

Urgent Works Notices

A good practice guide for District Councils

Issue 2: May 2017

Historic Environment Division



Department for
Communities
www.communities-ni.gov.uk

'This good practice guide aims to assist district councils achieve a consistent approach when considering serving an Urgent Works Notice on a listed building (or building in a Conservation Area(CA) where the Department of Infrastructure (DfI) has issued a direction). Its correct application will help district councils to identify and satisfy legislative requirements with regard to Urgent Works Notices, where works are urgently necessary for the preservation of a listed building (or building within a CA).

This guide does not attempt to provide a detailed account of the legislation and policy that underpin Urgent Works Notices in Northern Ireland, and is not intended to be a source of definitive legal advice. This guide is not intended to replace the need for council judgment in their decision making. Reference should be made to the actual legislation referred to in this document and if any discrepancy or conflict exists between this guide and legislation, the provisions of the legislation will prevail.

Further information can be obtained from the Department for Communities website <https://www.communities-ni.gov.uk/>

Contents

Overview	3
1 Introduction	4
2 What is an Urgent Works Notice?	4
3 When should councils consider using this power?	5
4 How can councils apply this power?	8
5 Can an owner appeal an Urgent Work Notice?	9
6 What other action can be taken?	9
7 Can councils seek support from HED?	10
Appendix A – Typical Warning Letters	11
Appendix B – Typical Cover letter, Notice, Schedule and cost information	15
Case Study	23

Overview

From 1st April 2015, district councils have been able to serve an 'Urgent Works Notice' (UWN), where it appears to a council that works are urgently necessary for the preservation of a listed building (or building in a Conservation Area(CA)).

This is a discretionary power which councils can deploy, when required, under Section 161 of the Planning Act (NI) 2011.

To assist district councils undertake this new function, this good practice guide has been developed as a series of questions and accompanying answers, to explain how and when district councils may consider serving an UWN.

On 9th May 2016, the functions of the former Department of the Environment (DOE) were allocated to three new departments; Department for Infrastructure (DfI), Department of Agriculture, Environment and Rural Affairs (DAERA) and Department for Communities (DfC)

Historic Environment Division (HED) transferred to DfC and Strategic Planning Division (SPD) functions transferred to DfI. Respective departmental powers under the Planning Act (Northern Ireland) 2011, have been set out in the The Departments (Transfer of Functions) Order (Northern Ireland) 2016.

1. Introduction

- 1.1 The historic environment is an asset of great cultural, social, economic and environmental value, which contributes to our sense of history, place and our quality of life. Considered application of the power to serve an Urgent Works Notice, (UWN) is one way by which councils can contribute to the protection and conservation of built heritage in their District Council.
- 1.2 The issue of an UWN is a discretionary power and there is no requirement that councils issue such a notice. Historic Environment Division (HED) has, however, used it effectively as a tool in recent years to discourage poor security measures at unoccupied listed buildings. This work has often been in close liaison with District Council Building Control Officers and, on occasion¹, the use of other powers available to councils may be considered more appropriate.
- 1.3 There is no specific duty on owners to keep their historic buildings in a good state of repair but it will normally be in their interests to do so. Under the Planning Act (Northern Ireland) 2011 district councils have statutory powers to take action where a historic building has deteriorated to the extent that its preservation may be at risk.
- 1.4 'Buildings' can be understood to be any feature or structure built by man. Thus bridges, memorials or boundary walls within a Conservation Area, as well as all structures that are protected as listed buildings, fall within this definition.

