

Planning Enforcement and Direct Action Policy

To ensure an effective, consistent and clear approach to carrying out enforcement with regards to breaches in planning control





PLANNING ENFORCEMENT AND DIRECT ACTION POLICY

The National Planning Policy Framework (2012) recognises that:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control”.





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1. Introduction to Planning Enforcement

The Council's strategic ambitions for Redbridge are to:

-  increase fairness;
-  empower communities to help shape the borough
-  improve quality of life and civic pride and
-  transform to respond to future challenges

Planning Enforcement plays an important role in achieving these goals and improving the quality of life and civic pride amongst our communities. This Planning Enforcement and Direct Action Policy is focused on ensuring that Redbridge continues to be a place of choice to live and work because of the good quality of life it provides. It will ensure that Redbridge maintains a high quality built environment and fosters civic pride amongst residents who are proud to call Redbridge their home.

The Council is responsible for dealing with issues of Planning Enforcement across the Borough. This is important to ensure that all development accords with both national and London wide planning policies while at the same time achieving the Council's spatial vision for Redbridge.

The National Planning Policy Framework (2012) recognises that:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control”

Development without planning consent can cause upset and distress for residents, businesses and visitors to the Borough. Most breaches of planning control are not a criminal offence although there are some notable exceptions, such as unauthorised works to listed buildings, unlawful advertisements and demolition in conservation areas without consent.

All complaints regarding a potential breach of planning regulations are subject to an initial investigation and the Council has discretion over what action will be taken and when. This will be based on the particular merits of each individual case and enforcement action will be taken where and when it is considered fair, reasonable, proportionate and expedient to do so.

This policy sets out how the Council will deal with breaches of planning regulations. It provides information and guidance to residents, developers and those with other interests, regarding how the Council will deal with developments which do not accord with national and local policies. It seeks to balance the concerns of local people with the rights of owners, and sets out the nature and timescales associated with taking timely enforcement action where appropriate.

The enforcement process followed by the Council is in accordance with the national approach set out in the Government's Planning Practice Guidance (2014).

2. Planning Enforcement – Principles

The definitions

What is Development?

The meaning of development is defined with the Town and Country Planning Act 1990 Section 55 as:

“Development means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”

What is a breach in planning control?

A breach of planning control is defined under Section 171A of the Town and Country Planning Act 1990 as:








“The carrying out of development without the required planning permission; or

Failing to comply with any condition or limitation subject to which planning permission has been granted”








Before taking enforcement action consideration will be given to the Human Rights Act 1998 and to the Equalities Act 2010.

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The Council's Planning Enforcement Service can investigate the following:

-  development consisting the change of use of land/buildings without planning consent
-  works to listed buildings without consent
-  any activity giving rise to direct or indirect damage to protected trees or qualifying trees in conservation areas
-  non-compliance with conditions attached to planning permissions
-  unauthorised building works and/or engineering works
-  display of unlawful advertisements
-  untidy rear gardens – the Council's Civic Pride Service has powers to deal with untidy front gardens.*

The Council's Planning Enforcement Service cannot investigate:

-  boundary wall disputes and other land ownership issues as these are civil matters outside of the planning legislation
-  legal covenants
-  devaluation of property
-  obstructions, parking and traffic enforcement*
-  graffiti and anti-social behaviour*
-  dangerous structures*
-  noise nuisance*

** The Council has other powers to deal with these breaches – please see the useful contacts sections in Appendix A of this policy*

3. Time Limits for Taking Enforcement Action

The Council may take enforcement action against unauthorised operational development for up to four years from the date the breach commences. Operational development includes for example:

- erection of an front side or rear extension
- dormer windows / mansard roof
- other alterations to houses
- alterations commercial property
- shopfront installation

For any development involving a change of use to a residential use (C3) the Council has four years to take enforcement action.

For any other development involving a change of use or breach of planning conditions the Council may take action up to **ten** years from the commencement of the breach.

For listed building there is no time limit to taking action as long as the breach in planning control happened after the building was listed.



