



Office of the
Deputy Prime Minister

Creating sustainable communities

Town and Country Planning Act 1990 Section 215

Best Practice Guidance



Office of the
Deputy Prime Minister

Creating sustainable communities

Town and Country
Planning Act 1990
Section 215
Best Practice Guidance

January 2005

Office of the Deputy Prime Minister: London

Following the reorganisation of the government in May 2002, the responsibilities of the former Department of the Environment, Transport and the Regions (DETR) and latterly Department for Transport, Local Government and the Regions (DTLR) in this area were transferred to the Office of the Deputy Prime Minister.

Office of the Deputy Prime Minister
Eland House
Bressenden Place
London SW1E 5DU
Tel: 020 7944 4400
Website: www.odpm.gov.uk

© *Crown copyright 2005.*

Copyright in the typographical arrangement and design rests with the Crown.

This publication (excluding the Royal Arms and logos) may be reproduced free of charge in any format or medium provided that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright with the title and source of the publication specified.

For any other use of this material, please write to HMSO Licensing, St Clements House, 2-16 Colegate, Norwich NR3 1BQ Fax: 01603 723000 or e-mail: licensing@hmso.gov.uk.

Further copies of this publication are available from:

ODPM Publications
PO Box 236
Wetherby
West Yorkshire
LS23 7NB
Tel: 0870 1226 236
Fax: 0870 1226 237
Textphone: 0870 1207 405
E-mail: odpm@twoten.press.net
or online via www.odpm.gov.uk

Printed in Great Britain on paper comprising 75% post-consumer waste and 25% ECF pulp.

Product code 04 PD 02843

January 2005

CONTENTS

INTRODUCTION	5
Research findings	6
Regeneration	6
Scope of power	7
Definition of ‘amenity’	8
Pre-notice discussion and ensuing timescales	8
Publicity and the ‘ripple’ effect	9
Issuing a s215 notice	9
Appeals	10
Human Rights Act	10
Prosecution versus direct action works in default	11
Cost recovery	11
Further information	12
Acknowledgements	12
CASE STUDIES	13
ANNEX A	21
ANNEX B	22
ANNEX C	25
ANNEX D	28
ANNEX E	30
ANNEX F	32

Introduction

Section 215 (s215) of the Town & Country Planning Act 1990 (the Act) provides a local planning authority (LPA) with the power, in certain circumstances, to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area. If it appears that the amenity of part of their area is being adversely affected by the condition of neighbouring land and buildings, they may serve a notice on the owner requiring that the situation be remedied. These notices set out the steps that need to be taken, and the time within which they must be carried out. LPAs also have powers under s219 to undertake the clean up works themselves and to recover the costs from the landowner.

The use of s215 by LPAs is discretionary and it is therefore up to the LPA to decide whether a notice under these provisions would be appropriate in a particular case, taking into account all the local circumstances. LPAs will need to consider, for example, the condition of the site, the impact on the surrounding area and the scope of their powers. In some circumstances s215 notices may be used in conjunction with other powers, for example, repair notices in respect of listed buildings or dangerous structure notices.

The most important message that LPAs should be aware of is that s215 action can be taken against land *and* buildings – in s336 of the Act the definition of ‘land’ includes a building.

The planning research report *Derelict Land and Section 215 Powers*, commissioned by the Department of the Environment, Transport and the Regions (DETR), published in September 2000, concluded that there are no fundamental problems with existing legislation. Section 215 and associated powers provide an effective mechanism for tackling unsightly land, both as a ‘threat’ and through the formal serving of a notice and through work in default. However the report concluded that practical examples in the imaginative and effective use of s215 needed to be disseminated to LPAs to encourage greater use of the power. Difficulties in the use of the power seem to arise from infrequent use and lack of experience rather than complexity or lack of scope of the legislation.

Successful s215 action has been both complaint-driven and proactive. It is one of a number of provisions available to LPAs for maintaining and improving the quality of the environment, assisting in tackling dereliction and retaining land in productive use. As such, it can be carried out as a stand-alone process or in partnership with other agencies. Wherever possible, however, action using s215 needs to be combined with proactive measures such as empty homes strategies, development briefs and public/private funding programmes, as well as other reactive enforcement and development control tools (including conditions and legal agreements on planning permission). Through the planning application process and the use of conditions, local authorities can encourage ‘the creation and maintenance of attractive, successful places in which people are happy to live, work and take their leisure.’¹

¹ DETR, *Places, Streets and Movement: A companion guide to Design Bulletin 32 Residential Roads and Footpaths* (1998)

Section 215 is a relatively straightforward power that can deliver important, tangible and lasting improvements to amenity. For example, in one LPA 157 former eyesores were improved as a result of the direct use or threat of s215 action between April 2000 and April 2004. Section 215 has the potential to contribute to wider regeneration and urban quality objectives and is an important part of the Government's sustainable development strategy. The Urban Task Force (1999) found that 'there is little incentive for private property owners to invest in the quality of their property if they are situated within an urban environment which is of such low quality that it simply sucks value out of their property'.

ODPM recognises that there are many LPAs who are successfully using s215 as a regenerative tool (Doncaster Metropolitan Borough Council and Hastings Borough Council are leading examples) and believe that problems in the use of s215, particularly definitions, would be best addressed through the 'informal' dissemination of information. By issuing Best Practice Guidance, ODPM hopes to encourage closer working and the sharing of experience between LPAs.