2. What is an Urgent Works Notice (UWN)?

- 2.1 An UWN is a direct way of securing repairs urgently necessary for the preservation of a listed building (or building in a Conservation Area where the Department of Infrastructure, (DfI) following advice from the Department for Communities(DfC) has issued a Direction).
- 2.2 UWN's allow district councils to take direct action to protect unoccupied listed buildings, or the unused part of occupied listed buildings, that have deteriorated to the extent that their preservation may be at risk. It also allows them to work with DfC to tackle buildings situated in a Conservation Area, where their preservation is important for maintaining the character or appearance of the Area.
- 2.3 Section 161 of the Act allows councils to serve an UWN where it *'appears to the council that works are urgently necessary for the preservation of:*
 - a listed building in its district or

¹ Dangerous Structures Legislation operated by councils may, on occasion, be a more appropriate route for action.

- a building in respect of which a direction has been given by the Department that this section shall apply.’
- 2.4 Section 161 (2) explains that the grounds on which DfI will give a direction is that ‘its preservation is important for maintaining the character or appearance of a conservation area.’
- 2.5 Section 161 (7-11) allow the council to recoup ‘expenses for the works’ from the owner. These may include any continuing expenses involved in making available the apparatus or materials used; such as tarpaulins or scaffolding.
- 2.6 Prior to the transfer of functions in April 2015, UWN’s were available solely to the Department of the Environment (DOE) and were served by HED. Six notices were issued, or prepared to a late stage, every year from 2011 to 2014 as part of a ‘heritage crime action plan’. The initiative followed a spate of fires in listed buildings in 2011 following the economic downturn. The tool was shown to be an effective deterrent as many owners moved to carry out works to secure and maintain their buildings in advance of the formal service of a notice by HED.
- 2.7 Under Section 161 (3) DfC retains a power to issue an UWN but, as District Councils now also hold this power and are the Planning Authority, the Department would only issue such notices in exceptional circumstances. This could be, for instance, where listed buildings are in the ownership of a District Council.

3. When should councils consider using this power?

- 3.1 Before applying this power, it is recommended that district councils first enter into a process of discussion with an owner, in an attempt to agree a schedule of work, before resorting to legal action. A series of warning letters has been utilised by HED since 2011 to formally record increasing concern in advance of the service of a notice. Every listed building where a fire has occurred has received such a letter. Where we become aware that a fire has occurred at a listed building, HED will notify the relevant district council. Template warning letters for issue to an owner are included in Appendix A.
- 3.2 If efforts to engage with an owner have been unsuccessful, and a district council considers that a listed building meets the statutory test, it can then issue an Urgent Works Notice which explains that it intends to carry out specified works. Under Section 161 (5) ‘the owner of the building must be given not less than 7 days notice in writing of the intention to carry out the works and the notice must describe the works to be carried out.’ A standard template has been utilised by HED— see Appendix B - which complies with this requirement.

- 3.3 If a district council considers that an unlisted building in a conservation area meets the statutory test, and attempts to engage with the owner are unsuccessful, then it should write to Strategic Planning Division (SPD) in DfI, explaining the circumstances of the case, requesting that it issue a direction. Once acknowledged, SPD will ask HED to consider the case and provide advice. Given the urgent nature of the power, this consideration will be completed by HED as soon as possible and no longer than 15 days from receipt of the request. If a direction is issued then the district council is free to serve the notice.
- 3.4 It is important to remember that the schedule describing the work is confined to urgent works and that the power is intended to cover only emergency repairs, for example works to keep a building wind and weatherproof and safe from collapse, or action to prevent vandalism or theft. The steps taken should be the minimum required to achieve this objective.

Case study examples:

When has HED used this power?

HED has served 9 UWN's since 2011. The photos below illustrate the typical condition of the building where urgent works notices have been served.

