

Extract from Housing Health and Safety Rating System: Enforcement Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7853/safetyratingsystem.pdf

Decision to serve an improvement notice

Where an improvement notice has been served an authority should consider whether it is appropriate to offer financial assistance or advice to the owner, landlord or tenant, for example on the availability of a Disabled Facilities Grant. It should also consider the circumstances and wishes of tenants and owner-occupiers, including the extent to which they are able to carry out or tolerate repairs. Where in the opinion of the authority, remedial works would lead to a high probability of serious health consequences for occupants, this is a factor which might lead them to suspend the action or to issue a hazard awareness notice.

Works in default and action by authorities with owner's agreement

5.13 Section 31 and Schedule 3 to the Act enable authorities to take the action required by an improvement notice itself, with or without the agreement of the person on whom the notice was served. The need to act with agreement may arise where a category 1 hazard exists and remedial action is required without undue delay, but the owner is not in a position to carry out the works or arrange for the work to be done, perhaps for financial reasons. Authorities may have to carry out works without agreement where a notice has not been complied with.

5.14 Where the authority takes action with the agreement of the person served with the improvement notice, the works are to be taken at his expense. Where the authority takes action without agreement, it may recover expenses reasonably incurred, with interest. Such expenses may be made a charge on the property. Schedule 3 also deals with appeals against the recovery of expenses.

Powers to charge for enforcement action

5.50 The Act enables local authorities to make a reasonable charge as a means of recovering certain expenses incurred in serving an improvement notice, making a prohibition order, serving a hazard awareness notice, taking emergency remedial action, making an emergency prohibition order, or making a demolition order. The expenses are in connection with the inspection of the premises, the subsequent consideration of any action to be taken and the service of notices. Authorities will be able to charge for each course of action including, where emergency remedial action is taken, for any subsequent notices.

5.51 This provision does not relate to the cost of any remedial action taken by the authority either with or without agreement. These are separate charges covered by section 31 and Schedule 3 to the Act.

Extract from LDC Enforcement Policy - Regulatory Services, Housing and Wellbeing– Sept 2020

Formal Notices

Certain legislation allows notices to be served requiring offenders to take specific action or cease certain activities. The time period stated on the notice will be reasonable.

Certain types of notice allow works in default to be carried out. This means if the notice is not complied with (known as a breach of notice) we may carry out the necessary works to satisfy the requirements of the notice ourselves. Where the law allows, we will normally recover our costs from the person / business served with the notice, through the courts if necessary. Sometimes costs are recovered via a charge on the property. Every formal notice will be issued with clear guidance on rights of appeal.

Prosecution

When considering whether or not to prosecute we will determine if there is sufficient evidence to prove the case and whether the intended action is 'in the public interest'. The final decision to initiate court proceedings will be taken by the appropriately delegated service manager following a case review.