RESEARCH FINDINGS

The research commissioned by DETR in 1999 into the use of s215 drew a number of key conclusions and observations:

- Section 215 powers are effective as a threat or informal mechanism for cleaning up sites, around 20% of notices approved in 1998/99 were not served, implying that action was taken by the landowners in the face of the 'threat' of a s215 notice being served.
- Section 215 notices are effective in terms of securing compliance, for example 80% of notices served in 1998/99 resulted in compliance and only 6% were appealed. Only 6-8% of notices resulted in works in default by the authority.
- Experience has shown that authorities that interpret the scope of s215 widely also tend to be more proactive and successful at using the powers to achieve wider regeneration objectives.
- Successful use of s215 for regeneration purposes also coincides with close working arrangements with partner organisations, for example New Deal and urban regeneration bodies, and regular monitoring of the quality of the environment.

REGENERATION

Section 215 powers have a role to play in LPAs' response to the Government's sustainable regeneration agenda. Indeed, several LPAs have successfully demonstrated how s215 action can be used as an integral part of regeneration and built environment improvement programmes. LPAs should not sit back and wait for complaints however. Rather they should be proactive in identifying and taking action against buildings and land, the condition of which are regarded as unsatisfactory. It is also important that LPAs share information and work in co-operation with regeneration, economic development, housing departments and other regeneration agencies as part of a wider strategy of local environment improvement and regeneration.

Section 215 powers are just one of the tools available to LPAs within a package of other measures to be used in conjunction with regeneration initiatives.

SCOPE OF POWER

Section 215 has been effectively used on large vacant industrial sites, town centre street frontages, rural sites, derelict buildings, and semi-complete development as well as the more typical rundown residential properties and overgrown gardens. In certain circumstances, early consideration of the use of s215 could prevent a need for use of s54 of the Planning (Listed Buildings & Conservation Areas) Act 1990 (Urgent Works Notice). LPAs should use s215 powers proactively; they should not just be complaint-led.

LPAs should certainly not be afraid of using s215 powers. LPAs have reported that it is a relatively straightforward power to use and that it can deliver extremely good results. For example in one LPA, of 130 s215 notices served between April 2000 and April 2004 the vast majority resulted in a very high standard of remedial works with prosecution and/or direct action for non-compliance only being required in less than 10% of cases.

Subdivision of fields and woods into small plots for sale, usually over the internet, can lead to unsightly consequences. The buyers may be misled into confidence that, one day, they will be able to carry out works on their 'investment' plots, or change the land-use. Neglect or unlawful works may occur. If this is damaging the landscape or other countryside amenity, action under s215 could be considered.

Another context in which s215 notices may be used successfully is in relation to listed buildings and their setting, and in the enhancement of conservation areas. In one LPA, for instance, s215 action has resulted in improvements being carried out to 41 listed buildings and 104 premises in conservation areas.

The scope of works that can be required in s215 notices is wide and includes planting, clearance, tidying, enclosure, demolition, re-building, external repairs and repainting. In preparing notices it is critical that LPAs ensure that the works specified by a notice do not themselves result in a breach of planning control eg unlawful works to a listed building, or material alterations to premises for which planning permission should be sought.

Potential sites can sometimes go beyond the remit of a s215 notice so there may be other more appropriate powers that an LPA can rely upon in order to effect a remedy, for example:

- ss76-79 of the Building Act for defective premises, dangerous buildings, ruinous and dilapidated buildings and neglected sites;
- s29 of the Local Government (Miscellaneous Provisions) Act 1982 for works on unoccupied buildings;
- ss79-82 of the Environmental Protection Act for abatement or prohibition of a nuisance;

- Listed building legislation such as Repairs and Urgent Works Notices;
- Completion Notices; and
- Compulsory Purchase Orders.

There are many issues associated with buildings and land in disrepair. LPAs are encouraged to work with parties across their council, for example empty homes, environmental health and grant providers, such as town centre management or New Deal bodies.

DEFINITION OF ‘AMENITY’

‘Amenity’ is a broad concept and not formally defined in the legislation or procedural guidance, ie it is a matter of fact and degree and, certainly common sense. Each case will be different and what would not be considered amenity in one part of an LPA’s area might well be considered so in another. LPAs will therefore need to consider the condition of the site, the impact on the surrounding area and the scope of their powers in tackling the problem before they decide to issue a notice. LPAs should not be excessively concerned with producing an overly technical definition of ‘amenity’ though. Experience has shown that where a notice is appealed or a prosecution is pursued, a clear and well-presented case will usually be sufficient to ensure that the appeal is refused.

