



Building Control Guideline

**Procedure Number : PS001 Dangerous
Structures**

Amendment Date : Mar 2018

Process Owner: Division Manager

Index

Section	Title	Page No.
1	Purpose	2
2	Scope	2
3	Reference	2
4	Guideline	2
5	Records	2
	Appendices	3-14

1. **PURPOSE**

The purpose of this Guideline is to provide staff with guidance on how to deal with dangerous structures.

2. **SCOPE**

This guidance note applies to all staff who have written authorisation to deal with emergency dangerous structures and should be regarded as advice by other members of staff who may deal with less urgent reports of "danger".

3. **REFERENCES**

Building Act 1984
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Highways Act 1980
West Glamorgan Act 1987
Planning (Listed Buildings and Conservation Areas) Act 1990
Guideline BCS 001: Receiving and Logging Building Control Enquiries
Departmental Activity Analysis.
Guideline PS 002: Securing Open Buildings
Guideline PS 003: Building Act Section 79
CDM Regulations

4. **GUIDELINES**

Appendix 1 sets out the procedure to deal with reports made.
Appendix 2 provides additional supplementary information which should be read by officers.
Appendix 3 provides information on complementary legislation that needs to be borne in mind when dealing with dangerous structures.

5. **RECORDS**

Records identified in this Guideline will be retained for the following periods:

File notes.	Minimum 5 years
Correspondence.	Minimum 5 years
Property file.	Minimum 5 years
Computer records.	Until amended

APPENDIX 1: DANGEROUS STRUCTURES

OBJECTIVE To ensure that reports of dangerous structures are investigated efficiently and dealt with appropriately.

LEGISLATIVE MATTERS :

- 1) Building Act 1984
 - S 76 Defective Premises
 - S 77 Dangerous Buildings
 - S 78 Dangerous Buildings Emergency Measures
 - S 79 Ruinous and Dilapidated Buildings
 - S 81 Control over Demolition
 - S 82 Conditions under S81
 - S 83 Appeal against S81
 - S102 Grounds for appeal
 - S103 Procedure for appeal
- 2) Local Government (Miscellaneous Provisions) Act 1982
 - S 29 Boarding up
- 3) Local Government (Miscellaneous Provisions) Act 1976
 - S 16 Requisition for Information
- 4) Highways Act 1980
 - S152 Insecure projections over the street
 - S165 Excavations near to highways
- 5) West Glamorgan Act 1987
 - S 6 Excavations near to streets
 - S 26 Retaining walls
 - S 27 Repair to defective walls
 - S 42 Safety of temporary stands
- 6) Planning (Listed Buildings and Conservation Areas) Act 1990
 - S 46, 56, 74
- 7) Local Government (Miscellaneous Provisions) Act 1976
 - S 23/24 Dangerous trees

COUNCIL POLICY All powers shown above except Highways Act and S6 West Glamorgan Act delegated to the Director of Environment. Highways Act and S6 West Glamorgan Act – Technical Services Department.

DEPARTMENT POLICY Activity Analysis: Reports to be responded to within 3 hours.
 Danger to be removed within 48 hours.
 All action completed within 21 days.

All Department powers available to BCO's except Section 76 Building Act (prejudicial to health) refer to EHO in Housing and Public Health Section.

ADMIN. & PROFESSIONAL GUIDANCE :

Initial Report.

Obtain full details over phone from person reporting.

Record on the computer system in compliance with Guideline BCS 001: Receiving and Logging Building Control Enquiries. If complaint received by a division other than Building Control this may be logged on by another departmental officer as a Service Request.

Check for history in filing system/computer. – If call is received whilst on site, request admin staff carry out a file check and call you back

Visit and assess situation.

Action at Property.

Decide if imminent danger Section 77 or Section 78 appropriate.

Discuss with owner/occupier if available.

Ascertain owners details. "Are you the owner?".

Take photographs wherever possible (upon developing, endorse back with date, address and name of officer taking photograph). This is not possible if the call is received on site.

