

Research Briefing
The Planning Series:
07 - Enforcement

Author: **Katy Orford**

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National Assembly for Wales
Research Service

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

Author: **Katy Orford**

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Contact Us

Research Service
National Assembly for Wales
Tŷ Hywel
Cardiff Bay
Cardiff
CF99 1NA

 : 0300 200 7174

 : Katy.Orford@Assembly.Wales

 : Assembly.Wales/InBrief

 : [@SeneddResearch](https://twitter.com/SeneddResearch)

 : Assembly.Wales/Research

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Research Briefing

The Planning Series:

07 - Enforcement

Paper overview: This briefing provides an overview of the planning enforcement system. It sets out what enforcement is, when enforcement action can take place, types of enforcement action, time limits, Welsh Government enforcement, and appeals against enforcement action. It also sets out how the Planning (Wales) Act 2015 has changed the planning enforcement system.



Contents

1. What is enforcement?	1
2. When can enforcement action take place?	1
3. What types of enforcement action can be taken?.....	1
Enforcement Notice.....	1
Breach of Condition Notice	2
Stop Notice	2
Temporary Stop Notice.....	2
Injunction	2
Others	2
4. Is the issue of a Completion Notice a type of enforcement?.....	2
5. Are there time limits for enforcement action?	3
6. Can the Welsh Government take enforcement action?	3
7. Is there a right of appeal against enforcement action?	3
8. How has the <i>Planning (Wales) Act 2015</i> changed the planning enforcement system?.....	3
9. Key Sources	5
Welsh Government	5
Planning Aid Wales.....	5
Planning Portal	5
Research Service	5

1. What is enforcement?

The town and country planning system in Wales regulates the use and development of all land and buildings.

Local planning authorities may need to consider taking enforcement action against unauthorised development or a breach of any conditions imposed as part of a planning permission.

Although in most cases it is not a criminal offence to carry out an unauthorised development or make a change in land use, powers are available to local planning authorities to bring unauthorised development under planning control. Failure to comply with a court order, or enforcement action taken under it, may be an offence.

2. When can enforcement action take place?

Under Part VII of the *Town and Country Planning Act 1990*, local planning authorities have a range of enforcement powers to address breaches of planning control.

These powers are discretionary. When deciding on whether to take enforcement action, local planning authorities are required to consider each case individually and whether the breaches could be resolved without taking such action.

According to [Planning Policy Wales \(Edition 9, November 2016\)](#), the document that sets out the land use policies of the Welsh Government:

3.6.1 An effective development management process requires local planning authorities to be prepared to take enforcement action in appropriate circumstances. The decisive issue for the authority is whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest.

3.6.2 Enforcement action taken by an authority to prevent or remedy breaches of planning control needs to be effective and timely. This means that local planning authorities should look at all means available to them to achieve the desired result. In all cases there should be dialogue with the owner or occupier of land and in some cases mediation may also be an agreed way forward. In many cases this dialogue could result in an accommodation which means that enforcement action is unnecessary. Such early dialogue or mediation would avoid enforcement action coming as a surprise to the owner or occupier.

Local planning authorities should also consider the gravity of the breach when deciding on the course of action (if any) it considers appropriate to resolve the problem.

3. What types of enforcement action can be taken?

A private citizen cannot take enforcement action, but they can inform the local planning authority if they consider there has been a breach of planning control.

Enforcement actions that can be taken by local planning authorities include the following:

Enforcement Notice

An authority may issue an Enforcement Notice where planning controls appear to have been breached. It sets out the remedial action that needs to be taken to correct the breach. Once served, there is a 28 day period before the notice comes into effect.

Once the notice comes into effect, there is a further period of time to allow for compliance. The length of time depends on the nature of the breach. Failure to comply with an enforcement notice is a criminal offence and can lead to a fine of up to £20,000.

Breach of Condition Notice

This is served where conditions attached to a planning permission have not been followed. Failure to comply can lead to a fine of up to £1,000.

Stop Notice

This is issued by the local planning authority to stop a development or an activity. Such a notice may be served at the same time as an Enforcement Notice or after an Enforcement Notice has been served. Failure to comply with a Stop Notice can lead to a substantial fine of up to £20,000.

Temporary Stop Notice

Since June 2015 local planning authorities in Wales have been able to issue Temporary Stop Notices. This is provided for by the *Planning and Compulsory Purchase Act 2004 (Commencement No. 14 and Saving) Order 2015*. A Temporary Stop Notice requires that an activity which is a breach of planning control should stop immediately and does not have to be issued with an Enforcement Notice. A Temporary Stop Notice ceases to have effect after 28 days and should only be issued when the local planning authority believes that the breach should be stopped immediately.