PRE-NOTICE DISCUSSION AND ENSUING TIMESCALES

Pre-notice discussion can be an invaluable tool in terms of yielding positive results and is to be encouraged. That said any discussions should not be allowed to result in undue delay in terms of yielding results. The timescale between complaint and compliance can appear protracted (see flowchart at Annex A) but generally most time is taken up in pre-notice discussion with landowners. The mutual benefit of communication between LPA and landowner cannot be overstated. In many instances, issue of a s215 notice has been avoided, and an eyesore remedied, due merely to talking with a landowner. Experience has shown that landowners are usually quick to take action once the warning of a s215 notice has been sent, and more so once a s215 notice has been issued. Example ‘first warning’ letters upon which LPAs may wish to base their own letters are shown at Annex B. **However it must be stressed that LPAs should take their own legal advice as to the exact wording of each letter they use, as each case will be unique.**

A s330 notice requires the recipient to provide information about the ownership of the property and of any other person who may have an interest in it. Experience has shown that the inclusion of a s330 notice with the first warning letter encourages co-operation (an example s330 notice and accompanying guidance is attached at Annex C). Failure to respond to one of these notices is a criminal offence punishable in the Magistrates’ Court with a fine of up to £1,000. A false statement given in response to the notice is punishable, upon conviction in the Magistrates’ Court, with a fine of up to £5,000 or in the Crown Court, with a fine, imprisonment, or both.

LPAs may also wish to consider the matter of lawful use and whether or not a Planning Contravention Notice should be served in order to obtain information relating to the lawful use of the land being investigated.

There are several other options to help in tracing the owner or occupier of a potential s215 site, for example by:

- Land Registry search;
- Companies House search;
- internet search;
- private investigators; and
- information gathering notices.

All have been widely and successfully used by LPAs.

Whilst negotiation is undeniably a valuable tool, it must be stressed that in order to produce prompt, tangible and good quality results, a hardline approach intolerant of delay should be adopted. Furthermore, the best results depend on utilising the powers available to the maximum potential and courting publicity wherever possible.

PUBLICITY AND THE 'RIPPLE' EFFECT

One benefit of the successful use of s215 notices is the 'ripple' effect it generates, especially in residential areas. LPAs have reported that often once a notice has been issued and work begun, work on neighbouring properties has also commenced, resulting in improved standards and conditions over a wide area. LPA experience has shown that often the mere 'threat' of a s215 notice elicits a similar response. Publicity, whether via local media or merely word of mouth, of an LPA's willingness to use initiatives such as s215 notices and actively pursue landowners in an effort to improve and regenerate their areas is also an incredibly strong tool.

Public perception of this kind of enforcement action has proven extremely popular. The issue of eyesores is clearly one that is close to people's hearts and confronting the problem head on using s215 powers could potentially show the LPA in a positive light. Run-down and derelict buildings convey all sorts of negative impressions. If an LPA combats them with comprehensive remedial action, people will feel better about the area, whether they are residents, businesses or tourists. There is an important economic issue in favour of comprehensive s215 action: if a town is presentable, people will want to visit or live there, and businesses will want to locate there.

ISSUING A S215 NOTICE

LPAs would be well advised to ensure that the notices they issue are clear, precise and unambiguous. The letters should aim to achieve a good quality, lasting solution. Where necessary, specialist input should be sought at an early stage, for example

from the LPA's Conservation or Building Control Officers, or independent engineers with expertise. It would be prudent for all letters to be subject to scrutiny by the LPA's legal advisers.

Provided the notice is skillfully composed, the requirements are absolutely clear, and the LPA has a precise timescale then, if anything goes awry, the LPA has certain formal remedies provided within law to which it can resort.

Section 215 action should not be taken against land the poor condition of which is attributable in some way to the carrying out of operations or a use of land in accordance with Part III of the Town & Country Planning Act 1990.

APPEALS

Unlike s172 enforcement notices, appeal against the s215 notice is to the Magistrates Court. The grounds of appeal against the s215 notice are set out in ss217-218 of the Act (see Annex D). In reality, they are relatively limited and a carefully thought out, reasonable and skillfully composed notice should tend to reduce the chances of an appeal being successful.

Very few s215 notices are actually appealed and of those that are only a small proportion are upheld. A clear and well-presented case that stresses the adverse impact of the site on the local streetscene has proven more effective than an overly technical presentation regarding the definition of 'loss of amenity'. The use of site visits and photographic evidence can carry a lot of weight in presenting the LPA's case to magistrates.

Where LPAs have made a well-presented case, appeals have rarely been successful. LPAs would be well-advised to operate with a prosecution in mind and train officers to carry out investigations to the standards contained within the Police and Criminal Evidence Act 1994, preparing prosecution/appeal files according to the Criminal Procedure and Investigation Act 1996.

Section 215 allows an LPA to take positive action and unlike, for example, stop notices or Article 4 directions, would not place any prohibition or restriction upon the land. Loss or injury attributable to the imposition of the notice would be at best minimal and it would be unlikely therefore that an LPA would be liable for compensation should the s215 notice not be upheld.

An example of a letter, including information on making an appeal, which could be issued to the recipient of a s215 notice is at Annex D.

HUMAN RIGHTS ACT

Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In this case, the wider impact of the appearance of the land overrules the owner's right to the peaceful enjoyment of his property.

PROSECUTION VERSUS DIRECT ACTION WORKS IN DEFAULT

Some LPAs prefer to deal with the majority of their s215 non-compliance cases by direct action, ie by carrying out the works themselves, whilst some prefer to prosecute for non-compliance, for example where they do not have a direct labour organisation. Experience has shown that each route is equally as successful as the other in terms of outcome. It is for the LPA to decide which is the most appropriate action to take, taking into consideration the details of each individual case. Indeed, in some cases LPAs may take the view that both courses should be pursued together. The majority of s215 cases are resolved before these stages need to be considered. That said, cases should always be conducted from the outset with these eventualities in mind.

