



RICS

the mark of
property
professionalism
worldwide

rics.org/buildingcontrol

Dangerous Structures

Building Act 1984, section 77



This technical information note has been prepared by the Royal Institution of Chartered Surveyors to provide guidance on the procedures which are adopted in England and Wales in connection with dangerous structures.

Section 77 of the Building Act 1984 (the 1984 Act) empowers local authorities (District Councils) to deal with a building or structure which is in a dangerous condition. The danger may arise from the condition of the building and/or from any loads which the builder may be carrying.

Disclaimer

This technical information has been prepared by the RICS Building Control Professional Group.

While the content of this technical information is relevant to professional competence, its function is not to recommend or advise on professional procedures to be followed by surveyors. For a full list of RICS official material, please visit www.rics.org/standards

No responsibility for loss or damage caused to any person acting or refraining from action as a result of the material included in this publication can be accepted by the author or RICS.

© Royal Institution of Chartered Surveyors (RICS) April 2010. Copyright in all or part of this publication rests with RICS, and save by prior consent of RICS, no part or parts shall be reproduced by any means electronic, mechanical, photocopying or otherwise, now known or to be devised.

Building or structure

The word 'building' is defined in section 121 of the 1984 Act as any permanent or temporary building and, in relation to **section 77**, including any other structure or erection of whatever kind or nature (whether permanent or temporary).

Condition of the building

On receipt of information regarding a building or structure which is in such a condition as to be a potential danger, it will be necessary for the appropriate officer of a local authority to inspect the building and prepare a full report as to its condition. This report will need to be presented as evidence to a magistrates' court.



Meaning of danger

The assessment of a potential danger may on occasions be difficult.

For example, in *London County Council v Jones and Another* [Knight's LGR 471] held in the High Court of Justice, Kings Bench Division, Divisional Court on 12 April 1912 it was held that some form of shoring to a potentially dangerous wall did not necessarily remove the danger. The following shortened extract is from the transcript of that case. Reference should be made to the full transcript.

*“It is not sufficient defence to proceedings taken by the London County Council under **Section 107(I)** of the London Building Act, 1894 relating to dangerous structures, that the premises are uninhabited, or that they are separated from the street of which they form part by a forecourt, or that passers-by cannot enter them without becoming trespassers. Premises may be dangerous structures within **Section 103 – 107**, although the owners have previously complied with a notice to execute certain works upon them as neglected or ruinous structures, under **Section 115**, and although the London County Council have temporarily shored them up under **Section 106**. And where such premises form part of a row of houses so that the probability of their collapse renders them a danger to the houses on either side, they may be treated as dangerous structures.”*

Other legislation

1. Planning (Listed Buildings and Conservation Areas) Act 1990

If the potentially dangerous building is:

- a listed building
- a building which is the subject of a preservation order or
- a building situated in a conservation area

section 56 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* (the 1990 Act) requires the local authority to consider exercising their powers under the 1990 Act rather than under the 1984 Act. **Sections 47** and **48** of the 1990 Act allow the local authority to acquire a building in need of repair and **section 54** allows the authority to carry out urgent preservation works.

2. Highways Act 1980

In certain circumstances, where the building is near a highway, provisions exist in the *Highways Act 1980* (the 1980 Act) for the highway authority to become involved.

Informal notice

If the survey indicates a potential danger it is usual to serve an informal notice on the owner requesting that steps be taken to remove the danger. The name and address of the owner can usually be located from local sources. The notice should specify:

- (a) the nature of the danger
- (b) the works required to abate the danger and
- (c) a reasonable time within which the owner should remove the danger.

A copy of any informal notice served should be logged in the land charges register and sent to occupiers and other persons having an interest in the property.

Formal Proceedings

Where the owner fails to comply with an informal notice, steps should be taken to apply to a magistrates' court by way of complaint for an Order. Where delegated powers do not exist, it will be necessary to obtain the consent of the council or appropriate committee to proceed.

Notice should be served under **section 16** of the *Local Government (Miscellaneous Provision) Act 1976* requiring information to be furnished as to the ownership of the building.

Order made by a magistrates' court

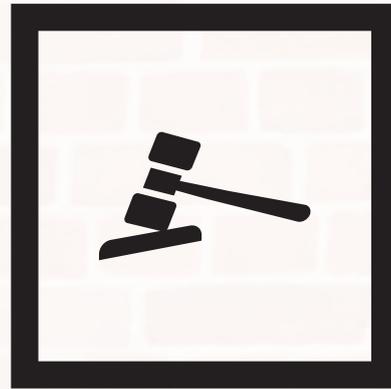
A court may make an order:

1. where danger arises from the condition of the building or structure, requiring the owner to carry out such work as may be necessary to obviate the danger, or if he so elects to demolish the building or structure, or any part of it, and remove any rubbish resulting from the demolition, or
2. where danger arises from overloading of the building or structure, restricting its use until a magistrates' court is satisfied that any necessary works have been carried out and withdraws or modifies the restriction.