Former National School, Bushmills



Before: Building unsecure with extensive vegetation growth



After: Openings secured, ventilation holes provided and vegetation removed

Tyrone Courier, Dungannon



*Left: Before- Sections of missing slates forming large holes to roof with openings unsecured.
Above: Urgent repair works in progress to cover roof with corrugated tin and secure openings*

4.0 How can district councils apply this power?

- 4.1 The importance, condition and risk faced by the building, should be taken into account in identifying appropriate cases for action. In areas where a notice has been served, this has often resulted in many buildings being secured by owners, well in advance of a potential notice. District councils should note this deterrence effect. One notice may be sufficient to clarify that a council is prepared to take action.
- 4.2 HED commissions the Ulster Architectural Heritage Society to maintain a register of Built Heritage considered to be At Risk in Northern Ireland (BHARNI register²) and such buildings are the focus of efforts by HED to ensure that their protection is prioritised, via grant aid, when available, and other incentives. All such buildings have been risk assessed and engagement is focused where concern is greatest. Such buildings may also be of concern to councils contemplating the use of this power. Engagement with HED is therefore recommended to ensure clarity on discussions which may have already taken place.
- 4.3 It is understood District Council Building Control officers have the competence and range of professional skills to carry out this function, and draw up a schedule of required repairs from their experience of serving notices under environmental legislation³. To ensure that the schedule is comprehensive, councils should also liaise with the contractor who will carry out the work, in advance of serving the notice. Once the schedule of works has been agreed, a Quantity Surveyor should calculate the estimated cost of the works in advance of a final decision.
- 4.4 As the works are urgent and of an emergency nature, separate Listed Building Consent and Planning Permission are unlikely to be necessary. However the view of the council's conservation officer,⁴ if not involved in the schedule, should also be sought to ensure that features of special interest are not unnecessarily lost.
- 4.5 Because expenses can be charged, including continuing expenses (Section 161 (7) & (8) and paragraph 2.2 above), HED's template (Appendix B) includes a schedule where the total cost of the works is set out. It should be noted, however, that the decision to recoup costs is at the discretion of the council.
- 4.6 If the owner does not appeal the Notice, then the specified work can commence after the allotted period. District council officers should monitor the extent of the works and ensure that they comply with the specified work.

² This register can be accessed from the DfC's website at www.communities-ni.gov.uk/services/buildings-risk-register

³ Articles 65 & 66 of the Pollution Control and Local Government (NI) Order 1978

⁴ This is normally a qualified planner or architect who has responsibility for providing advice to decision makers on the designation and management of heritage assets, such as Conservation Areas, within a Council area.

5. Can an owner appeal an Urgent Works Notice?

- 5.1 Yes. The owner has 28 days from the service of the notice to appeal to the Planning Appeals Commission on any of the following grounds:
- (a) that some or all of the works were unnecessary for the preservation of the building;
 - (b) in the case of works for affording temporary support or shelter, that temporary arrangements have continued for an unreasonable length of time;
 - (c) that the amount specified in the notice is unreasonable or that its recovery would cause the owner hardship.'
- 5.2 The owner and the council (or HED should an UWN be served on central or local government) will be informed of the Commission's decision and its reasons, as well as the amount deemed recoverable. There is no further appeal after the Commission's determination.

6. What other action can be taken?

- 6.1 The protection of historic buildings and structures at risk through the service of a UWN is only one tool in a suite of controls. DfC also has power to compulsorily purchase a listed building. Section 202 of the Planning Act (Northern Ireland) 2011 allows DfC to do this if it has fallen into a poor state of repair and reasonable steps have not been taken to properly preserve it.
- 6.2 In advance, DfC must have served a '**repairs notice**' under Section 202(4) of the Act and allowed at least two months to elapse. This notice specifies the works which DfC consider reasonably necessary for the proper preservation of the building. It must explain that should the owner fail to comply with the requirements of the notice, then proceedings to compulsorily acquire the building may be started. The powers are not confined to urgent works, or to unoccupied buildings, and could be used where prolonged failure by an owner to keep a listed building in a reasonable state of repair has placed the building at risk.
- 6.3 Because of the link between the issue of a notice and action to compulsorily purchase, HED has always sought willing partners in the voluntary sector as a prerequisite for such action. They need to be willing to take on responsibility for the building and have the advantage, over a government organisation, that they will be able to access grant aid from various sources. The only building where such a notice has been served to date is the former stable block in Sion Mills which has been successfully conserved by the Hearth Building Preservation Trust.