4. Making an Enforcement Complaint

In order to investigate a potential breach of planning control the Council will require:

- the address of the specific property(s) or premise(s) at which the alleged breach is taking place;
- full details of the alleged breach; including details of the location, scale and timings of the alleged breach;
- the complainant's name, address and email/telephone contact details;
- the council will **not** accept any enquiries submitted anonymously.

Confidentiality

Any details submitted to the Council in relation to an enforcement complaint will be treated in the strictest confidence. The Council will not reveal the identity of the complainant to an owner or responsible party(s).

Enforcement complaints can be made in the following ways:

Online

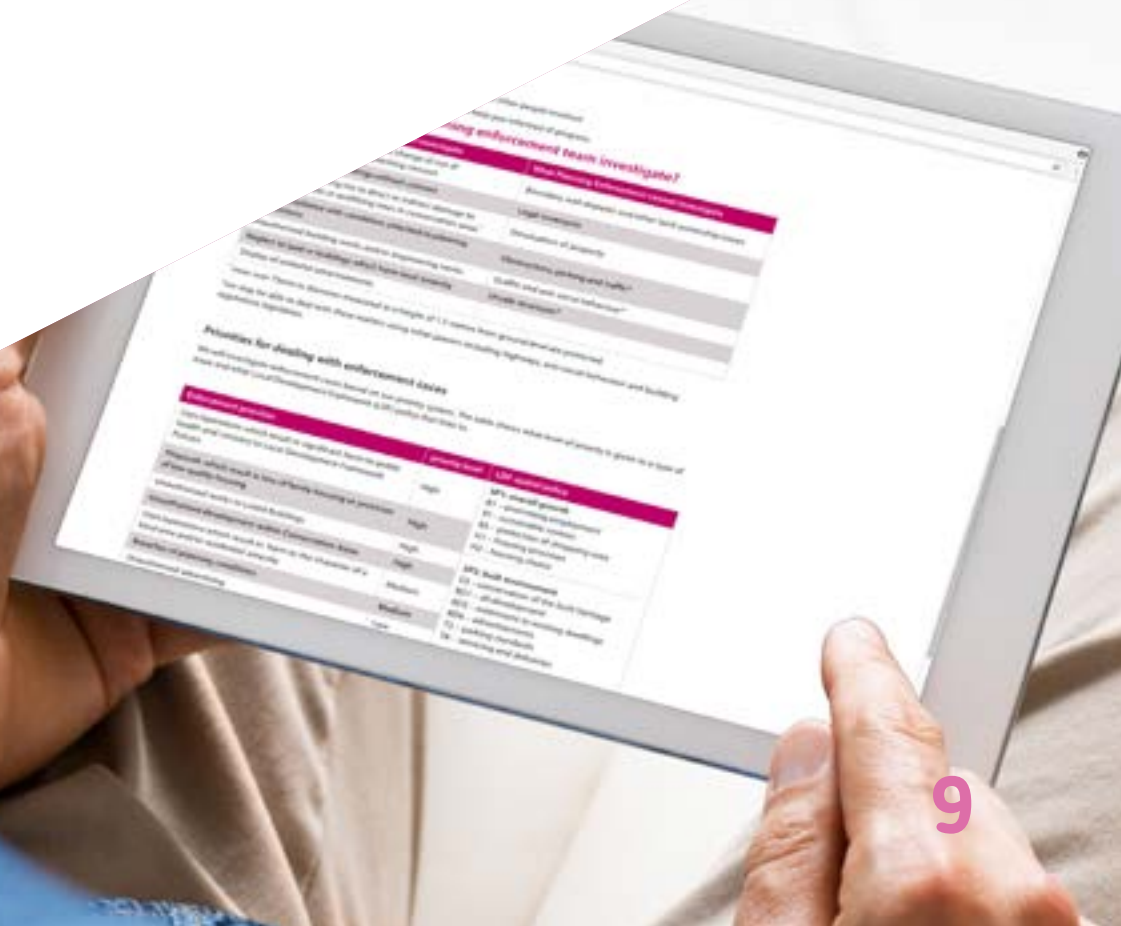
www.redbridge.gov.uk/planning

By Email

planning.enforcement@redbridge.gov.uk

By Post

Planning Enforcement
London Borough of Redbridge
Town Hall
128 – 142 High Road
Ilford, IG1 1DD





5. Priorities for Planning Enforcement

All enforcement complaints are important to us however, we must prioritise so that the breaches which have the potential to cause the most harm are dealt with quickly and efficiently.