An order made under (1) above usually stipulates a time within which the work must be carried out and, if the owner fails to carry out the work within the time specified, the local authority may carry out the work as they think fit and recover from the person in default expenses reasonably incurred by them in doing so.

Without prejudice to the right of the local authority to execute these powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

It is most important that any correspondence in respect of the dangerous structure quotes the relevant section(s) of the Building Act 1984 and the exact location of the building or part of the building in order that any consequent legal action will be successful.



If work has to be carried out in default because of the inaction of the owner, it is also most important that any records and invoices in relation to the work detail the remedial work carried out and the exact location of the work.

In order to prove delivery all relevant notices and correspondence should be sent by recorded delivery.

Note: In inner London and outer London boroughs similar enforcement powers are contained in Part VII of the London Building Act 1939. Although *The London Local Authorities Act 2000* failed to disapply section 78 of the *Building Act 1984*, this was corrected by *The London Local Authorities Act 2004*.

Emergency measures

Where a building or structure is considered by a local authority to be in such a state or is carrying such loads as to be dangerous and immediate action should be taken to obviate the danger, the local authority, under section 78 of the *Building Act* 1984, may take such steps as are necessary for that purpose.

If it is reasonably practicable, however, before carrying out the work, the authority must notify the owner of the premises. Expenses incurred in carrying out the work may be recovered but with limitations.



Where the expenses relate to fencing off the building or having it watched, these expenses are only recoverable up to the time the danger has been removed or any order made under section 77 has been complied with. In proceedings to recover expenses incurred under section 78, if the court decides that the local authority should not have used the emergency powers but should have proceeded under section 77, the expenses are not recoverable.

The court can also decide whether the other persons should have to bear some of the expenses incurred and also whether compensation should be awarded for damage caused by the local authority's actions.

Ruinous and dilapidated buildings

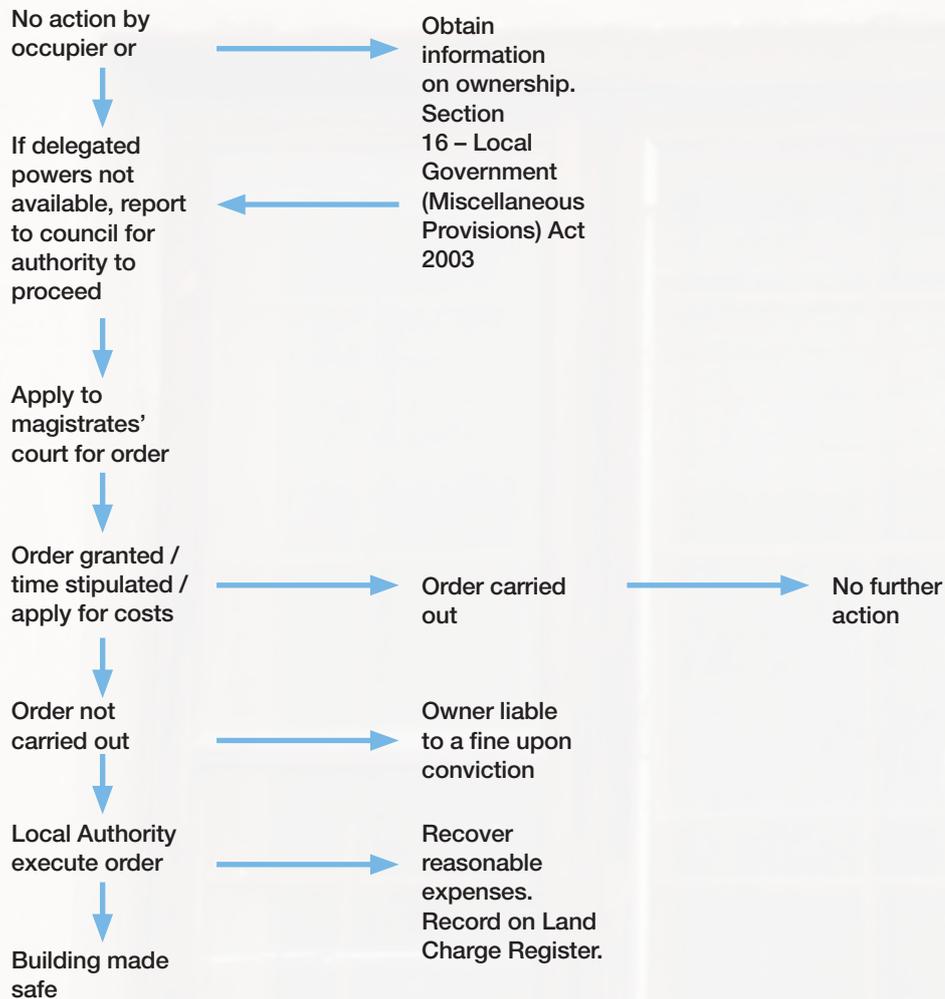
After a building or structure has been made safe, it is possible that it may be in a ruinous or dilapidated state. If this is considered to be detrimental to the amenities of the neighbourhood, the local authority may consider instigating proceedings under section 79 of the 1984 Act.