Whilst the level of fine for a successful conviction is relatively limited to one not exceeding level three (at the time of publication up to £1,000) this should not dissuade LPAs from considering prosecution. The prospect of conviction and having a criminal record has a salutary effect and can produce the desired outcome. Many apparently intractable cases have been solved at the last minute under threat of prosecution.

Where direct action is to be taken, prior warning should be given by letter that the Council and its appointed contractors intend to carry out the steps required by the notice. It is recommended that this be backed up by the display of a suitable notice of intent on the site carrying the same information. Prior warning of intended prosecution should also be given by letter. Examples of both letters are at Annex E.

When taking the direct action approach it may be advisable to exercise some caution. Understandably, some owners or occupiers do not welcome Council employees or contractors with open arms! It is good practice to notify the Police of any direct action taking place, as it has been known for owners or occupiers to react in such a way that their actions result in them being arrested for a breach of the peace.

COST RECOVERY

An LPA budget is not normally needed for direct action works to be carried out in default, as costs are normally met from revenue, not capital. Authorities that have undertaken works themselves have not experienced great difficulties in recovering costs. Where costs cannot be immediately recovered LPAs have the option of registering a charge on the property with the Land Registry, thus assuring full cost recovery plus base-rate interest. There is also provision within the Land Charges Act for the interim procedure of placing an estimate of the charge that will become due on the property. This effectively ensures the land or property cannot be sold without a charge being shown on the land.

County or High Court bailiffs have also been successfully used to recover monies owed.

FURTHER INFORMATION

Copies of the research report *Derelict Land and Section 215 Powers* can be obtained by calling ODPM's Publication Sales Centre on 0870 1226 236 or from the internet at: www.odpm.gov.uk/stellent/groups/odpm_control/documents/contentservertemplate/odpm_index.hcst?n=2497&l=3

Additional guidance/information can also be found in the following documents:

Town and Country Planning Act 1990 (Section 215) (1990)

Derelict Land Prevention and the Planning System (1995)

DETR Circular 2/98 Prevention of Dereliction through the Planning System (1998)

Urban White Paper (2000)

Listed Buildings, Conservation Areas & Monuments (Third Edition) – Charles Mynors (Section 6.13.1-8, pages 138-143)

ACKNOWLEDGEMENTS

ODPM wishes to acknowledge the help given by the officers at Oadby & Wigston Borough Council, Doncaster Metropolitan Borough Council, Hastings Borough Council, Walsall Borough Council and King's Lynn & West Norfolk Borough Council who have shared their positive and practical experiences of the use of s215, and for the use of images supplied by them.

Case Studies



CASE STUDY

Residential

Date of complaint: August 2003

Date of 1st warning: 5 September 2003 (with s330 notice)

Date of 2nd warning: 18 November 2003

Date of notice: 18 November 2003

Date of appeal: None

Date of compliance: 18 December 2003

Outcome: Site cleared by direct action 11 February 2004

Recovery of costs by way of registering a Land Charge



CASE STUDY

Derelict Hotel

Date of complaint: Series of complaints from approx 1990 to Building Control and Environmental Health

Date of 1st warning: March 1999

Date of 2nd warning: none

Date of notice: none served

Date of appeal: none

Date of compliance/outcome: With co-operation of Local Planning Authority property sold to developer.

Converted to 20 luxury apartments 2000



CASE STUDY

Residential flat in conservation area

Date of complaint: end of 1999

Date of 1st warning: 26 January 2000 (with s330 notice)

Date of 2nd warning: 17 February 2002

Date of notice: 11 December 2000

Date of appeal: None

Date of compliance: 18 August 2001

Outcome: full compliance with s215 notice



CASE STUDY

Derelict residential

Date of complaint: series of complaints from around 1990

Date of 1st warning: October 1997

Date of 2nd warning: none

Date of notice: January 1998

Date of appeal: none

Date of compliance: February 1998

Outcome: site cleared by owners



CASE STUDY

Property in A1 use, town centre location on corner of main road

Date of complaint: pro-actively targeted by lpa officers

Date of 1st warning: 9 August 2001 (with s330 notice)

Date of 2nd warning: 20 September 2001

Date of notice: 1 October 2001

Date of appeal: none

Date of compliance: August 2002

Outcome: Summons issued by work commenced and completed to very high standard so prosecution dropped



CASE STUDY

Former shop with residential over, just outside town centre on key arterial route

Date of complaint: pro-actively targeted by lpa officers

Date of 1st warning: 27 February 2002

Date of 2nd warning: 6 March 2002

Date of notice: 2 May 2002

Date of appeal: none

Date of compliance: works completed early 2003

Outcome: full compliance with s215 notice



CASE STUDY

Grade II listed building, predominantly residential conservation area

Date of complaint: pro-actively targeted by lpa officers

Date of 1st warning: 25 February 2003

Date of 2nd warning: none

Date of notice: 25 November 2003

Date of appeal: none

Date of compliance: August 2004

Outcome: full compliance with s215 notice



CASE STUDY

Old garage site with demolition material left in situ

Date of complaint: early 2003

Date of 1st warning: difficulty encountered in tracing owners whose agent was convicted of failing to comply with s330 notice and fined £2500 plus costs.