A breach of planning regulations will be assessed according to the following categories:

1. Significant Harm





2. Medium Harm

3. Low Harm






1. Significant Harm includes:

-  unauthorised works to a listed building or scheduled ancient monument
-  development/changes of use with serious implications upon the continued health and wellbeing of the public in redbridge, such as brothels, shisha lounges and inappropriate industrial/commercial uses
-  large scale development where a serious impact is felt over a wide area
-  development of poor quality housing, including large houses of multiple occupancy, flat conversions and residential use of outbuildings

2. Medium Harm includes:

-  unauthorised development which would adversely affect the character and appearance of a conservation area or the setting of a listed building
-  residential extensions which do not benefit from permitted development rights
-  breach of planning conditions which results in harm to general amenity
-  unauthorised works in progress to a tree protected by a tree preservation order or tree within a conservation area

3. Low Harm includes:

-  unauthorised signage and advertisements (unless the sign / advert seriously affects public safety)
-  any breach of planning control which is of a temporary nature (unless public safety is compromised)
-  unauthorised fences, walls and gates
-  unauthorised telecommunications equipment or satellite dishes on residential dwellings
-  untidy land

6. Redbridge Planning Enforcement – objectives and process




The Council aims to treat all service users in a fair and consistent manner and will deal with all cases where a breach is discovered in a transparent way.



Where a breach has occurred we will:

- 📄 communicate clearly to the responsible person by explaining what steps are required to resolve the breach and the possible consequences in the event that those steps are not taken
- 📄 update the complainant about what actions are being taken - this means we will inform you at each key stage of the process, for example during the progress of the investigation, whether an enforcement notice has been served or an appeal against a notice has been received
- 📄 provide identification when we visit
- 📄 take formal enforcement action where required in the event that attempts to negotiate a remedy appear to fail
- 📄 explain the right of appeal against the notices
- 📄 let the complainant know the final outcome of their complaint

Although personal circumstances may be considered in some instances and each enforcement complaint received will be considered on a case by case basis, the Council will generally deal with enforcement complaints in line with process set out in Section 7.

7. What you can expect when making an enforcement complaint

1. When your complaint is received by the Council it will be subject to initial screening and categorised as Significant Harm, Medium Harm or Low Harm. You will receive an acknowledgment detailing how your case has been prioritised and details of the case officer who will be dealing with your complaint.
2. The site will be visited within:
 -  5 days for cases of **Significant Harm**;
 -  10 days for cases of **Medium Harm**;
 -  20 days for cases of **Low Harm**.




Following this site visit an initial assessment will be carried out. If no breach is discovered the case will be closed immediately.
3. If a breach has occurred the owner and/or relevant party will be advised by the Council of the action that they will be required to take to remedy the breach. This could include:
 -  requirement to cease the use or remove any unauthorised development; or
 -  submit a planning application to regularise the breach

The owner and/or relevant party will be given 28 days to comply with these requirements and the complainant will also be kept informed.

4. After the expiry of the 28 day period a second assessment will take place by the case officer. This will take into account the intentions and actions of the owner and/or relevant party to this point. A decision will be made as to whether it is expedient to take further action.

“Expedient”

Where it is considered expedient to pursue the case one of the following options is likely to be required:

-  further negotiation
-  further evidence required. This can be achieved through the service of a formal Planning Contravention Notice (PCN)
-  the service of a formal notice - the most common types of notices used include Enforcement Notices and Section 215 Notices

A full list of notices and explanations is included in Enforcement toolkit, Section 8 of this document.

“Not expedient”

It is at the Council’s discretion whether to take formal enforcement action. Planning breaches may be unintentional or be considered technical or trivial. In line with government guidance within the National Planning Policy Framework (2012, NPPF) and planning policy guidance, the Council will take action when it is considered fair and reasonable to do so and is proportionate to any harm caused. In some cases although there is a breach in planning control, the harm caused is minor, meaning action is not justified i.e it is not expedient to pursue the case.