- 6.4 The works specified will normally be limited to the preservation of the building as it was when listed. It can be used for repairs to deterioration in the building's fabric since that date but not to restore other features that were already missing or damaged. If, however, repairs are necessary to preserve what remains of the rest of the building, for example, repairs to a roof which was defective at the time of listing, then these can be included in the repairs notice. DfC has the right to withdraw a repairs notice at any time. If the notice is withdrawn then the owner will be notified immediately. Unlike an Urgent Works Notice, there is no legislative power to issue repair notices in respect of unlisted buildings in conservation areas.

7. Can councils seek support from HED?

- 7.1 Yes. As the Government's expert advisor on the Historic Environment in Northern Ireland, HED can provide further advice to councils as they decide how best to deploy this power. HED has 40 year's experience of carrying out historic buildings surveys across Northern Ireland and 10 year experience in the service Urgent Works Notices. Engagement with district councils who want to set up appropriate procedures in regard to this facet of heritage protection is welcomed by HED.

Appendix A

Typical Warning Letters

WARNING LETTERRecorded Delivery

Mr. XXXXXX,
(Insert Address)

Tel: 028 XXXXXXXX
Listed Building Ref: HB XX/XX/XXX
Date: XXth Month 20XX

Dear Mr./Mrs. XXXX,

RE: NAME AND ADDRESS OF PROPERTY

It is noted that you are the registered owner of this property.

Building name is listed by the Historic Environment Division [HED] of Department for Communities [Formerly DOE] as a building of special architectural or historic interest, under the Planning Act (Northern Ireland) 2011. As this building is at significant risk, XXXX Council requires that steps be put in place to arrest any further damage to the property. This must take the form of ensuring that the property is secure from unauthorised access and water ingress. Unsecured buildings are at significant risk from antisocial behaviour and potentially from fire.

These works are urgently required. It is XXXX Council policy to negotiate these works rather than seeking to resort to legal process. However, it is imperative that you take immediate steps to secure and protect this listed building.

We wish to draw your attention to Section 161 of the Planning (Northern Ireland) Act 2011, (copy attached) which allows the council to have urgent works carried out to a listed building and to seek recompense from the owner for this work.

Please contact XXXX on XXXXXX within 7 calendar days of the date of the letter.

Yours sincerely,

(Authorised officer Signature)

Authorised officer name

For and on behalf of XXXXXX District Council
cc. XXXX District Council Planning Enforcement Team

Recorded Delivery

IMPORTANT NOTICE POST FIRE AT LISTED BUILDING

Mr./Mrs. XXXXXX,
(Insert Address)

Tel: 028 XXXXXXXX
Listed Building Ref: HB XX/XX/XXX
Date: XXth Month 20XX

Dear Mr./Mrs. XXXX,

RE: NAME AND ADDRESS OF PROPERTY

It is noted that you are the registered owner of this property.

Building name is listed by the Historic Environment Division [HED] of Department for Communities [Formerly DOE] as a building of special architectural or historic interest, under the Planning Act (Northern Ireland) 2011.

It has come to the attention of **XXX Council** that on or about **(insert date)** the building sustained damage by virtue of fire and has **lost its roof and part of upper party walls and some historic detail**. The remaining part consists of the outer walls, intact plan form, and outbuildings.

The structure was inspected on **(insert date)** by **xxx Council staff**. The remaining structure appears to be safe for the time being. Efforts should be made to secure the wall heads and provide a weatherproof covering to same. Access to the interior should be restricted. For your attention, we attach guidance on safeguarding buildings from the Historic Environment Division in the Department for Communities.

Any works other than those specified in the previous paragraph will require listed building consent; which should be sought as a matter of urgency from our council planning authority. **We would ask that consideration re provision of a roof over the building in the longer term should be a priority. Protecting and stabilising the wall heads from water ingress should be considered in the immediate term.** Failure to obtain consent may lead to prosecutions.