Date of 2nd warning: none

Date of notice: 4 December 2003

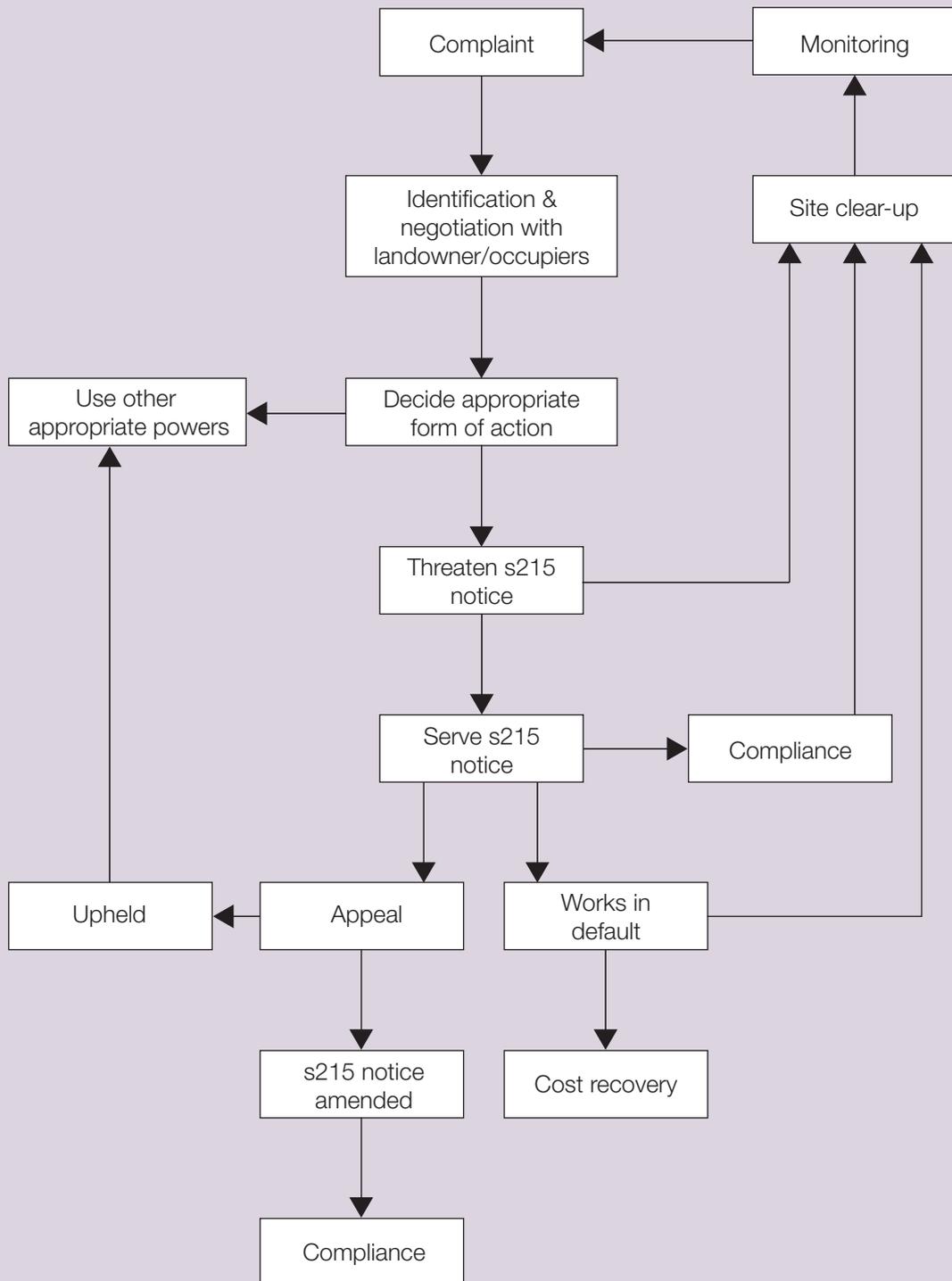
Date of appeal: none

Date of compliance: mid-March 2004

Outcome: full compliance achieved with the removal of several thousand tonnes of material and the securing of the site to deter unauthorised access

Annex A

SECTION 215 PROCEDURE



Annex B

EXAMPLE: FIRST WARNING LETTER – BUILDING IN DISREPAIR

Dear Sir/Madam

PROPERTY ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD [AREA/AREA]

As you may know, [Council name] is committed to ensuring that improvements are carried out to buildings in [eg general/specific area] whose external condition has deteriorated. Improving such buildings has been identified by local people as a key priority for the Council and as a result of this a number of buildings across the [Council area] have been brought to a satisfactory condition.

The external appearance of the above mentioned premises is a source of concern primarily because of [the condition of render, external metalwork, paintwork, windows, grilles, doors]. The Council is writing to you today as the proprietor of the above mentioned premises as identified by the Land Registry. Its purpose is to respectfully request that works be carried out to remedy the poor external condition of the building in the near future, and to ascertain whether you have any plans in this regard. I would emphasise that your property is not being treated in isolation. The owners of other premises in the vicinity are being similarly contacted.