Is there a possibility that the building might be listed? Check Guideline SER 008: Listed Buildings and Conservation Areas and if necessary check with planners.

(Dangerous structure kits have information about telephone numbers and contact points).

Be aware of possible danger to yourself. Do not enter derelict premises on your own and wear protective footwear and a helmet in all appropriate circumstances. If in doubt, request officer support.

If Section 77 Action Appropriate

Advise owner of needs.

Advise owner of forthcoming letter and Requisition for Information.

Establish how long they will take to do job - is this reasonable?

Complete records and computer sheet.

Send Section 77 letter and Section 16 Local Government (Miscellaneous Provisions) Act 1976 notice (sec 16 LG (MP) Act 1976 only if contact person will not confirm ownership and difficulty arises getting work done).

Monitor during and upon expiry date - if becomes dangerous before expiry date, refer to Section 78 procedure. If no action taken by completion date, write advising "Council now seeking Magistrates Court Order".

Prepare prosecution file, include copies of correspondence, notices, file notes. officer statements, photographs etc. Prepare duplicate file and obtain authorisation from Assistant Director level or above before writing to Legal Services.

Send duplicate file with memo to Legal Services with instruction to obtain Court Order (officer will be required to give evidence in Court).

N.B. The Planning (listed buildings and conservation areas) Regulations, 1990 restrict the use of all dangerous structures legislation except S78 where imminent danger exists.

If Section 78 Action Appropriate

The law requires the owner to be given reasonable opportunity to rectify the danger if at all possible. Imperative that you try to contact owners if known. If no contact possible, attempts must be recorded with dates and times.

Ensure photos taken before removal of danger unless exceptional circumstances prevail (endorse back of photographs with date, address and name of officer taking photograph).

Contact Director of Corporate Building Services Department. Arrange to meet on site if considered necessary to explain requirements (telephone messages can be confusing). Confirm who you have spoken to in Technical Services.

It may be necessary to enlist the assistance of the police, fire brigade. Diversions can be set up if necessary. Allow the police to organise for you upon your instructions and responsibility.

At first opportunity when in office, obtain Rechargeable Works Order and have typed. The RW is the means of reclaiming the costs incurred.

Complete Quality Plan file note if necessary and computer sheets.

Immediately write to owners saying that danger existed, the Council considered an imminent danger requiring urgent action to remove danger, and that the Council used emergency powers to remove the danger. Send Section 16 notice with letter.

Initial details of owners may be obtainable from neighbours, electoral register, Departments files, poll tax public register. Section 16 should confirm true owners.

Ownership details may be obtained, if all else fails, from the land registry. The financial costs involved necessitate using this procedure as a last resort. If used ensure that there is a file note attached to RW order giving details so that the Admin. assistant can add on the cost to the rechargeable works invoice.

Check to ensure that work ordered and has been carried out and situation left safe. The period of time you allow to elapse before checking will vary depending upon a level of danger, but generally will not exceed 24 hours.

Have regard to weather conditions when requiring emergency works. If weather forecasts indicate severe weather coming, this may well have a bearing on your decision as to how soon action is needed. Record weather conditions.

Be aware of the conditions at the time of your requests, ie. is it safe to put a workman up on a ladder? Health and Safety at Work implications. Use of fire brigade and hydraulic platforms. Is it safer to cordon off the area temporarily and await a break in the weather?

The CDM regulations may apply if appointing a contractor to do the work in default.

The aim is to ensure that the situation is made safe whilst acting within the legislative framework of the Building Act, but we should not take chances. If something is imminently dangerous, it needs to be made safe.

If costs are challenged, in court, your actions will be examined in fine detail, follow procedure and be reasonable in all cases.

Having dealt with the immediate danger the question should be asked, "does anything else need doing?"

Is the property open to access?

Does the property require improvement (repair) or demolition?

Are the premises prejudicial to health or a nuisance?