Upon receipt of this notice, if you decide or are advised that further works are urgently necessary for health and safety reason, you should inform our council planning authority/ Building Control Department immediately to discuss the position.

We also wish to draw your attention to Section 161 of the Planning (Northern Ireland) Act 2011, (copy attached) which allows the district council to have urgent works carried out to a listed building and to seek recompense from the owner for this work.

For more information about this building, you may wish to contact the Historic Environment Division, Heritage Buildings Designation branch by email at historicenvironmentenquiries@communities-ni.gov.uk or by telephone at 028 9082 3177 or 028 9082 3126.

Please contact XXXX on XXXXXX within 7 calendar days of the date of the letter.

Yours sincerely,

(Authorised officer Signature)

Authorised officer name

For and on behalf of XXXXXX District Council
cc. XXXX District Council Planning Enforcement Team

Appendix B

Typical Urgent Works Notice cover letter, Notice,
Schedule and cost information

(Cover Letter)

Recorded Delivery

Mr./Mrs. xxxxxx,

(Insert Address)

Tel: 028 XXXXXXXX

Listed Building Ref: HB XX/XX/XXX

Date: XXth Month 20XX

Dear Mr. XXXX,

RE: NAME AND ADDRESS OF PROPERTY

I refer to our previous correspondence of XXXX and XXXX. To date we have had no response, nor has the XXXX District Council received any indication that you intend to do so.

I would advise therefore that the XXXX District Council in exercise of the powers conferred on it by Section 161 of the Planning (Northern Ireland) Act 2011 proposes to execute the works in accordance with the attached notice.

Yours sincerely,

(Authorised Officer Signature)

Authorised officer name

For and on behalf of XXXXXX District Council

(Notice)

NOTICE OF INTENTION TO CARRY OUT URGENT WORKS

PLANNING (NORTHERN IRELAND) ACT 2011

Recorded Delivery

Mr. XXXXX

(Insert Address)

TAKE NOTICE that:-

1. The building known as XXXXX are listed buildings within the meaning given to that term by Section 80 of the Planning (Northern Ireland) Act 2011. The building, edged in red, is shown on the map in Schedule 1 to this notice.
2. It appears to the XXX District Council that the works specified in Schedule 2 hereto (hereinafter called "the Works") are urgently required for the preservation of the building.
3. XXX District Council in exercise of the powers conferred on it by Section 161 of the Planning (Northern Ireland) Act 2011, proposes to execute the Works not less than seven days after the issue of this notice.
4. XXXX District Council, in exercise of the power conferred by Section 161(7) of the Planning (Northern Ireland) Act 2011, requires XXXX of XXXX to pay the expenses of the Works specified in Schedule 3 hereto.
5. You may appeal, within 28 days of the service of the notice, to the Planning Appeals Commission (in accordance with Section 161(9) of the Planning (Northern Ireland) Act 2011) on any of the following grounds:-

- that some or all of the building works were unnecessary for the preservation of the building;
- in the case of works for affording temporary support or shelter, that the temporary arrangements have continued for an unreasonable length of time;
- that the amount specified in the notice is unreasonable or that the recovery of it
- would cause you hardship.

Dated XX day of month 20XX

(Authorised Officer Signature)

Authorised officer name

For and on behalf of XXXXXX District Council

(Schedule)

SCHEDULE 1

THE LISTED BUILDING TO WHICH THIS NOTICE RELATES

The building known as **XXXX**, as shown for the purposes of identification only, edged red on the listing map below.

(Insert listing map – copy can be obtained from
Heritage Development & Change Branch, Historic Environment Division)

SCHEDULE 2

URGENT WORKS

(NB this is illustrative only and all properties will vary in the extent of works considered necessary)

ADDRESS OF PROPERTY:-

(Insert Address)

1. GENERAL CONDITION

The schedule of works only covers items that XXXX District Council feels are urgently necessary to preserve the building from further decay. The schedule is not to be construed as a specification and it is the responsibility of the building owner and their professional advisors and contractors to ensure that the works are planned with caution, carefully executed and the correct materials employed throughout.