I advise that if prompt progress is not made in terms of remedying the poor external condition of the premises and a guarantee given to the Council by you that such works will be undertaken, the Council has the option to take enforcement action under Section 215 of the Town and Country Planning Act 1990. This is a course that the Council would wish to avoid if at all possible. It is hoped, therefore, that your co-operation can be relied upon in terms of improving the building in the near future and giving a guarantee to that effect.

EXAMPLE: FIRST WARNING LETTER – BUILDING & LAND IN DISREPAIR

Dear Sir/Madam

PROPERTY ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD [AREA/AREA]

I have received a complaint in respect of the condition of your property at the above address. A recent visit by a Council officer has confirmed that its condition is unsatisfactory and is causing concern.

In these circumstances I must ask you to undertake the following works within 21 days from the date of this letter, to abate the nuisance and bring the property back to an acceptable standard:

[1. ...]

I advise that failure to comply with this request will leave the Council with no option but to consider action pursuant to Sections 215-219 of the Town & Country Planning Act 1990 (as amended). This could include formal action by way of service of a Notice, which will legally require you to undertake the work set out above. This is a course of action the Council would rather avoid and I seek your co-operation by carrying out these works. Such works will contribute towards achieving an [urban renaissance in [area]].

I enclose with this letter a Notice pursuant to Section 330 of the Town and Country Planning Act 1990 (as amended), which requires you to provide information about the ownership of the property and of any other person who may have an interest in it.

WARNING – Failure to respond to the enclosed Notice is a criminal offence punishable in the Magistrates Court with a fine of up to £1,000. It is also a criminal offence to make a false statement in response to this Notice. On conviction in the Magistrates Court this offence is punishable with a fine of up to £5,000 or in the Crown Court with a fine, imprisonment, or both. The Local Authority may prosecute this matter in the Courts should there be a breach of this or any subsequent Notice.

Please complete in full the Notice reply form and return to me [using the enclosed stamped addressed envelope] **within 21 days of the date of this letter.**

Should you wish to discuss any of the above in detail, you can contact the officer named above on the number given, who will be pleased to assist you. It is my hope that this matter can be resolved in a spirit of mutual co-operation.

EXAMPLE: SECOND WARNING LETTER – BUILDING IN DISREPAIR

Dear Sir/Madam

**PROPERTY ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD
[AREA/AREA]**

The Council last wrote to you about this matter on ... A copy of that letter is attached for your information. The Council has not received a response from you.

I advise you that, unless the Council hears from you within five working days of the date of this letter, outlining the steps you are going to undertake to remedy the external condition of the premises, then it will take enforcement action under Section 215 of the Town and Country Planning Act 1990. This enforcement action will require the improvements to be carried out. As you can appreciate this is a course that the Council would wish to avoid. The matter however now rests with you.

Annex C

EXAMPLE: S330 NOTICE

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

[lpa name]
TOWN AND COUNTRY PLANNING ACT 1990
NOTICE UNDER SECTION 330(1)

To:

[name & address]

TAKE NOTICE that the [lpa name] in exercise of its powers under Section 330(1) of the Town and Country Planning Act 1990 does hereby require you to provide to it in writing, the following particulars affecting land situated and known as [address] in the [lpa area] as shown edged red on the attached plan (hereinafter referred to as “the Premises”) within **twenty-one days** after the date on which the Notice is served:

A. As to interest in the premises:

- i. The nature of your own interest in the premises.
- ii. The name and address of any other persons known to you as having an interest in the premises whether as freeholder, mortgagee, lessee or otherwise.

B. As to the use of the premises:

- i. The purpose for which the premises are used.
- ii. The time when that use began.
- iii. The name and address of any person known to you as having carried on that use.
- iv. The time when any activities being carried out on the premises began.

Section 330(4) of the Town and Country Planning Act 1990, states that any person who without reasonable excuse fails to comply with a Notice served on him under Section 330(1) shall be guilty of an offence and liable to summary conviction to a fine not exceeding £1,000.

Section 330(5) of the Town and Country Planning Act 1990, states that any person who having been required by a Notice served on him under Section 330(1) to give any information knowingly makes any mis-statement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

EXAMPLE: GUIDANCE ON COMPLETING SECTION 330 FORM

This form is supplied to assist you in providing the information required by my Notice dated the xxth day of xxxx, 200x served under the provisions of Section 330(1) of the Town and Country Planning Act 1990.

Please answer the following questions and complete the declaration at the end of the questions. If a question is not applicable, please state that this is the case.

A. As to interests in the premises:

i. What is the nature of your interest in the premises?

.....
.....

ii. What is the FULL NAME AND ADDRESS of:-

a. The occupier of the premises?

.....
.....

b. The freeholder of the premises?

.....
.....

c. The lessee of the premises?

.....
.....

d. The mortgagee of the premises?

.....
.....

e. Any other person with an interest in the premises?

.....
.....

Nature of interest?

.....
.....

B. As to the use of the premises:-

i. For what purposes are the premises being used?

.....

ii. When did that use begin?

.....

iii. What are the full names and addresses of persons known to you as having used the premises for that purpose?

.....

iv. When did any activities being carried out on the premises begin?

.....