Enforcement of this section of the 1984 Act gives the option to the owner to either repair and restore the building or demolish the structure.

This latter course could evoke legislation appertaining to demolition procedures (sections 80–83 of the 1984 Act).

Building Act 1984 – section 77

Report of Dangerous Structure:



Relevant legislation

Health and Safety at Work etc. Act 1974

- 1–8 *General duties of employers and persons in control of premises*

Local Government (Miscellaneous Provisions) Act 1976

- 16 *Power of local authorities to obtain particulars of persons interested in land*
- 23 *Power of local authorities to deal with dangerous trees*
- 25 *Power of certain council's with respect of dangerous excavations*

Highways Act 1980

- 152 *Power as to the removal of projections from buildings*
- 153 *Doors, etc. in streets not to open outwards*

- 164 *Power to require removal of barbed wire*

- 165 *Dangerous land adjoining street*

- 167 *Powers relating to retaining walls near streets*

- 168 *Building operations affecting public safety*

- 169 *Control of scaffolding on highways*

- 173 *Hoardings to be securely erected*

Local Government (Miscellaneous Provisions) Act 2003

- 29 *Protection of buildings*

Building Act 1984

- 76 *Defective premises*

- 77 *Dangerous building*

- 78 *Dangerous building – emergency measures*

- 79 *Ruinous and dilapidated buildings and neglected sites*

- 80 *Notice to local authority of intended demolition*

- 81 *Local authority's power to serve notice about demolition*

- 82 *Notices under section 81*

- 83 *Appeal against notice under section 81*

- 95 *Power to enter premises*

Planning (Listed Buildings and Conservation Areas) Act 1990

- 47 *Compulsory acquisition of listed buildings in need of repair*

- 48 *Repairs notice as preliminary to acquisition under section 47*

- 54 *Urgent works to preserve unoccupied listed buildings*

- 56 *Dangerous Structure orders in respect of listed buildings*

Town and Country Planning Act 1990

- 55 *Meaning of development (referring to demolition)*

- 215 *Land adversely affecting amenity of neighbourhood*

- 216 *Penalty for non-compliance with section 215 notice*

RICS HQ

Parliament Square
London SW1P 3AD
United Kingdom

Worldwide media enquiries:

E pressoffice@rics.org

Contact Centre:

E contactrics@rics.org

T +44 (0)870 333 1600

F +44 (0)20 7334 3811

Advancing standards in land, property and construction.

RICS is **the world's leading qualification** when it comes to professional standards in land, property and construction.

In a world where more and more people, governments, banks and commercial organisations demand greater certainty of **professional standards and ethics**, attaining RICS status is the recognised **mark of property professionalism**.

Over **100 000 property professionals** working in the major established and emerging economies of the world have already recognised the importance of securing RICS status by becoming members.

RICS is an independent professional body originally established in the UK by Royal Charter. Since 1868, RICS has been committed to setting and upholding the **highest standards of excellence and integrity** – providing **impartial, authoritative advice** on key issues affecting businesses and society.

RICS is a **regulator** of both its individual members and firms enabling it to **maintain the highest standards** and providing the basis for **unparalleled client confidence** in the sector.

RICS has a worldwide network. For further information simply contact the relevant RICS office or our Contact Centre.

**Europe
(excluding
United Kingdom)**
Rue Ducale 67
1000 Brussels
Belgium

T +32 2 733 10 19
F +32 2 742 97 48
rics europe@rics.org

Asia
Room 1804
Hopewell Centre
183 Queen's Road East
Wanchai
Hong Kong

T +852 2537 7117
F +852 2537 2756
ricsasia@rics.org

Americas
60 East 42nd Street
Suite 2918
New York, NY 10165
USA

T +1 212 847 7400
F +1 212 847 7401
ricsamericas@rics.org

Oceania
Suite 2, Level 16
1 Castlereagh Street
Sydney
NSW 2000
Australia

T +61 2 9216 2333
F +61 2 9232 5591
ricsoceania@rics.org

United Kingdom
Parliament Square
London SW1P 3AD
United Kingdom

T +44 (0)870 333 1600
F +44 (0)207 334 3811
contactrics@rics.org

Africa
PO Box 3400
Witkoppen 2068
South Africa

T +27 11 467 2857
F +27 86 514 0655
ricsafrica@rics.org

Middle East
Office F07, Block 11
Dubai Knowledge Village
Dubai
United Arab Emirates

T +971 4 375 3074
F +971 4 427 2498
ricsmiddleeast@rics.org

India
48 & 49 Centrum Plaza
Sector Road
Sector 53, Gurgaon – 122002
India

T +91 124 459 5400
F +91 124 459 5402
ricsindia@rics.org