If the dangerous structure action renders the property unfit for human occupation, the owner may be entitled to a Mandatory Grant. Referral should be made to the appropriate EHO for consideration of a notice under the Housing Acts.

If further action is considered appropriate refer to Guidelines PS 002: Securing Open Buildings and PS 003: Building Act Section 79

Summary

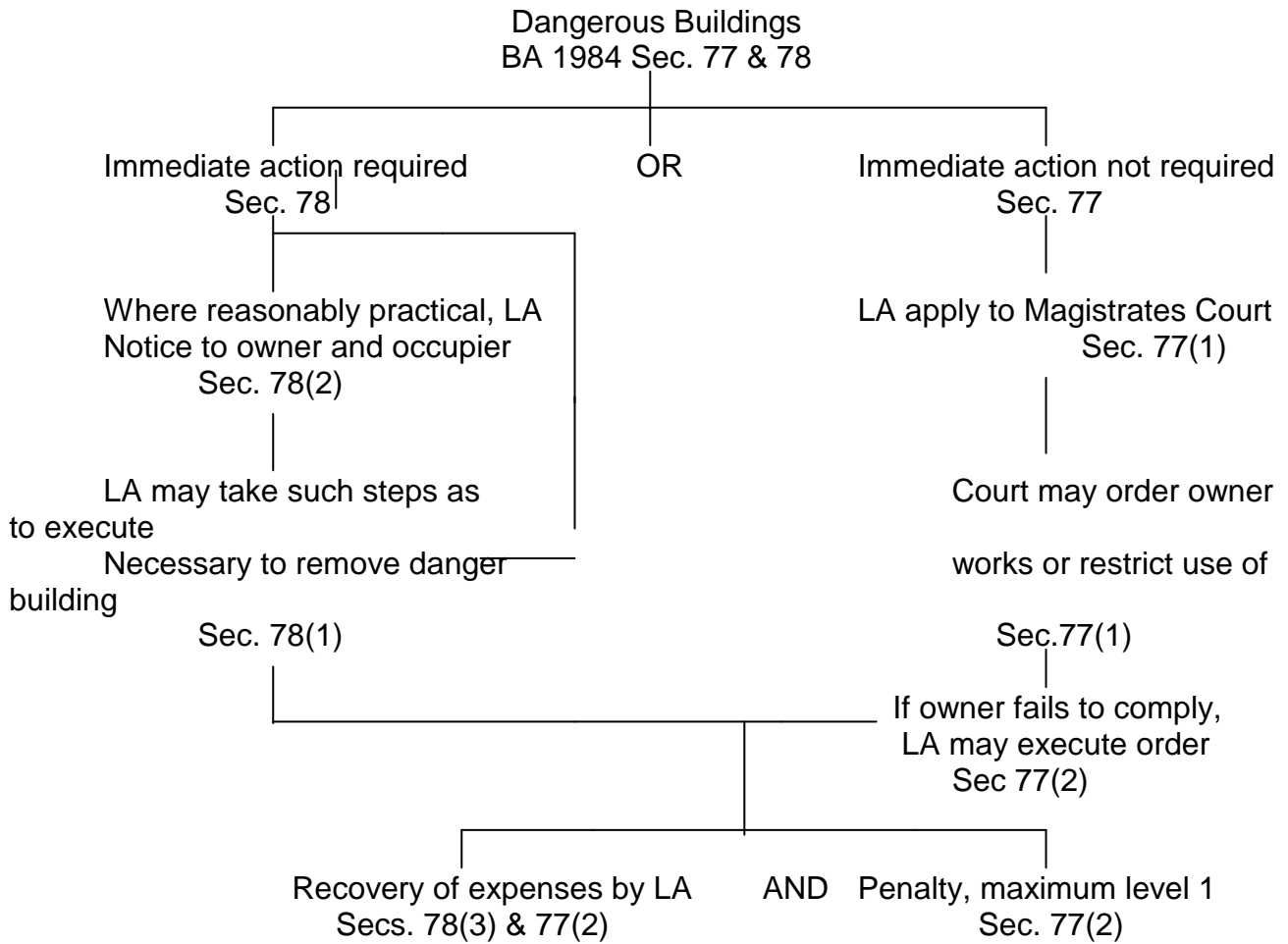
Safety is of paramount importance

If in doubt bring in a colleague for second opinion

Don't forget to check that the work required has been done as instructed/ requested

