



# PLANNING ENFORCEMENT CHARTER

2026 - 2028

# GLASGOW CITY COUNCIL:

## PLANNING ENFORCEMENT CHARTER 2026

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## What is a Planning Enforcement Charter?

The Planning Enforcement Charter (“the Charter”) is the Council’s policy statement reviewed and updated every two years. It sets out how the Council delivers planning enforcement services across the city. The Charter serves as both a policy framework and a practical guide for stakeholders. It explains the processes, powers and policies applied when addressing enforcement matters as well as the service standards and commitments the Council aims to achieve.

Additionally the Charter outlines the decision-making procedures used to assess alleged breaches ensuring that all actions are consistent, transparent, and carried out promptly.



## 2 – WHAT PLANNING ENFORCEMENT CAN AND CANNOT DO

### What constitutes a breach of planning control?

Only works that constitute “development” under planning legislation can amount to a breach of planning control. Examples include:

- Building or engineering works.
- Changes of use of land or buildings.
- Development not carried out in accordance with an approved planning permission.
- Failure to comply with conditions of planning permission or a legal agreement attached to it.

### Other matters within the remit of the Planning Enforcement Team:

Some matters do not require planning permission but still fall under the Planning Enforcement Team’s remit for enforcement or regulatory action. These include:

- Demolition within Conservation Areas requiring Conservation Area Consent.
- Unauthorised works to a listed building without Listed Building Consent.

- Felling, lopping or pruning of protected trees without the prior agreement of the Council.
- Display of advertisements without any prior consent required under the Advertisement Regulations
- Excessively untidy private land or property which has a serious detrimental impact upon surrounding amenity (excludes fly tipping).
- Issues raised under the High Hedges (Scotland) Act 2013.

### **What does not constitute a breach of planning control?**

**Planning enforcement only applies to breaches of planning legislation. It is a common misconception that Planning can resolve all amenity issues caused by neighbours or businesses. Many such problems fall under other legislation. The purpose of planning enforcement is to address breaches in the public interest, not to protect private interests (although these may sometimes align). The following are examples of matters that do not constitute a breach of planning control:**

1. Permitted development: Works allowed under the General Permitted Development Order without planning permission. Certain works are permitted (Restrictions apply in Conservation Areas and for listed buildings, where listed building consent may still be required).
2. Civil disputes: Issues such as neighbour nuisance, boundary disagreements, title deeds, tenancy agreements, or land ownership.
3. Failure to comply with advisory note(s) attached to a planning or listed building consent (these are not enforceable conditions)
4. Matters regulated under other legislation by other departments, including:

\* Building Standards: Dangerous structures or technical building issues under Building Standards Regulations.

\* Environmental Health: Fly tipping, fly posting, statutory nuisances (e.g. noise, odours - unless controlled specifically by a planning condition), and construction site working hours.

- \* Roads (Maintenance): Works on public roads and footways, or flyposting on road infrastructure.

## Time limits on taking action (Enforcement Immunity Rules)

Building works that have been substantially completed for more than four years are immune from enforcement action. Changes of use are generally immune if they have existed continuously for more than ten years, as is any breach of a condition which has been attached to an earlier planning permission. This lawfulness can be confirmed through a Certificate of Lawful Use or Development (CLEUD).

### **Certificate of Lawful Existing Use or Development (CLEUD).**

If evidence shows that the development has, on the balance of probability, reached the relevant immunity period, lawfulness may be confirmed by granting a CLEUD application.

## Effect of Enforcement Notice

Serving an Enforcement Notice “stops the clock” on immunity. However, the length of time the development has existed may be disputed and challenged as a ground of appeal, arguing that the development was already immune when the Notice was served.

Information received from complainants is therefore critical – not only to support enforcement action but also to demonstrate that the development causes a real negative impact that needs to be addressed.



## 3. REPORTING A BREACH OF PLANNING CONTROL

## How to report a Breach of Planning Control

Members of the public play a vital role in reporting breaches of planning control. Concerns should be raised with the Planning Enforcement Team, preferably via the online complaint form. When submitting a complaint, you must provide your name, address and a contact telephone number, along with clear evidence identifying the exact location and nature of the breach.