Each case will be determined on its own individual merits

The stages of the Council’s process for dealing with a enforcement complaints is set out in Appendix B

Timescales

It is important to remember that Planning Enforcement action can be a lengthy process and potentially frustrating process for all involved. The Enforcement Team aims to resolve breaches as quickly as possible.

 we aim to close 60% of our cases within 16 weeks of receipt of a complaint;

However, due to the nature of enforcement and the effects of external factors such as the timescales involved in appeals to the Planning Inspectorate and prosecutions, some cases will take longer. We appreciate your patience.



8. Enforcement toolkit

Negotiation

Negotiation is encouraged in all but the most serious cases as the best way to resolve a breach.

Planning contravention notice (PCN)

This is a notice which allows the Council to collect evidence which will help to determine if a breach is taking place and the next steps. The owner and/or person responsible have 21 days to respond, failure to do this may result in prosecution.

Enforcement notice

The enforcement notice allows the Council to formally require a breach of planning control to be remedied. Government guidance states that enforcement notices should only be served when expedient to do so. Failure to comply within the specified timeframe is a criminal offence which can lead to prosecution proceedings. Enforcement notices can be appealed and the Planning Inspectorate can decide to uphold the notice, amend it or have it quashed.

Section 215 notices

Under Section 215 of The Town and Country Planning Act 1990 (as amended) the Local Planning Authority can deal with untidy land.

This section of the Act allows a Local Planning Authority to take enforcement action via an 'untidy land' notice where the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land.

Breach of condition notice (BCN)

A breach of conditions notice requires its recipient to secure compliance with the terms of a planning condition or conditions, specified by the Local Planning Authority in the notice (Section 187A of the Town and Country Planning Act 1990).

Any recipient of a breach of condition notice will be in breach of the notice if, after the compliance period, any condition specified in it has not been complied with, and the steps specified have not been taken or the activities specified have not ceased.

Following the end of the period for compliance, a "person responsible" who has not ensured full compliance with the conditions and any specified steps, will be in breach of the notice and guilty of an offence Section 187A(8) and (9) of the Town and Country Planning Act 1990. Summary prosecution can be brought in the Magistrates' Court for the offence of contravening a breach of condition notice.

Tree replacement notice

Section 207 of The Town and Country Planning Act 1990 (as amended) allows the Council to enforce the replacement of Tree Preservation Order trees on parties who have failed to comply with their duty to replace under Section 206. The notice specifies the date from which the replacement Notice becomes enforceable, not less than 28 days from the date of service.

Planning enforcement order

Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action (Section 171B of the Town and Country Planning Act 1990) have expired. A Planning Enforcement order enables the Council to take action in relation to an apparent breach of planning control notwithstanding that the time limits may have expired.

Stop notice

A stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in the related enforcement notice, ahead of the deadline for compliance in that enforcement notice (Section 183 of the Town and Country Planning Act 1990).

A person who contravenes a stop notice after a site notice has been displayed, or the stop notice has been served on them, is guilty of an offence (Section 187(1) of the Town and Country Planning Act 1990).

A person guilty of this offence is liable on summary conviction to a fine not exceeding £20,000 – and on conviction on indictment, to an unlimited fine. In determining the amount of fine imposed the Court is to have regard to any financial benefit which has accrued, or appears likely to accrue, in consequence of the offence.

Temporary stop notice

A temporary stop notice (Section 171E of the Town and Country Planning Act 1990) requires that an activity which is a breach of planning control should stop immediately.

A temporary stop notice must state the date the temporary stop notice has been served, the activity that has to cease, and that any person contravening this notice will be prosecuted for an offence.






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Prosecution

It is a criminal offence not to comply with the requirements of a statutory notice. The Council can prosecute or formally caution parties who fail to comply with the requirements of an enforcement notice.

A person guilty of an offence is liable, on summary conviction, to a fine currently not exceeding £20,000 or on conviction on indictment an unlimited fine.