Injunction

If an authority considers that a breach of planning control is sufficiently serious, it may apply to the Courts for a restraint injunction. Those in breach of an injunction can be imprisoned.

Others

Other types of actions include those that can be taken against unauthorised advertisements and failure to comply with regulations made about listed buildings and conservation areas. **Section 215 notices** may be served by the local planning authority if it considers that the condition of a piece of land adversely affects the amenity of the area in question. The notice will require steps to be taken which the local planning authority considers will remedy the problem.

4. Is the issue of a Completion Notice a type of enforcement?

Local planning authorities have the power to issue Completion Notices to encourage developers to complete development for which planning permission has been obtained. The penalty for failure to comply with a valid notice – within the specified period of twelve months, or more – is that planning permission will be deemed to have expired.

However issuing a Completion Notice is not a form of enforcement action. Issuing such a notice does not guarantee the completion of uncompleted or unfinished development: enforcement action will still be required to deal with development for which planning permission has expired because a Completion Notice has not been complied with.

5. Are there time limits for enforcement action?

Local planning authorities must take action within specified time limits. Planning Policy Wales states that:

3.6.3 The statutory time limits for taking enforcement action must be adhered to and prompt initiation of action may be necessary to prevent an unacceptable breach of planning control from becoming well established and more difficult to remedy. Any enforcement action should be commensurate with the breach of planning control to which it relates. The intention should be to remedy the effects of the breach of planning control, not to punish the person(s) responsible for the breach.

For most types of 'operational' development, plus the change of use of a building to a single dwelling house, the time limit is four years after the development is completed. For any other breach of planning control the time limit is ten years after completion.

The Welsh Government commissioned research from Arup and Fortismere Associates to provide evidence to inform the [Review of the Planning Enforcement System](#) (2013). Recommendation 1 was that the *Planning (Wales) Bill* should remove the time limits for enforcement action. However this recommendation was not taken forward in the *Planning (Wales) Act 2015*.

6. Can the Welsh Government take enforcement action?

Local planning authorities are responsible for the enforcement of planning control. However if it appears to the Welsh Ministers that in any particular case an enforcement notice should be issued, they may issue such a notice, but not without first consulting the relevant local planning authority. An enforcement notice issued by the Welsh Ministers has the same effect as a notice issued by the local planning authority. A very small number of appeals are recovered for decision by the Welsh Ministers.

7. Is there a right of appeal against enforcement action?

There is a right of appeal against an Enforcement Notice, but not against a Breach of Condition Notice, Stop Notice or Temporary Stop Notice. An appeal against a notice may be made to the Planning Inspectorate, an agency of the Welsh Government, during the 28 day period before it comes into effect. The grounds for appeal include that planning permission ought to be granted for the activities cited in the Enforcement Notice or that the implied breach of planning control has not taken place.

8. How has the *Planning (Wales) Act 2015* changed the planning enforcement system?

The *Planning (Wales) Act 2015* has made a [series of changes](#) in an aim to modernise the planning enforcement system:

- providing local planning authorities with the power to require the submission of retrospective planning applications where unauthorised development can be regularised and controlled by planning conditions;
- providing a power to decline to determine retrospective planning applications for development that is subject to an enforcement notice;

- prohibiting the variation or amendment of a planning application after an appeal has been made, only in circumstances prescribed by the Welsh Ministers in secondary legislation;
- ensuring that new matters will only be allowed to be raised during an appeal in exceptional circumstances;
- consolidating the costs regime for appeals, applications and references to the Welsh Ministers (“call-ins”); and
- allowing the Welsh Ministers to write procedure rules for inquiries and hearings.

9. Key Sources

Welsh Government

The [planning section](#) of the Welsh Government's website provides information including [Planning Policy Wales \(Edition 9, November 2016\)](#)

Key Legislation

Town and Country Planning Act 1990

Planning (Wales) Act 2015

Planning Aid Wales

[Planning Aid Wales](#) is a charitable organisation helping [eligible](#) individuals and communities to participate more effectively in the planning system. It provides advisory services, including a helpline.

Planning Portal

The [Planning Portal](#) is the UK Government's planning and building regulations resource. It includes information on the planning system in Wales, although some of the content only applies to England.

Research Service

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