If you do not live near the breach and are therefore not directly affected, this will reduce the priority given to your case (depending on the severity of the breach). Exceptions apply for complaints made on behalf of someone unable to complain directly. Multiple complaints about similar cases within a street or a wider area will not be accepted, as these place an excessive burden on the service.

Due to limited resources proactive enforcement such as “patrolling” areas is not normally possible. Formal submission of a complaint ensures the matter will be addressed and prioritises issues of public concern. Priority is given to breaches that impact those closest to the affected location.

Every complaint submitted will be assessed for relevance to planning. If the matter does not fall within Planning Enforcement's remit, you will be advised accordingly.

## Remote Assessment of planning breaches

The Planning Enforcement Team has adopted remote assessment practices, originally introduced during pandemic restrictions and successfully developed since. This approach has improved efficiency by reducing the need for site visits and speeding up case handling.

To manage limited resources effectively, the service now requires evidence for any alleged breach at the point of complaint submission. This significantly reduces the burden of site visits, which account for a large proportion of officer time. Site inspections will still be carried out when necessary, but customers are expected to provide accurate location details, photographs and other relevant information for a case to be formally registered. If evidence is not provided, the customer will be contacted to request this. Cases without sufficient information will be closed at this stage.

Remote assessment has proved particularly successful for smaller scale householder developments, many of which fall within permitted development allowances. This change has resulted in significant efficiencies, including faster assessment of a large number of cases and better use of officer time.

## Cases where visits are required

In some situations, remote assessment may not be sufficient to determine the finer details of a breach. In these cases, a site visit will be arranged. Significant breaches identified as High Priority will be visited urgently and not assessed remotely. These practices form part of the Service Standards outlined later in this document.

## What your complaint must include

Reports should clearly state what has happened or is happening, and when works or activities possibly requiring planning permission began. The identity of the person(s) believed responsible should be provided together with any available contact details.

Photographs of work in progress are strongly recommended as they assist in determining the nature of the breach. Complaints lacking in sufficient detail will be referred back to the complainant, and if further information is not provided, the case will be closed.

Complaints can be submitted via the on-line complaints form (postal submissions may take longer to process).

### Planning Enforcement's Webpage and Complaint Form

All complaints must contain at least the following:

- Address of the property concerned
- Details of the suspected breach
- Your name, home address, and telephone number
- Complainants using the online form must provide a valid email address. incorrect or false details will prevent the investigation from proceeding.
- \* As much detail as possible on how the breach affects you

## Additional information required (unless a valid reason prevents this)

\* Dated electronic photographs to assist assessment

\* Measurements of any building (accurate or estimated) without compromising safety or privacy

\* Dates and hours of operation for any alleged unauthorised use, recorded over at least two weeks

## **Contact Address:**

Planning Enforcement Team

Neighbourhoods, Regeneration and Sustainability (NRS)

231 George Street

Glasgow G1 1RX

## **Anonymous Complaints**

To maintain a full audit trail and prevent vexatious complaints, anonymous reports are not accepted. Full contact details (name, address, telephone number) and supporting evidence are required. Complaints with false contact information will not be investigated.

## **Confidentiality**

The public plays an important role in reporting breaches. Communication with those directly and genuinely affected can be essential to investigations. Some complainants seek anonymity to preserve confidentiality. The service will protect complainants' personal details as far as possible. While communications relating to enforcement files are confidential, written objections or representations made in connection with a planning application or appeal arising from enforcement action are public documents. These may be viewed online and will include names, addresses and the content of the representation.

Those subject to a complaint may make assumptions about its source, which can lead to disputes. It is worth considering whether concerns can be resolved directly with your neighbour before submitting a formal complaint.

Complainants' personal details (name, address, phone number and other contact information) will be treated as confidential unless the complaint is made on behalf of a corporate or public body such as a community council. All information is subject to current Data Protection legislation, which requires the Council to protect personal information.