In all urgent works the minimum amount of fabric should be removed and replacement kept to a minimum.

The Works must be carried out with the intention of being undone when an agreed scheme of repair and refurbishment is ready to commence.

2. VEGETATION

Cut back vegetation to rear garden as it encroaches on the rear of the property. Remove all vegetation within 3m of the perimeter walls and reduce all shrubs within 3m of external wall to 1m height and width.

3. ROOF

In such a manner as to prevent the ingress of rainwater, provide temporary roof covering to areas of the roof damaged or missing by repining slates (hooking slates onto battens using lead tingles) or by installing impervious flexible sheeting, supported on existing structure and additional temporary support if necessary. Secure with suitable fixings,

battens or weights. Install self adhesive membrane flashings to seal edges and abutments with chimneys.

Where roofs remain to rear courtyard, ensure gutters are left clear of debris and in full working order to ensure discharge away from the building.

4. WINDOWS DOORS AND SECURITY

These are to be securely covered with 19mm external grade (WBP) plywood at ground floor openings. Use vandal proof screws. Retain access to front entrance by fixing sheeting with strap hinges, hasp and staple and padlock. Upper windows to have covering to prevent ingress of water and driving rain.

5. VENTILATION

In securing the building it must be ensured that through ventilation to all spaces is guaranteed. 50 mm diameter holes should be drilled at top and bottom of plywood sheeting to windows. These may be fitted with mesh screens.

6. DAMAGED ELEMENTS TO INTERIOR

Damaged pieces of joinery (balusters , handrails, etc) in the stairs area are to be collected and laid in an adjoining area for use in future conservation works. An inspection of plumbing is to be carried out to ensure that no leakage can arise.

7. URGENT WORKS

As emphasised in the foregoing all emergency works must be approached from the standpoint of reversibility and minimum damage to the fabric of the building compatible with maximum security.

SCHEDULE 3

EXPENSES

The amount of the expenses of the works is £XXXX. inclusive.

Case Study: Corrstown House, Portrush



Above: Serving the Notice, Corrstown House, Portrush © DfC

Corrstown House is a good example of a pre-1830s Georgian farmhouse with a range of vernacular outbuildings in traditional a grouping, around a central yard. Its elegant appearance combined with vernacular elements, make it an unusual architectural survival.

This vacant building had fallen into a state of disrepair, which led to the loss of historic material and setting quality (see images above). Planning permission was granted for a hotel development in April 2011. This development, which would have secured and reused the property, had however not commenced. While some initial holding repairs were completed, HED attempts to engage with the owner to undertake urgent repairs were unsuccessful. Requests were also received from the local council seeking HED to take action.

As the building remained at significant risk, HED served an Urgent Works Notice on this property on 13th March 2012 under the provision of Article 80 of the Planning (Northern Ireland) Order 1991. This required the owner to undertake works to make the building secure from unauthorised access and water ingress.

After serving the notice, the owner undertook substantive works at his own expense, including re roofing the property with natural slate as shown below, to secure the building and make it wind and weatherproof.



Above: Urgent Works nearing completion, Corrstown House, Portrush © DfC



DfC

Department
for Communities
www.communities-ni.gov.uk

Supporting and sustaining vibrant communities and a strong economy through realising the significant, ongoing value of our historic environment.

Historic Environment Division

Causeway Exchange
1-7 Bedford Street
Belfast
BT2 7EG

Tel: 028 9082 3177 / 028 9082 3126

Email: Historicenvironmentenquiries@doeni.gov.uk

Web: www.communities-ni.gov.uk/topics/historic-environment



**INVESTORS
IN PEOPLE**