Examples of recent prosecutions include:

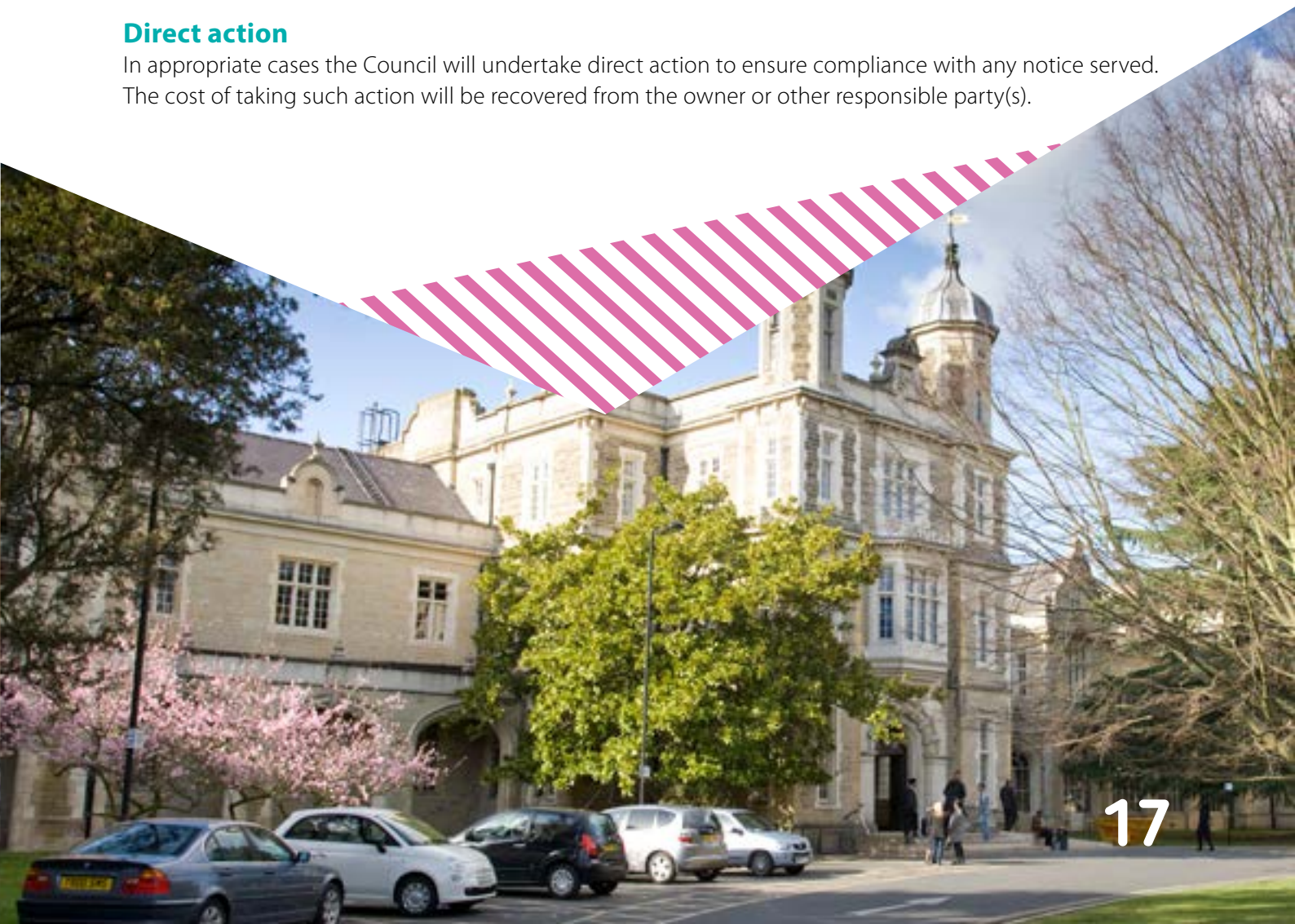
-  non-compliance with an enforcement notice
-  non-compliance with a breach of condition notice
-  unauthorised works to listed buildings
-  demolition in a conservation area and
-  unlawful display of advertisements

Injunction

The Council may apply to a court for an injunction to restrain a breach of planning control that is occurring or is reasonably expected to occur. An injunction will be sought in the most serious of cases where immediate action is urgently required.