However, under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004, we may need to

disclose information relating to the substance of complaints subject to redaction of personal details included in any information held.

## **Policy on Unacceptable Actions by Customers**

The Planning Enforcement Team aims to review all confirmed complaints and provide an assessment in line with good enforcement principles, Service Standards, and Service Pledges. Whilst we strive to deal fairly, honestly, and consistently with all customers, there may be occasions where a customer is referred to our Customer Care Team under Glasgow City Council's Unacceptable Actions Policy. We believe that all customers have the right to be heard, understood and respected, and we expect the same for our staff

[GCC Policy on Unacceptable Actions by Customers](#)



## 4. A SUMMARY OF HOW THE PLANNING ENFORCEMENT PROCESS WORKS

Alleged breach of planning control reported through submission of online form or letter.



Complaints submitted successfully by online form are confirmed by receipt of a “ticket number”



Once received, the case is assessed for sufficient information and assessment of initial priority. An email will be issued **within 5 working days of receipt to confirm validity or requesting further information**. Once validated, the case is sent to admin support for logging of a formal case.



Valid cases are assigned an initial priority of High, Medium or Low, which affects the response times for providing a Planning Impact Report



If a site visit is necessary, it will be conducted **within 20 working days** of the case being logged.



For High or Medium Priority cases, a Planning Impact Report will be issued **within 2 months of the case being logged**. With Low Priority cases, a Planning Impact Report will be issued **within 6 months of the case being logged**.



Where action is required, the breach will first be addressed through negotiation. If this approach is unsuccessful, formal enforcement measures may be taken which can include service of a Notice. Most Notices carry a statutory right of appeal to the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA)



Whilst customers will be advised at key stages of the investigation, additional updates can be requested from the officer assigned to the case.

## The Planning Enforcement Service Standards

A service standard is a public commitment to a measurable level of performance that stakeholders can expect *under normal circumstances*. The following service standards are consistent with the priorities and objectives of the service. Performance in relation to the service standards will be monitored and reviewed over the life of the Charter which expires in April 2028.

| Service Standard          | Description                 | Target Timescale                                          | Additional Information                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------|-----------------------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Service Standard 1</b> | Validation of case.         | Within 5 working days of receipt of the complaint.        | <p>The receiving officer will assess whether the allegation constitutes a breach of planning control and confirm if sufficient information has been provided to validate the case.</p> <p>Where a valid case is confirmed, this assessment will include an initial categorisation of priority which will be sent to the complainant.</p> <p>Valid cases will then be formally logged by administrative support for the allocated officer to investigate</p> |
| <b>Service Standard 2</b> | Site visit (where required) | Within 20 working days of the case formally being logged. | <p>Clear, well-documented photographs and supporting evidence may remove the need for a site visit.</p> <p>However, some situations will require a visit to assess the full impact of the alleged breach.</p>                                                                                                                                                                                                                                               |

|                           |                                     |                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Service Standard 3</b> | Visit High Priority cases.          | Within 3 working days of receipt of complaint.                                                                                                                                                                                          | The site will be visited as a matter of urgency where a high-priority potential breach is identified. High-priority cases vary widely, and some may require immediate action. This service standard reflects the full spectrum of priorities, ensuring that urgent matters are addressed promptly while other cases are managed within the target timeframe                                                          |
| <b>Service Standard 4</b> | Providing a Planning Impact Report. | <p><b>High and Medium Priority Cases</b> - A report will be provided <b>within 2 months</b> of the case being logged.</p> <p><b>Low priority Cases</b> - A report will be provided <b>within 6 months</b> of the case being logged.</p> | <p>High- and medium-priority cases will receive a Planning Impact Report within two months of being logged.</p> <p>Lower-priority cases have a six-month target, which ensures that even the least urgent matters are addressed.</p> <p>While many low-priority cases may be resolved sooner, these timeframes reflect the need to prioritise urgent issues while guaranteeing that all cases receive a response</p> |

|                           |                                                                                                                                                          |                                                              |                                                                                                                                                                                                                                                                                                                                 |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Service Standard 5</b> | After issuing a Category E Planning Impact Report ('Investigation ongoing'), a conclusive assessment must follow with a final PIR confirming the outcome | <b>Within 4 months</b> of the date of the initial PIR, CAT E | Category E applies where there is insufficient information to make an assessment or where delays occur, such as the need for further discussions with developers or other factors. This approach ensures all cases requiring extended investigation are assessed and resolved, while maintaining a clear commitment to progress |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## PLANNING IMPACT REPORTS

Glasgow introduced Planning Impact Reports (PIRs) as an innovative tool to improve transparency and consistency in planning enforcement decision-making.