For emergency work :

Cave Street	01792 511010
Cave Street – out of hours, minor works	01792 521500
Players Industrial Estate – out of hours, major works	01792 841625
Police	01792 456999
Fire Service	08706 060699
H & S Cardiff	02920 263000
SWALEC	08000 525252
Social Services (duty social worker)	01792 775501
Weather forecast Glamorgan	Weather App
Western Power	0800 052 0400
Transco/ gas leak	0800 111 999

DANGEROUS BUILDINGS

APPENDIX 2

DANGEROUS STRUCTURES - GENERAL SUPPLEMENTARY INFORMATION

Legislation to deal with dangerous structures is contained within sections 77 & 78 Building Act 1984.

Section 77 allows the Local Authority to obtain a Magistrates Court order requiring the owner of the dangerous structure to remove the danger. Failure by the owner to remove the danger may result on a fine and the Council may also go in and do the necessary work in default.

Section 78 allows the Local Authority to take emergency action to remove a danger when it is considered that taking section 77 action (applying to the Courts) would take too long and place members of the public at risk while the order is being obtained and enforced.

All Building Control and Environmental Health Officers are authorised under section 95 Building Act in respect of Powers of Entry and thus for investigating dangerous structures initially. Section 78 action involves the Council in expending money which then has to be reclaimed through the Courts.

The crucial points when dealing with dangerous structures are to establish how dangerous something is. The following notes may be helpful;

at report stage (in person or telephone) - Establish what is dangerous; where it is in relation to highways, other property, neighbours; height above ground; how long has it been like that; do children play near it.

on site - Is anyone in immediate danger; how long has the defect existed; is it about to fall down.

All notifications of dangerous structures must be logged onto the computer as a complaint and full details of involvement recorded. A file will be kept in hard format and details entered onto a suitable database in due course.

Assuming that the condition of the structure does not warrant emergency action;

Establish owner details; from property, tenant, rating department, electoral register, telephone book. Make contact and inform that "structure" is considered dangerous and that the Council requires that the danger be removed. Ask for co-operation in obviating the danger to avoid further action and costs which would be sought against the owner. Point out that if the structure deteriorates further the Councils would have no option but to remove the danger and recover their costs from them, the owner. Agree a date by which the "danger" can be removed. Follow up with standard letter - Appendix A.

The owner is defined as the person receiving the "rack rent" which is also defined. Generally this will be; the owner of the freehold or leasehold in a domestic house, the landlord in tenanted property, the person receiving the rent in a commercial premises, the head lessor in a block of flats situation. If an individual owns a property, notice or the order is served on him (full name) at his personal residence. If owned by a corporate body upon the secretary at the registered office.

One easy way of dealing with minor dangerous situations is to obviate the danger while on site investigating the matter. If a small dangerous garden wall can be pushed over and the danger therefore removed, no further action would be required. Obviously officers must have the owners permission and help to do this and are not expected to place themselves in danger or to have to exert undue effort.

If it is considered unlikely that the owner will remove the "danger" or if action has not begun within the period identified in the standard letter, begin action to obtain a Court order (Section 77 procedure – memo to Legal & Admin) and advise owner accordingly. The order will be obtained via Legal & Admin and then should be served by recorded delivery letter on the owner.

Sometimes derelict buildings may be reported as dangerous structures. Officers should not enter derelict premises unless accompanied by a colleague. Hard hats must be worn whenever appropriate.

Photographs should be taken of every dangerous structure and a camera on an officers mobile phone shall be used. These may be added to the Action Diary on the computer system if required for evidence later and will have a digital date stamp.

