX XXXX

Head of Service (Building Control)

**Appendix Two (Notice)**

**NOTICE REGARDING DANGEROUS BUILDINGS**

Lisburn & Castlereagh City Council Building Control Services hereby gives notice that under the Town Improvement (Ireland) Act 1854 – Section 39, the owner has been notified of his/her requirement to take down, secure or repair the building situated at

**ADDRESS OF WORKS**

**so as to prevent any danger there from.**

**DATED:** .....

**SIGNED:** .....

**XXXX XXXX**  
Head of Service (Building Control)

### **Appendix Three** (Follow up Letter)

This Letter to be used in conjunction with **1854 Act**

Our Ref: «BLGRef\_No»

Date: «CRR\_Date»

«BLGApplicants\_title» «BLGApplicants\_forename» «BLGApplicants\_Surname»  
«BLGApplicants\_Company»  
«BLGApplicants\_Stnum» «BLGApplicants\_Street»  
«BLGApplicants\_town»  
«BLGApplicants\_Postcode»

Dear Sir/Madam

**RE: Dangerous Building at\_«BLGStreet\_number» «BLGStreet», «BLGTown»**

Further to our discussion on the \_\_\_\_\_ regarding the above matter, we now  
enclose a Dangerous Building Notice.

You should note the time period associated with this Notice.

To have this situation resolved it will be necessary to make good and safe any areas which  
may endanger the public. Such action as making good and safe does not, necessarily,  
involve demolition in part, or in total. Should demolition form part of your intentions, it may  
be necessary in the case of certain buildings to obtain the prior approval of other authorities.

You may wish to consider seeking the services of a suitably qualified and competent person  
to advise you of any necessary remedial work, and the implications of that work.

“In acting upon this Notice, you are reminded of your obligations to comply with all other  
statuary requirements including obtaining planning consent (if required) and to undertake  
such works with due regard to Health and Safety legislation”

Please advise us of your intentions for the above mentioned premises, as a matter of  
urgency.

If you require any further clarification please do not hesitate to contact the Officer dealing  
with this matter.

Yours faithfully

**XXXX XXXX**

Head of Service (Building Control)

## Appendix Four

This Letter to be used in conjunction with **1907 Act**

Our Ref: «BLGRef\_No»

Date: «CRR\_Date»

«BLGApplicants\_title» «BLGApplicants\_forename»

«BLGApplicants\_Surname»

«BLGApplicants\_Company»

«BLGApplicants\_Stnum» «BLGApplicants\_Street»

«BLGApplicants\_town»

«BLGApplicants\_Postcode»

Dear Sir/Madam

### NOTICE REGARDING DANGEROUS BUILDING

#### PUBLIC HEALTH ACTS AMENDMENT ACT 1907 SECTION 30

NOTICE is hereby given that you are required within 14 days from the date hereof to repair, remove, protect or enclose the building situate at: «**BLGStreet\_number**» «**BLGStreet**», «**BLGTown**»,

so as to prevent any danger there from and in the event of your failure to comply with the requirements herein within the prescribed period that Lisburn & Castlereagh City Council may cause such works as they think proper to be done for effecting such repair, removal, protection or enclosure and shall proceed to recover from you the expenses thereof.

“In acting upon this Notice, you are reminded of your obligations to comply with all other statutory requirements including obtaining planning consent (if required) and to undertake such works with due regard to Health and Safety legislation”

Yours faithfully

**XXXX XXXX**

Head of Service (Building Control)

**Appendix Five (Notice)**

Your Ref:

Our Ref: L/

Date:

Address

Dear Sir/Madam

**NOTICE REGARDING DANGEROUS BUILDING**

**PUBLIC HEALTH ACTS AMENDMENT ACT 1907 SECTION 30**

NOTICE is hereby given that you are required within 14 days from the date hereof to repair, remove, protect or enclose the building situated at:

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So as to prevent any danger there from and in the event of your failure to comply with the requirements herein within the prescribed period the Lisburn & Castlereagh City Council may cause such works as they think proper to be done for effecting such repair, removal, protection or enclosure and shall proceed to recover from you the expenses thereof.

Yours faithfully

**XXXX XXXX**

Head of Service (Building Control)

**APPENDIX SIX – FLOW CHART**