I [name] hereby declare that the answers to the above questions comprise a true and correct statement of all the information required by the said Notice, so far as the same is within my knowledge.

Date:

Signed:

Address:

.....

.....

.....

Annex D

EXAMPLE: LETTER TO ACCOMPANY S215 NOTICE AND GUIDANCE TO MAKING AN APPEAL AGAINST S215 NOTICE

Dear Sir/Madam

PROPERTY ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD [AREA/AREA]

I wrote to you on [date] concerning the above and seeking your co-operation in improving the condition of your property. You were invited to discuss this matter with my Officer if you wished.

A further inspection has been conducted and revealed that there has been no significant improvement in the condition of the property since I last wrote to you. [I note that you have failed to return the Section 330 Notice as required within the period stated. I remind you that failure to complete the Notice is a criminal offence and can give rise to prosecution.]

Consequently, you will now find enclosed with this letter a formal Notice pursuant to Section 215 of the Town and Country Planning Act 1990 (as amended), together with information concerning your right of appeal to the Magistrates Court. The Notice details the list of requirements that I consider are the minimum works required to bring the property back to a reasonable standard and which will rectify the adverse effects your property is having on the amenity of the neighbourhood.

I would still urge you, even at this late stage, to take the required action to resolve this matter as detailed in the Notice, within the next **28 days** from the date of this letter.

Your failure to comply with this Notice will leave me with several courses of action. Either or all of these actions may be pursued as follows:

1. A prosecution in the Magistrates Court for non-compliance with the s215 Notice – which could result in a substantial fine if found guilty of an offence.
2. The Council carrying out the works required by the Notice followed by action in the County Court to recover, from you, all expenses and costs reasonably incurred by such action.
3. Registration with HM Land Registry of a charge on your property, recoverable should your property be sold.

You may consider that these actions are radical steps that should be avoided. But I must make clear that, unless the requirements of the Notice are complied with in full, and within the specified period, I will proceed with a course of action described above.

RIGHT OF APPEAL AGAINST SECTION 215 NOTICE
SECTIONS 217-218 OF THE TOWN AND COUNTRY PLANNING ACT 1990

217—(1) A person on whom a notice under Section 215 is served, or any other person having an interest in the land to which the notice relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal against the notice on any of the following grounds:

- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
 - (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from the carrying on of operations or a use of land which is not in contravention of Part III;
 - (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority, who served the notice, or of any adjoining area;
 - (d) that the period specified in the notice as the period in which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
- (2) Any appeal under this section shall be made to the Magistrates Court acting for the petty sessions in which the land in question is situated.
 - (3) Where such an appeal is brought, the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.
 - (4) On such an appeal the Magistrates Court may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material.
 - (5) On the determination of such an appeal the Magistrates Court shall give directions for giving effect to their determination, including, where appropriate, directions for quashing the notice or for varying the terms of the notice in favour of the appellant.
 - (6) Where any person has appealed to a Magistrates Court under this section against a notice, neither that person nor any other shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

218 —Where an appeal has been brought under section 217, an appeal against the decision of the Magistrates Court on that appeal may be brought to the Crown Court by the appellant or by the local planning authority who served the notice in question under section 215.

Annex E

EXAMPLE: WARNING OF DIRECT ACTION BY LPA AFTER S215 NOTICE HAS BEEN ISSUED

IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir

**RE: TOWN AND COUNTRY PLANNING ACT 1990: SECTION 215:
ENFORCEMENT NOTICE SERVED REGARDING THE POOR CONDITION OF
LAND AT ...**

You are advised to read this letter very carefully and contact the Council *immediately* at the address or phone numbers given above if you have any queries.

On [specify date] you were served with a formal notice under Section 215 of the Town and Country Planning Act 1990 requiring you to take steps to remedy the condition of land at the above mentioned site. That Notice should have been complied with by [specify date]. It has not been.

The purpose of this letter is to inform you that ***the Council now intends to carry out the steps required*** in accordance with Section 219 of the Town and Country Planning Act 1990. ***Contractors appointed by the Council will start those works on [specify date]***. Upon completion of those works, the Council will actively recoup its costs from you by placing a charge on your property.

Failure to comply with a Section 215 Notice is an offence under Section 216 of the Town and Country Planning Act 1990. Accordingly, I must advise you that the Council now intends to pursue a prosecution with immediate effect. Because an offence has been committed I must advise you that you should contact the Council about this matter and you are hereby cautioned that anything you do say can be given in evidence. It may also harm your defence if you do not mention something which you later rely on in court.

EXAMPLE: WARNING OF PROSECUTION BY LPA AFTER S215 NOTICE HAS BEEN ISSUED

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir

RE: TOWN AND COUNTRY PLANNING ACT 1990: SECTION 216: OFFENCE OF FAILURE TO COMPLY WITH NOTICE SERVED UNDER SECTION 215: EXTERNAL CONDITION OF ...

