

London Borough of Camden Environment Department

Enforcement Policy for private sector landlords

A number of Statutory Instruments give the Environmental Health Team of Camden Council the authority to require landlords to carry out maintenance, works of repair and improvement to their properties. The principal Statutory Instruments include the Housing Acts, Environmental Protection Act, Building Act together with associated Regulations and Orders. We will enforce these provisions but will seek to do so in a firm but fair, open, consistent and helpful way, in line with the principles of good enforcement outlined in the Enforcement Concordat and the Code for Crown Prosecutors. The Council signed up to the Enforcement Concordat on 28 March 2000.

What we will do

1. We will provide clear application forms and explanatory notes where appropriate
2. We will consult with landlords prior to requiring major works to be carried out, unless urgent action is necessary. Any consultation will endeavour to make clear what works are required and the timescale for them to be carried out. We will allow a reasonable time period for landlords to request clarification, suggest alternative works or provide comment on our proposals.
3. We will consider the representation made during the consultation and may cancel or amend our proposals.
4. We will issue clear formal notification of any works that are required, based on the Secretary of State's guidance and legislative requirements and specify timescales for the works to be carried out.
5. We will aim to provide advice and information to landlords where appropriate and endeavour to ensure that all our correspondence on enforcement matters is clear and unambiguous.

We will clearly distinguish the works that must be carried out from any advice or recommended works.

6. We will advise landlords of the named officer responsible for dealing with the issue
7. We will endeavour to ensure that the business representatives understand the Notice (translation if necessary)
8. We will regularly liaise with other enforcement officers/agencies where there is a possibility of shared enforcement. Letters will reflect multi-disciplinary roles
9. In non-emergency situations we will contact the business to discuss non-compliance and/or reasonable excuse. E.g. work more complex than first appeared or if there are delays in the Planning process.
7. We will expect full voluntary compliance but will not hesitate to use enforcement powers where necessary.
8. We aim to provide an efficient service, but in the event that a person or business is not satisfied with a service provided by the Council, there is a formal complaints procedure, details of which can be obtained from the officer dealing with case or from the Town Hall.

Enforcement powers

We regard enforcement as encompassing all the actions we may take to achieve compliance with the conditions of the legislation. We will take the appropriate level of enforcement action within our statutory duties, powers and the framework of this enforcement policy.

The main levels of enforcement action are:

Stage	Action	Comment
1.	Verbal advice	General advice as to standards required by the Council.
2.	Advisory letter	Advice on minor defects or minor items of non-compliance requiring attention.
3.	Legal or Formal Notice	Standard means to secure works of repair or improvement. In many cases Legal Notice is a legislative requirement. E.g this is a duty under the Environmental Protection Act 1990 if nuisance is determined
4.	Prosecution	Serious breaches of landlords legal duty or failure to comply with Enforcement Notice.
5	Work in Default	Where failure to carry out legal duty, the Council may carry out the works and recover charges, plus fees, from landlord.
6	Compulsory purchase Order	Compulsory purchase of the property from the landlord.

Our decision on what level of enforcement action is necessary will take into account:

- Risk to health, safety or welfare of others.
- Foreseeability of offence or circumstances leading to it.
- Intent of the offender individually/corporately.

We will be more likely to prosecute where the landlord knows, or should know, that a course of action or inaction is likely to lead to an offence.

- Attitude of offender

We will be more likely to prosecute where the landlord has made misrepresentations regarding the offence or shows reluctance to take reasonable steps to prevent or rectify the issue.

- History of offending.

Past compliance history of the landlord/business in both formal and informal circumstances.

- Personal circumstances of the offender.

We will be more likely to prosecute where we are aware that the landlord had adequate resources to have taken remedial action before the offence or owns a number of other premises.

- Council's fiduciary duty.

We have a statutory duty to protect the Council's finances. Work in default and compulsory purchase actions have financial implications for the Council and this will be taken into account in any decisions on whether or not to use the options.

Presumption of prosecution

Where there is sufficient evidence we will normally prosecute, before carrying out work in default or compulsory purchase powers, in the following circumstances:

- Breaches with significant potential or actual impacts on the health, safety or welfare of others.
- Failure to comply with significant number of items of repair or improvement, contained in a Legal or Formal notice.
- Failure to comply with Legal or Formal notices within any agreed extended timescale.
- Reckless disregard for management issues and standards.
- Failure to supply information without reasonable excuse or knowingly supplying false or misleading information
- Obstruction of our staff

Works in Default

We will only consider undertaking works in default where prosecution has failed to affect the repair or improvement and/or there is a very serious affect on the health, safety or welfare of others and/or compulsory purchase is not appropriate or possible.

Compulsory Purchase

We will consider compulsory purchase where there is a statutory and fiduciary basis for the action, prosecution has failed to affect the repair or improvement or is not possible, or it is the most appropriate course of action, such as bringing empty properties back into use.

Prosecution of company and individuals

Where a company is involved it will be usual practice to prosecute the company. However where individuals have caused offences e.g. of obstruction then we will consider prosecuting those individuals. We will also consider the part played in the offence by directors and managers and action may be taken against such officers if appropriate.

Choice of court

Where an offence is of special gravity, the Council will consider requesting magistrates to refer the case to the Crown Court, where appropriate.

Public information

The Council believes that public information about enforcement is important to maintain confidence in the regulatory system and to impress on landlords the gravity with which the Council regards offences. It will therefore be our policy to give factual information about prosecutions to the media.

Document agreed by

Position

Date