



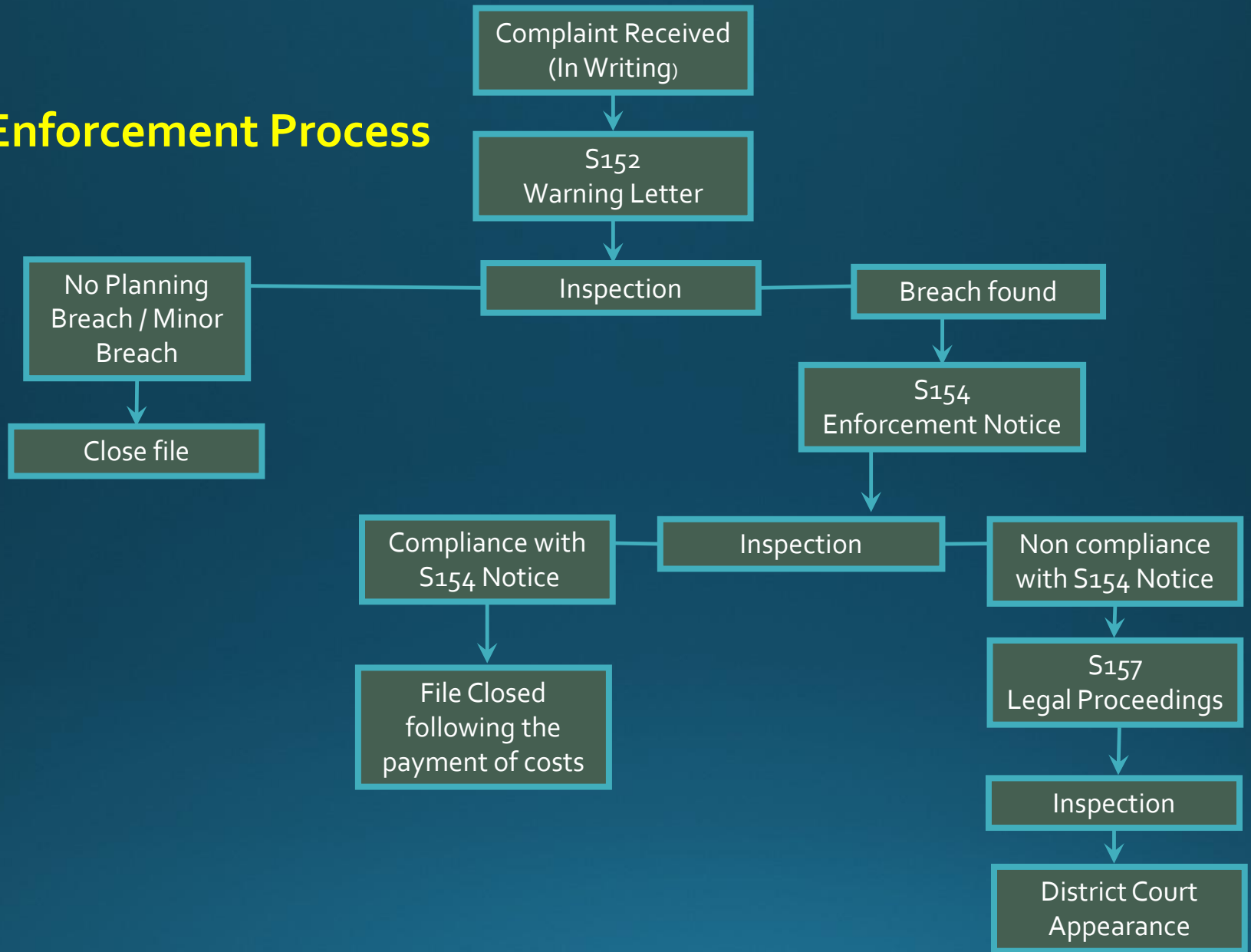
Local Authority and Regional Assembly Staff Training Webinar

Dublin City Council's, Planning Enforcement
Processes & Procedures



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

The Enforcement Process



Enforcement Provisions, Part VIII of the Planning and Development Act 2000 (as amended).

S151: Any person who has carried out or is carrying out unauthorised development shall be guilty of an offence.

Enforcement Mechanisms

- Warning Letter (S152 PDA)
- Enforcement Notice (S154 PDA)
- S157 Criminal prosecution for unauthorised development
- Injunction proceedings (S160 PDA).



The Benefits of Serving a General Section 152 Warning Letter Before an Inspection.

- In most cases the enforcement section will receive a response from the recipient of the warning letter, owners details can be recorded, any concerns / queries raised can be answered, and a suitable date and time to carry out an inspection can be arranged.
- Reduces the number of inspections required.
- Calling cold to a property when the occupier is unaware that a complaint has been received can result in aggressive behaviour towards staff.
- Minor issues can be resolved prior to the initial inspection.
- The owner / occupier has time to seek planning advice and may have taken steps to regularise the unauthorised development, prior to the initial inspection.