The Council has received no correspondence or undertakings from you in respect of the above mentioned premises despite its letter and the enforcement notices served upon you dated [specify dates] under Section 215 of the Town and Country Planning Act 1990 (copies attached for information). The time period for compliance with the notices expired on [specify date]. Failure to comply with it is an offence. In the absence of the required works having been carried out, I have to advise you that the Council is left with no alternative but to commence legal proceedings with immediate effect. Clearly, the Council would wish to avoid such a course and if the required works now start and are brought to a swift and satisfactory conclusion then the situation will be reviewed. In the meantime, because an offence has been committed I must advise you that you should contact the Council about this matter and you are hereby cautioned that anything you do say can be given in evidence. It may also harm your defence if you do not mention something which you later rely on in court.

Annex F

EXAMPLE: SECTION 215 NOTICE

(served in respect of a former shop with residential above)

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(as amended by the Planning and Compensation Act 1991)

SECTION 215 NOTICE

SERVED BY: [council name]

To:

1. THE NOTICE

This Notice is served by the Council under Section 215 of the above Act because it appears to them that the amenity of a part of their area is adversely affected by the condition of the land described below.

2. THE LAND TO WHICH THE NOTICE RELATES

The land known as ... shown edged red on the attached plan.

3. WHAT YOU ARE REQUIRED TO DO

The Council requires the following steps to be taken for remedying the condition of the land:

- (i) Hack off any perished, unkeyed and cracked render/stucco. Replace render/stucco so removed using suitable materials to match the existing render/stucco mix and finish.
- (ii) Prior to repainting, clean and prepare all render/stucco, removing in the process any flaking paint, so as to ensure all external render/stucco is in an appropriate condition for repainting.
- (iii) Prior to repainting, clean and prepare all external timbers, removing in the process any flaking paint and replacing any rotten or perished timbers with replacement woodwork which is an accurate replica of the original design in terms of pattern, detail and profile, so as to ensure that all external timbers are in an appropriate condition for repainting.
- (iv) On completion of steps (i) and (ii) above, repaint in cream or white all render/stucco with a minimum of two coats of exterior paint.
- (v) On completion of step (iii) above, repaint all external timbers in cream or white with primer, undercoat and gloss.
- (vi) Permanently remove all boarding from the shopfront, replacing any broken glazing with new glass to the appropriate specifications.

4. TIME FOR COMPLIANCE

Steps (i) to (iv) above to be complied with in full within three months of the date on which this Notice takes effect.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on [specify date]

Dated:

Signed:

EXAMPLE: SECTION 215 NOTICE
(served in respect of a Doric style Grade II Listed Building)

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)

SECTION 215 NOTICE

SERVED BY: [council name]

To:

1. THE NOTICE

This Notice is served by the Council under Section 215 of the above Act because it appears to them that the amenity of a part of their area is adversely affected by the condition of the land described below.

2. THE LAND TO WHICH THE NOTICE RELATES

The land known as ... shown edged red on the attached plan.

3. WHAT YOU ARE REQUIRED TO DO

The Council requires the following steps to be taken for remedying the condition of the land:

- (i) Hack off any perished, unkeyed and cracked render/stucco. Replace render/stucco so removed using suitable materials to match the existing.
- (ii) Prior to repainting, clean and prepare all render/stucco, removing in the process any flaking paint, so as to ensure all external render/stucco is in an appropriate condition for repainting.
- (iii) Prior to repainting, clean and prepare all external joinery, removing in the process any flaking paint, replacing any rotten or perished timbers with replacement woodwork to match the existing and renewing putty/joinery surrounds so as to ensure all external joinery is in an appropriate condition for repainting.
- (iv) Prior to repainting, clean and prepare all external metalwork, removing in the process any rust and flaking paint, so as to ensure all external metalwork is in an appropriate condition for repainting.
- (v) On completion of steps (i) to (ii) above, repaint all external render/stucco with a minimum of two coats of exterior masonry paint, the finished colour to be cream.
- (vi) On completion of step (iii) above, repaint all external joinery with exterior wood primer, exterior undercoat and exterior wood gloss, the finished colour to be white or cream.
- (vii) On completion of step (iv) above, repaint all exterior metalwork with exterior metal primer, exterior undercoat and exterior metal gloss, the finished colour to be white, cream or black.

4. TIME FOR COMPLIANCE

Steps (i) to (vii) above to be complied with in full within four months of the date on which this Notice takes effect.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on [specify date]

Dated:

Signed:

EXAMPLE: SECTION 215 NOTICE

(served to clear demolition material from a large former garage site)

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

(as amended by the Planning and Compensation Act 1991)

SECTION 215 NOTICE

SERVED BY: [council name]

To:

1. THE NOTICE

This Notice is served by the Council under Section 215 of the above Act because it appears to them that the amenity of a part of their area is adversely affected by the condition of the land described below.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at ... shown edged red on the attached plan.

3. WHAT YOU ARE REQUIRED TO DO

The Council requires the following steps to be taken for remedying the condition of the land:

- (i) Remove from the site, to an authorised place of disposal, all hardcore, waste and demolition materials. Materials to be removed will include bricks, concrete, reinforced concrete, metal, timber, plastic, tyres and fabrics.

Informative

Upon completion of step (i) above, the owner and any occupier of the site are strongly advised to secure the site perimeter by means of an earth bound or site fencing the height of which should not exceed one metre unless specific planning permission has been granted beforehand for a higher bund or fence.

4. TIME FOR COMPLIANCE

Step (i) above to be complied with in full within one month of the date on which this Notice takes effect.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on [specify date]

Dated:

Signed: