

## Briefing note

Following a fire on board a canal boat moored in the castle mill area, Oxford City Council carried out an initial visit and found some boats to be in a poor state of repair. We are reviewing the powers available to Private Sector Safety Team to ensure the health and safety of occupiers of the boats.

The Private Sector Safety Team normally deals with privately rented houses and the legislation we are authorised to enforce is better suited for this purpose. However, there are parts of legislation we enforce that may be used in regards to the poor condition of canal boats moored at Castle Mill. This briefing note outlines the legislation and powers that are available for use by the Private Sector Safety Team.

### Environmental Protection Act 1990

Under section 79 of Environmental Protection Act 1990 action can be taken in regards to any matters that constitute a statutory nuisance. A statutory nuisance is something that is either a 'nuisance' or something that is 'prejudicial to health'.

A nuisance is defined as circumstances that unreasonably interfering with the use or enjoyment of someone's premises. To be prejudicial to health it is not sufficient that a situation interferes with personal comfort, the premises must cause injury to health and impact on an individuals' physical well-being.

To constitute a nuisance or something that is prejudicial to health it has to be related to the sub sets of circumstances detailed under section 79 of the Act. Taking these and any exemptions into consideration the most likely sub sections to apply to the canal boats in question are:

79 (1)(a) *any premises in such a state as to be prejudicial to health or a nuisance &*  
79(1)(e) *any accumulation or deposit which is prejudicial to health or a nuisance.*

Where the Local Authority is satisfied that statutory nuisance exists or is likely to recur an abatement notice must be served on the person responsible.

The Environmental Protection Act 1990 definition of 'premises' includes land below any vessel and would enable an abatement notice to be served in this situation. However, if the vessel is moved and the nuisance persists after the service of the notice, the notice served would only apply to the previously occupied land.

Moreover 'premises' does not include a vessel and this prevents the Local Authority from claiming any expenses incurred where works in default are carried out. Therefore before any notices are served the Council must ensure they have available funds.

Failure to comply with an abatement notice is an offence and the person committing the offence may be liable to a fine not exceeding scale 5 on the standard scale (£5000).

## Public Health Act 1936

Under section 83 of Public Health Act 1936 action can be taken to clean premises that are deemed to be filthy or verminous.

Section 267 of the Act 'Application to ships and boats of certain provisions of Act' states that any vessel the provisions of 'filthy and verminous' shall have effect as if the vessel were a house, building or premises.

Section 83 states

*Where a local authority, upon consideration of a report from any of their officers, or other information in their possession, are satisfied that any premises-*

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health, or*
- (b) are verminous,*

*the local authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them, and the notice may require among other things the removal of wallpaper or other covering of the walls, or, in the case of verminous premises, the taking of such steps as may be necessary for destroying or removing vermin.*

Filthy premises are properties that are considered to be in such a filthy condition as to be prejudicial to health; this could include rotting foodstuffs or faecal contamination. The term 'filth' is a euphemism for excrement, animal or human while the meaning of unwholesome is now obscure.

Verminous includes the presence of rats, mice, insects or parasites including their eggs, larvae and pupae.

Premises that meet the above criteria may be deemed filthy or verminous and the local authority can take action.

In order to assess if a premises is filthy or verminous an officer is required to inspect. For this purpose an officer must give 24hrs notice to an occupier informing them of the intent to enter their premises. Where an occupier refuses entry an application for a warrant can be made to the Justice of the Peace to gain access.

Where a notice has been served and the owner/occupier refuses to carry out the work the Local Authority can carry out the works in default and claim the expenses from the owner or the occupier depending on whom the notice was initially served.

Due to nature of canal boats i.e freedom of movement and no registration of ownership, the recovery of cost, following works in default, may be difficult and the Council should ensure there are available funds to carryout works in default before any action is taken.