The Council holds statutory powers to investigate breaches of planning control and, where informal resolution is not possible, to take formal action. However, enforcement is a discretionary power, meaning the Council must weigh whether intervention is proportionate and in the public interest. The Council is not required to act on every breach; decisions hinge on the level of planning harm caused.

The Planning Impact Report is central to this process. It provides a structured assessment of the alleged breach, examining all material planning considerations and evaluating the degree of harm. This analysis informs whether enforcement action is necessary, expedient, or justified. Each PIR includes:

- A summary of site visit findings
- An assessment of planning impacts and harm
- A recommendation aligned to one of five outcome categories, which reflect the Council's discretion:

- Category A:** Enforcement Action Necessary – Significant planning harm requiring formal action.
- Category B:** Submission of an Application Required – Development may be acceptable subject to conditions; retrospective application needed.
- Category C:** Not Expedient to Pursue – Breach exists but public interest does not justify action.
- Category D:** No Breach – No planning permission required; case closed.
- Category E:** Interim Response – Investigation ongoing; reasons for delay and likely timescale provided. Requirement for a further PIR within 4 months.

## CHALLENGING THE OUTCOME OF A PIR

There is no formal right of appeal against the decision made in the PIR and in most cases the decision is final. Reconsideration may occur only where a factual inaccuracy is alleged and supported by evidence.



## 5. MAKING A SUGGESTION OR COMPLAINT ABOUT THE SERVICE YOU HAVE RECEIVED

### The Council's Complaints Handling Procedure (CHP)

The Council is committed to providing a planning enforcement service that meets public expectations. If you have suggestions, concerns, or difficulties, we welcome your feedback. We aim for continuous improvement and the prompt resolution of complaints.

Complaints about how an enforcement enquiry was managed will be investigated. Please note that simply disagreeing with the outcome of an investigation is not, by itself, grounds for a service complaint.

Complaints about the handling of a case—not its outcome—may be made under the CHP on the following grounds:

- Delays in responding to enquiries or requests
- Failure to provide the expected service
- Poor service standards
- Staff conduct or attitude
- Failure to follow procedures set out in this Planning Enforcement Charter

In the first instance, raise your concerns with the staff member involved. If the matter is not resolved, you can escalate under Stage 1 by contacting the Principal Planner, Enforcement Team Leader at the following mailbox:

[CouncillorEnforcementComplaints@glasgow.gov.uk](mailto:CouncillorEnforcementComplaints@glasgow.gov.uk)

If you remain dissatisfied with the response you may request escalation to Stage 2, for review and investigation of the matter.

Full details are available on the Council's website at  
<https://www.glasgow.gov.uk/complaints>



## **6. HIGH HEDGES COMPLAINTS - Procedures**

### **Under the High Hedges (Scotland) Act 2013**

#### **High hedge notice applications**

Hedges are not considered development; therefore, a person responsible for a high hedge is not in breach of planning control.

Control of high hedges falls under the High Hedges (Scotland) Act 2013 ("the Act"), effective from 1st April 2014. Planning Enforcement has responsibility for managing complaints and applications under this legislation.

The Act provides a mechanism for resolving high hedge disputes where neighbours cannot reach agreement. The Planning Enforcement Team has responsibility for managing assessments and applications under this legislation due to the similarity of processes and expertise required in dealing with breaches of planning control.

Under the Act, a hedge is defined as two or more trees or shrubs exceeding two metres in height and forming a barrier to light. Revised guidance (2019) clarifies this as the minimum criteria. Other considerations include impacts on protected species, past and current hedge management, and whether planting spacing reflects traditional hedge formation.