Direct action

In appropriate cases the Council will undertake direct action to ensure compliance with any notice served. The cost of taking such action will be recovered from the owner or other responsible party(s).





9. Direct Action Policy

In order to ensure the Council is able to resolve breaches of planning consent, as a result of non-consented works in a timely manner, there are a range of methods by which the Council can secure compliance with the requirements of an enforcement notice.

This includes direct action which offers the opportunity for the Council to resolve a breach through remedial action.

Background



If the requirements of an enforcement notice are not met within the period of compliance specified in the notice, Section 178 of The Town and Country Planning Act 1990 (as amended) grants the Local Planning Authority additional powers to:

-  Enter the land and take the steps to satisfy the requirements of a notice and
-  Recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so

In light of the social, physical and financial issues surrounding the use of Direct Action, this Policy serves to provide details of the procedure/considerations for undertaking such action and the process by which the Council will recover costs of this action.

When will direct action be taken?

Direct action may be taken either in isolation of or in conjunction with prosecution / injunction action. The Council may choose to take action as follows:

-  Where the requirements of an enforcement notice have not been complied with by the compliance date and;
-  Where the Council considers that direct action is necessary, considerations are given in light of significant harm and amenity considerations caused by a planning breach.

Direct action procedure

Once the date to comply with the requirements of an enforcement notice expires, Council officers will visit the site to check compliance. If following this site visit it is confirmed that the notice has not been complied with in full, the Council will assess whether it is expedient to take additional action, including prosecution, an injunction and/or direct action.

The Council will write to the owner/responsible parties to advise of the intention to take direct action, at least 28 days before works are due to take place.

In order to access the property, the Council may need to liaise with other services including the police, bailiffs and/or a locksmith.

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In taking direct action the Council may appoint an officer to project manage the works on-site to ensure that the steps of the notice are complied with.

It should be noted that any materials, debris or other items that are removed from a premises throughout the course of undertaking direct action will be stored securely for a minimum of three days.

The Council will take steps to advise the owner(s) of these items and how to recover such possessions. After this time the Council may choose to dispose of this material or sell these on to recover the expenses of taking direct action.

Process for recovery of costs

In accordance with the provisions of Section 178 of The Town and Country Planning Act 1990 (as amended), the Council will undertake all reasonable endeavours to recover expenses incurred in undertaking direct action.

A charge will be applied to the land and an invoice sent to owners/responsible party(s); this charge is binding on successive owners of the land to which the original Enforcement Notices relates. This charge will take effect on the date that the Council undertakes direct action to comply with the Enforcement Notice.

The expenses recoverable will include such sums as the Council considers being reasonable in respect of its establishment charges. An establishment charge is the reasonable charge that a Local Authority incurs for administering the direct action procedure.

The Council will take all reasonable steps to recover the expenses as a debt and will raise an invoice in accordance with its existing practice and procedure.

As a matter of priority, the Council's Land Charges Service will be notified of the recoverable sums that will be entered as a record against the property in the register of local land charges. If the debt remains unpaid, the Council will take steps to register the charge at the Land Registry.



Appendix A

Useful contacts

The Redbridge Enforcement Team

This team deal with issues including anti-social behaviour, licensing, and fly tipping and noise nuisance. They can be contacted on

[REDACTED] <https://www.redbridge.gov.uk/report-it/>

Or

Report anti-social behaviour including noise out of hours **[REDACTED]** **07976 398426**.

Pollution Team

This team deal with issues such as complaints of nuisance from odour, dust and light pollution

Web forms can be found on the website or contact **020 8554 5000**

Building Control

This team will deal with dangerous structures. To report a dangerous structure:

Between the hours of 8:30 am and 6pm call the Contact Centre on **020 8554 5000**.

Out of hours between 6pm and 8:30am call **020 8708 5897** (this includes the weekend).