Where emergency action needs to be taken, the owner must wherever possible, be told of the Councils intentions and given the opportunity of obviating the danger himself. Failure to allow the owner to organise things himself may result in the Courts not awarding the Council its costs.

Where loose slates or chimneys/pots are involved, the fire brigade will usually be willing to attend.

Other services will be obtained from the Councils D.L.O./private contractors.

Summary

1. Identify degree of urgency.
2. Take photographic evidence and endorse accordingly.
3. Advise and begin section 77 action, or section 78 action.
4. Monitor and record all involvement.
5. Complete records accordingly.

APPENDIX A

XXXXXXXXXXXXXXXXXXXX	
	XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX	
XXXXXXXXXXXXXXXXXXXX	
	XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX	
	XXXXXXXXXXXXXXXXXXXX
	XXXXXXXXXXXXXXXXXXXX

Dear Sir,

Building Act 1984, Section 77 - XXXXXXXXXXXXXXXXXXXX

It has come to my attention that the XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX
is in a dangerous condition.

Please note that the danger must be obviated within 28 days. Failure to remove the danger
will result in the Council seeking a Magistrates Court Order to make the situation safe.

If the condition of the structure deteriorates to the effect that immediate action is required to
remove the danger, the Council will carry out the necessary work to make the structure safe
and then seek to recover the costs involved from yourself.

If you have any queries in respect of the above or would like to discuss the matter, please do
not hesitate to contact the undersigned.

Yours faithfully,

XXXXXXXXXXXXXXXXXXXX

CM23.

OBJECTIVE To familiarise Officers with legislation that can be used effectively along with or instead of dangerous structure powers.

**LEGISLATIVE:
MATTERS**

- 1) Building Act
S76 Defective Premises
S79 Ruinous or dilapidated structures
- 2) Local Government (Misc. Prov.) Act 1982
S29 Boarding up and danger to public health.
- 3) Local Government (Misc. Prov.) Act 1976
S23/24 Dangerous trees
S25/26 Dangerous Excavations
- 4) Highways Act 1980
S152 Insecure projectives over highway
S165 Dangerous land adjoining a street
S167 Retaining walls near highways
- 5) West Glamorgan Act 1987
S6 Excavations near highways
S26 Retaining walls
S27 Boundary walls
- 6) Health and Safety Executive - Structural
Safety : Action by Inspectors.

GUIDANCE : Refer to individual guidance notes.

DANGEROUS STRUCTURE INVESTIGATIONS
ADDITIONAL OR ALTERNATIVE LEGISLATION

Where it is not appropriate to use Section 77 or Section 78 Building Act (Dangerous Structure) legislation, alternative powers exist that allow the Department, to remedy the cause for complaint.

1. Section 79, Building Act 1984
(BCO/EHO)
Ruinous or dilapidated structures and neglected sites.

If it appears to the Local Authority that a building or structure is because of its ruinous or dilapidated condition seriously detrimental to the neighbouring amenities the Authority may by notice require the owner to :

- a. Repair or restore it, or
- b. If he elects, demolish the building or part of a building and remove the rubbish, as necessary.

Similarly, the Local Authority may by notice require the rubbish resulting from the demolition or collapse of a building to be removed from the site.

The provisions of the Planning (listed buildings & conservation areas) Act 1990 still apply.

2. Section 76 Building Act 1984: Defective Premises. (EHO)

If it appears to a Local Authority that:

- a. Any premises are in such a state as to be prejudicial to health or a nuisance, and :
- b. unreasonable delay would be caused if the abatement notice procedure of part III Public Health Act 1936 was used,

the Local Authority may serve notice on the person responsible stating their intention to remedy the defective state and giving details.

The person who receives the notice can within seven days state his intention to remedy the defective state but if he neglects to do this the Local Authority may after nine days, carry out the works and recover their expenses from him.

There is guidance for the Courts in which circumstances expenses may or may not be recovered.

