

DANGEROUS AND INSANITARY BUILDINGS POLICY

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Dangerous and Insanitary Buildings Policy

1. INTRODUCTION

This policy has been developed in response to requirements set out in the Building Act 2004 (BA04). Although Council already manages dangerous and insanitary buildings when they are detected or reported, the requirement to have a formal policy is entirely new.

This policy has a tenure of five years from the time it is adopted to when it must be reviewed.

This policy has been developed using the special consultative procedure under the Local Government Act 2002 including discussion with principal Council stakeholders, principal external stakeholders, adjacent territorial authorities, the Greater Wellington Regional Council, and the public.

2. POLICY OBJECTIVES

The objective of this policy is to discharge BA04 responsibilities with respect to the dangerous and insanitary buildings. The policy also includes Council's general approach, priorities and application to heritage buildings.

It is the responsibility of building owners to ensure that buildings comply with the requirements of the BA04. Council can give no assurance or guarantee that any building is safe or sanitary at any time. Council's responsibility is to ensure that when dangerous or insanitary conditions are found, that the danger is reduced or removed and that the building is prevented from remaining insanitary.

This policy applies to all buildings, even though a code compliance certificate may have been issued previously, as the current use and/or maintenance of the building can impact on the health and safety of occupants.

3. POLICY PRINCIPLES

This policy has been developed considering the purpose and principles of the BA04 which seek to ensure that:

- People who use buildings can do so safely and without endangering their health
- People who use a building can escape from the building if it is on fire.

4. PRIORITIES

Council will respond promptly to complaints and will inspect to assess the dangerous or insanitary status of a building. The assessment will determine if immediate or urgent action is necessary, if the building is confirmed as being dangerous or insanitary. If an immediate response is required, section 129 of the BA04 gives Council options to take action.

In general, 10 days is considered a minimum notice period for the danger to be removed or the insanitary conditions to be fixed, unless the situation requires immediate rectification.

5. HERITAGE BUILDINGS

Council's Built Heritage Policy 2005 and section 6(f) of the Resource Management Act 1991 (RMA) note that building work on a heritage building must be done in a way appropriate to its heritage values. No further special measures will apply. Except in emergencies, a heritage building cannot be demolished without resource consent and demolition is not an option to remove a danger or fix insanitary conditions. The BA04 requires that any notice regarding a building listed under the Historic Places Act 1993 be copied to the Historic Places Trust.

Sections 330 and 330A of the RMA do allow for the demolition of a heritage building. This is in the case that any sudden event (for example the collapse of a building) is likely to cause loss of life, injury or serious damage to property.

6. GENERAL APPLICATION

Council's general approach is outlined in the process below:

1. *Detect*

When a complaint is received or a Council officer observes a potential dangerous or insanitary condition:

- the event is recorded on Council's databases
- records related to the building are searched if the urgency of the situation allows
- an inspection is arranged.

2. *Assess*

An assessment of the building is undertaken using the checklist and the work instruction which is an agreed process common to Hutt City Council, Upper Hutt

City Council, Porirua City Council, Kapiti Coast District Council, and Wellington City Council.

Among other things, the building is inspected to determine:

- illegal building work (possibly unauthorised change of use)
- maintenance of specified systems (for fire safety and water supply protection)
- the state of repair (structure, services, passive fire protection)
- the level of safety offered by the building compared to the “acceptable solution”¹

Credible scenarios are then considered and expert advice may be taken where appropriate. A decision as to whether the building is dangerous and/or insanitary is made by an authorised Council officer and options to reduce or remove the danger or fix the insanitary conditions are explored.

3. Act

When a building is determined to be dangerous and/or insanitary, the building owner or their agent is contacted to discuss remedial options and actions when the urgency of the situation allows. The building owner can agree to complete the work within a specified time or otherwise the Council can issue a notice to require that work be done to reduce or remove the danger or fix the insanitary conditions.

If there is immediate danger to building users, Council can undertake work to remove the danger or fix the insanitary conditions and recover costs from the owner.

4. Monitor

The building will be re-inspected to confirm that the required actions have been completed or a written notice has been complied with.

5. Enforce

Where danger or insanitary conditions continue, further notices to do the remedial work will be issued. Continued failure to comply with a notice can lead to prosecution.

Another option is for Council to undertake the work and recover the costs from the building owner.

¹ An acceptable solution is a document issued by the Dept. of Building and Housing as one means of compliance with the Building Code.

7. RECORD KEEPING

Information is included on Land Information Memoranda where dangerous and insanitary conditions are confirmed but not resolved. A copy of any outstanding written notice is also included along with explanatory information of the requirements of the BA04. Information is not included when dangerous or insanitary conditions have been resolved.