

# **Building Control Services Slough Borough Council**

## **Enforcement Concordat**



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**BUILDING CONTROL SERVICES**  
**ENFORCEMENT CONCORDAT**

**1. Introduction & Intent**

1.1. In the first instance it should be the responsibility of all designers, builders and building owners to make every effort to ensure they comply with the requirements of the building regulations and associated legislation.

1.2. This Enforcement Policy relates to the Building Control Service. It sets out what our customers, being regulated by the service can expect from Slough Borough Council.

It 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

1.3. The primary function of the Building Control Service is to enforce the Building Regulations within the Borough, which ensure that building works are carried out in accordance with the Building Regulation 2000 (as amended), and other related legislation, for example, The Building Act 1984, Berkshire Act 1986 and relevant sections only of The Highways Act 1980. The function of the Building Regulations is to ensure the health and safety of persons in or about buildings, the conservation of fuel and power and disabled provisions. Other functions carried out by the Building Control Section include, dealing with dangerous structures, demolition of buildings and the issue of hoarding and scaffold licences.

1.4 Compliance should normally be achieved through verbal instruction and informal notices, only in more serious instances should formal action by statutory notices be required. Local Authorities are being encouraged to avoid prosecutions except for the most serious and persistent offences. We will therefore help businesses and the public to meet their obligations without unnecessary expense, while taking appropriate action against those that flout the law.

## **2. Purpose & Scope**

- 2.1. The production of a formal enforcement policy will enable procedures, which contribute to best practice within the Slough Borough.
- 2.2. Enforcement should be proportional to the risks involved. This document gives guidelines, which should enable any risk assessments to be made in a consistent and fair manner.
- 2.3. Our aim is to have a better-informed community, both the professionals (builders and architects) and their clients, thus reduce the need to rely on the regulatory framework for compliance with the legislation.
- 2.4 Statutory notices issued by the Building Control section are checked by experienced officers for appropriateness, legal validity, and clarity, content and technical information.
- 2.5 Our aim is to ensure any information that is given to a business, professional body, or individual, whether written or verbal, should clearly identify the requirements of the legislation having regard to statutory requirements and advisory items.
- 2.6 We will take care in interpreting legislation, clearly distinguishing between mandatory legal requirements and recommendations.
- 2.7 We aim to ensure any enforcement action is proportional to the risk involved.
- 2.8 We aim to follow a consistent approach to enforcement by referring to Operational Procedures as contained within the sections' Quality Assurance Documents

## **3 Enforcement/Prosecution**

- 3.1 Building Control Surveyors investigating alleged breaches of the legal requirements must consider the potential to cause harm as well as the harm actually caused. Therefore a prosecution may be brought if a breach has significant potential for harm, regardless of whether it has already caused an injury.
- 3.2 In deciding whether to serve a notice or to prosecute, the following matters will be considered.
  - It is the public interest to take formal action, only after satisfying ourselves that there is sufficient admissible evidence.
  - The gravity of the offence, for example, whether there appears to be a blatant disregard of the law or reckless disregard for the health, safety and welfare of the public or others within the area of the works
  - There has been a serious accident as a result of a substantial legal contravention

- A particular contravention has the potential to cause serious harm to others
- Those affected are particularly vulnerable, for example the elderly
- Failure to comply with statutory notices
- Where a particular offence is prevalent in an activity or area, or whether it is desirable to be seen to produce some public effect, including the need to ensure remedial action, and through punishment of offenders to deter others from similar failures to comply with the law.

#### **4 Choice of Appropriate Enforcement Action can include the following:**

##### 4.1 Giving Advice.

We produce a variety of leaflets and guidance notes which are attached to the back of acknowledgement letters and statutory notices and explain the requirements of the law, for example the giving of notice at certain stages of the work. Surveyors within the Building Control section are available to give advice, either over the telephone, or in person, either on site or in the office during office hours.

##### 4.2 Visits to Site.

Site visits are carried out on a regular basis, either at the request of the builder or building owner, and where possible on a routine basis over 90 day period. Advice is freely available during these visits.

During these visits future problems are often discovered and advice given to prevent deviation from the legislative requirements.

##### 4.3 Warning Letters.

Should deviations from the approved plans, or other items which would create breaches of the law be discovered they are brought to the attention of the builder and the property owner.

Site progress reports are provided to the person undertaking the building work on every inspection. If significant defects are seen on site a letter is produced, this being a standard letter sent to all interested parties.

A specified period of time will be given to carry out any alterations to, or removal of any offending work and the site revisited accordingly.

##### 4.4 Statutory Notices

Should no action be taken within the specified time period within the warning letter then more formal action may be taken. A 'Requisition for Information' under the Local Government Miscellaneous Provisions Act may be produced and sent to known interested parties.

Statutory Notices will be subject to the many specific rules governing their use. They would generally be used where there is a clear breach of the law, where the degree of risk to public health and safety is significant and where a remedy needs to be specified and secured within a set period of time.

They are appropriate where, in addition to the above, the response of the offender needs to be monitored to ensure a satisfactory outcome. The right of appeal will be set out in writing with the notice.

Subject to consideration of the evidence it is likely that negligent or willful noncompliance with a statutory notice will result in prosecution.

The base for procedures to be used is set out in the DSA document "Guidance notes for enforcement procedures under the Building Regulations".

#### 4.5 Prosecution

Prosecutions do have a preventative role in drawing attention to the need for compliance with legislation, and the maintenance of good standards.

The decision to prosecute does not preclude the service of notices as well.

We will not prosecute where there is a known defence in law or if there is insufficient evidence to prove the case.

#### 4.6 Prosecution without warning.

As a general rule, the person responsible should be given ample opportunity to comply with the law, and all assistance should be offered to this end, although in some instances it is right to prosecute without warning.

Examples of such circumstances include those where the contravention is of a particularly serious nature, for example where means of escape legislation has been ignored and the use of the building would endanger the safety of the occupiers.

## 5 Review

The concordat can be reviewed at any stage and amended to reflect any changes that may occur in operation procedure or to current legislation.

## 6 Appeals and Complaints

We subscribe to the Councils Corporate Complaints Procedures. In addition, the legislation, which we administer, has in-built appeals procedure whenever a formal notice is served.