3. Section 29 Local Government (Misc. Provs.) Act 1982
(BCO/EHO)
Protection of Buildings.

When any building is unoccupied or the occupier is temporarily absent from it the LA may undertake works for the purposes of preventing unauthorised entry to it or

to prevent it from becoming a danger to public health when such action appears to be necessary.

Notice shall be given to the occupiers and owners at least 48 hours before commencing the work except in cases where it is necessary to take the action immediately or it has not been practicable to ascertain the name and address of the owner.

Powers are given to enter the building and the land and if necessary the adjoining land.

LA are empowered to recover their costs and a Court may apportion costs to others.

4. Section 165 Highways Act 1980: Dangerous Land adjoining a street (Highways)

If on any land adjoining a street there is an unfenced source of danger to persons using the street, a LA may by notice require the owner or occupier to remove the danger or protect the public in the street.

Section 152 Highways Act 1980 (Highways)
Power to require the removal of insecure projections over a street.

A Local Authority may by notice require the removal of defective or insecurely fixed projections from a building.

Section 23 & 24 Local Government (Misc. Provs.) Act 1976
Power to deal with Dangerous Trees. (Public Health)

A Local Authority is able to take action in connection with a dangerous tree when asked to do so by the owner or occupier of the land on which the tree stands or of the land threatened by the tree. Expenses are recoverable.

N.B. These powers to be used as last resort - see Department of Environment Circular 9/77.

Section 25 & 26 Local Government (Misc. Provs.) Act 1976
Power in Respect of Dangerous Excavations. (Report to Committee)

Certain Councils are empowered to carry out work at their own expense to provide protection to the public from dangerous excavations on private land to which the public has ready access.

N.B. See Department of Environment Circular 9/77 as to how this power is to be used.

5. Section 167 Highways Act 1980: Retaining Walls near Highways (Tec Services)

A Local Authority is empowered to control the erection of retaining walls which :

1. Are above the level of the street.
2. Are wholly or partly within 3.66m of a street.
3. Are more than 1.37m high at any point.

and to deal with any such wall that is in a condition liable to endanger persons in the street.

Wall constructed by a transport undertaker or highway authority are excepted.

Before approving the erection of such retaining wall the Local authority is required to consult the highway authority.

A person convicted of constructing a retaining wall in contravention is liable to a fine.

The highway authority may deal with a wall if the Local Authority fails to take action within a reasonable time.

6. Section 26 West Glamorgan Act 1987. (BCO/EHO)

This section allows the Council to deal with not only new retaining walls but "walls that are in such disrepair as to be dangerous" or "so constructed to be dangerous" where erected without this sections approval or before this section enacted. Retaining walls defined as retaining 1.5m of ground or more. Does not apply to walls within 4 yards of a street (which includes unadopted roads/footpaths, alleyways etc.). Walls on railway, docks, waterway or Welsh Water land are also not covered. Walls on operational land, that is land owned by statutory undertakers are again not covered. Notice to be served on owner or occupier.

7. Section 27 West Glamorgan Act 1987 (EHO)

Party or boundary walls of a court, garden, yard or passageway associated with a house or adjacent to a house can be dealt with by service of notice on owner. Notice requires repair/ reinstatement/rebuild or removal of wall. The criteria is that serious inconvenience is being caused to the occupants of the house.

Definition of wall includes fences and gates in walls but not hedges.

8. Section 6: Excavations affecting highways.

When a person excavates a trench near a highway which is deeper than the distance to the highway he shall take steps to prevent withdrawal of support from the highway i.e. if a trench bottom is deeper than a 45 degree line from the edge of the highway. The section does not apply to statutory undertakers. The section would normally be actioned by the highway authority (Tec Services)

9. Health and Safety Executive.

Gives the HSE powers to deal with dangerous structures although the document recognises that Building Control will take the lead, but may be useful if premises are a workplace and the "danger" is not quite bad enough for our immediate concern or if no co-operation being received.