Interaction with Complainants

- All correspondence received is responded to by way of an acknowledgement letter or email.
- Phone calls are recorded and referred to the Planning Enforcement Officer (PEO) to follow up.
- The complainants are notified when an enforcement notice is served, withdrawn and when the file has been closed.



Use of APAS (Planning IT system)

1. All correspondence / phone calls received and all documentation generated by the planning enforcement section is recorded on APAS.
2. The planning enforcement register is an electronic public register generated within APAS and comprises a limited amount of information (NB GDPR & Data Protection) including:
 - The decision made by the planning authority to issue a warning letter including the reasons.
 - Particulars of an enforcement notice served.
 - Details pertaining to the withdrawal of an enforcement notice.
 - The register shall incorporate a map for enabling a person to trace any entry in the register.

Case Study: Complaints were received alleging that an unauthorised extension had been constructed to the rear of a property.



A **Section 152** warning letter was served on the owner / occupier of the property advising that:

- It has come to the attention of Dublin City Council, the Planning Authority, that unauthorised development **may have been, is being or may be carried out** at the premises.
- It is **alleged** that a large extension is under construction to the rear of a house without the benefit of planning permission.
- The matter is currently under investigation.
- They may make submissions or observations.



Case Study Continued – Contents of the Warning Letter



- That officials of Dublin City Council may at all reasonable times enter on the land described for the purposes of inspection.
- A Section 154 Enforcement Notice may issue if the planning authority considers unauthorised development has been carried out.
- Lists the penalties for offences.
- Provides contact information for the Enforcement Officer assessing the complaint received. Both landline and mobile phone numbers are provided.



Case Study Continued – Acknowledgement Letter to Complainants

- **Acknowledgement Letter issued:**

An acknowledgement letter was sent to the complainants informing them:

- We have issued a warning letter.
- We have allowed a period of 4 weeks for the recipient of the letter to respond to the allegation.
- After that 4 week period the council will undertake an inspection to establish if the development requires further enforcement action.
- At the end of our investigation, the complainant, will be advised in writing of the outcome and whether further enforcement action is warranted.
- The Enforcement Officer's contact details.



Case Study Continued

- A planning search revealed a new planning application had been lodged seeking retention for the unauthorised extension.



NOTE: The lodgement of a planning application to retain an unauthorised development or an undertaking from the owner / occupier to carry out all necessary works should not delay the serving of an Enforcement Notice. The period specified to comply with a notice can reflect attempts made by the owner / occupier to regularise the unauthorised development.



- An inspection was carried out and found an unauthorised two storey extension constructed to the rear of the property and a report was furnished recommending the Service of a Section 154 Enforcement Notice.



Title Searches

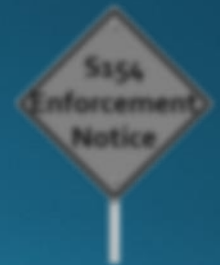
- Prior to the service of a Section 154 Enforcement Notice, if the identity of the occupier / owner is unknown, a memo is sent to the Law Department to carry out a title search of the property.
- **Search locations include:**
 - Planning applications, enforcement history, commencement notices
 - Companies Registration Office
 - Licensing Register (Alcohol license holder)
 - Rates Office
 - Land Registry
 - Registry of Deeds



Case Study Continued

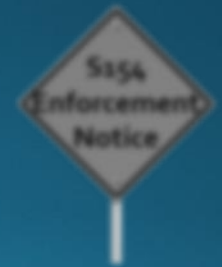
- A Section 154 Enforcement Notice was served requiring the removal of the unauthorised two storey extension from the rear of the property within a period of 12 weeks. (The specified period allows sufficient time for an initial / final decision to be determined).
- A planning search was carried out, upon the expiration of the date for compliance with the notice, and found that planning permission was refused by Dublin City Council, however, the applicant had appealed the decision to the Board.
- A decision was made to implement S157 legal proceedings for non-compliance with the Enforcement Notice.

Note: If in the event planning permission has been approved but appealed by a third party to the Board, then a decision will be made to hold the file in abeyance until a final decision has been determined.



Case Study Continued

- District Court: The plaintiff (owner) requested an adjournment on the grounds that a planning appeal had been lodged. The Court consented to the request.
- A subsequent planning search revealed the Board had upheld Dublin City Council's decision.
- District Court: The plaintiff (owner) undertook to carry out alterations within a period of 6 months so as to regularise / comply with the relevant planning legislation.
- A final inspection revealed the unauthorised two storey extension had been removed and all costs incurred by DCC had been paid. The matter was then struck out.





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