Roads and pavements

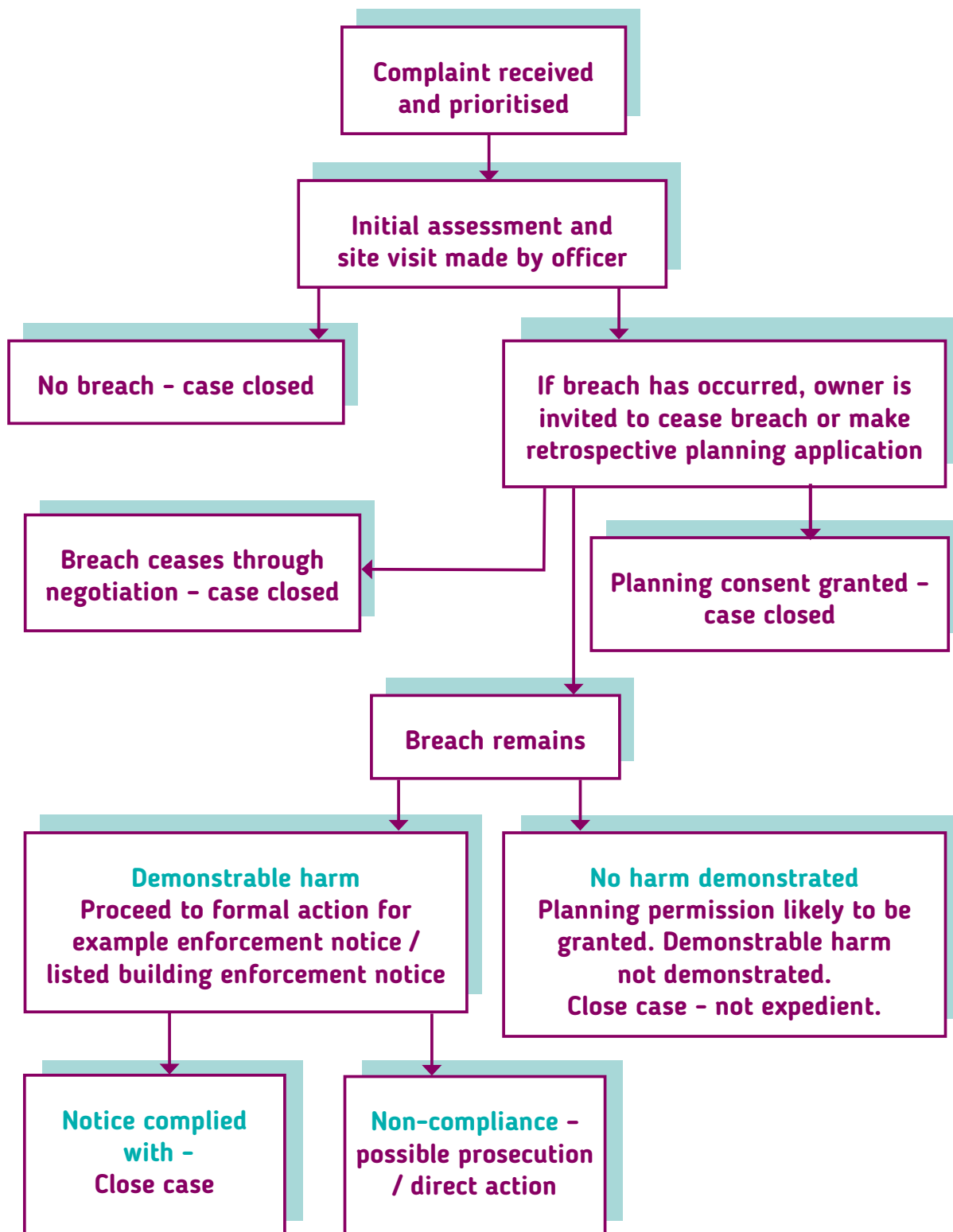
This team deal with dropped kerbs, skips, hoarding and scaffolding etc. Problems can be reported online.

<https://www.redbridge.gov.uk/roads-and-pavements/>

Health and Safety Executive

This is a service external to the Council. They deal with issues such as unsafe work practice or building sites. Information can be found on their website <http://www.hse.gov.uk/>

Appendix B – Process



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