If criteria are met, an applicant may request the Council to consider issuing a High Hedge Notice. Applicants must make reasonable efforts to resolve the dispute before submitting an application.

#### **Application Process and Fees**

Applications under the Act are processed by the Planning Enforcement Team. A fee of £500 is required for validation. If a High Hedge Notice is served, both the hedge owner and the applicant may appeal to the Scottish Government. Applicants may also appeal if a Notice is refused.

Once a Notice takes effect, the hedge owner must remedy the issue by complying with the requirements of the Notice and prevent the problem from recurring. Ongoing maintenance is expected, as Notice requirements apply in perpetuity. The Council may carry out works where owners fail to comply, with costs recoverable from the hedge owner.

Council guidance is available here: [High Hedges Act - GCC Guidance](#)

### **Pre-Application Assessment**

The Council recognises that formal applications are costly, but this reflects the permanence and obligations of a Notice. Confirmed Notices apply in perpetuity and carry appeal rights for both parties, creating ongoing responsibilities for the Council.

To assist applicants, the Council offers a free pre-application assessment. This includes a site visit and advice on whether an application is appropriate, with detailed guidance provided.

This is not a substitute for an application. The Council will not contact the hedge owner or mediate between parties. Applicants will be reminded of their duty to attempt resolution before applying.

Requests for assessment follow the same process as enforcement complaints—online or in writing. Applicants must demonstrate the hedge's impact on residential amenity, similar to reporting an alleged planning breach.

## APPENDICES: PLANNING ENFORCEMENT POWERS, GUIDING PRINCIPLES AND SERVICE PLEDGES

### APPENDIX 1: PLANNING ENFORCEMENT POWERS

#### **Investigatory powers & Formal Enforcement Powers (Formal Enforcement Action)**

##### **Planning Contravention Notice (under Section 125 the Town and Country Planning (Scotland) Act 1997)**

This is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner or occupier, or a person with any other interest in the land or anyone carrying out operations on the land. The persons served are required to provide information about operations being carried out on the land and any conditions or limitations applying to any planning permission already granted. Failure to comply with the notice within 21 days of it being served is an offence and can lead to a fine in the Courts.

##### **Requisition for Information Notice (under Section 272 of the Town and Country Planning (Scotland) Act 1997)**

This provides limited powers to obtain information on interests in land and the use of land. Failure to provide the information required is an offence.

##### **Rights of Entry (Sections 156 – 158 of the Town and Country Planning (Scotland) Act 1997)**

**Section 156** enables the Council to enter land at any reasonable hour without a warrant to ascertain whether there is or has been a breach of planning control or to ascertain whether there has been compliance with any requirements arising from earlier enforcement action.

**Section 157** provides the Council the right to enter land with a warrant issued by a Sheriff if entry is refused.

**Section 158** provides that the Council has to produce evidence of their authorisation and state the purpose of their entry before they enter the land.

## Formal Action

### **Enforcement Notice (Section 127 – 129 of the Town and Country Planning (Scotland) Act 1997)**

This is generally used to deal with unauthorised development, but can also apply to breach of planning conditions. There are similar notices and powers to deal with listed buildings and advertisements (see below). An Enforcement Notice will specify a time period to take effect (a minimum of 28 days), the steps that must be taken to remedy the breach and the timescale within which the remedial action to be completed. There is a right of appeal and the terms of the notice are suspended until a decision is reached. Failure to comply with an Enforcement Notice within the time specified is an offence, and may lead to a Fixed Penalty Notice of £2,000 or a fine of up to £50,000 in the Sheriff Court if prosecution is pursued. Failure to comply may also result in the Council taking Direct Action to correct the breach (see Further Action).

### **Advertisement Enforcement (under the Town and Country Planning (Control of Advertisement) (Scotland) Regulations 1984**

The Advertisement Regulations and the 1997 Act include various provisions for dealing with the unauthorised display of advertisements, or challenging existing displays. These include:

**Advertisement Enforcement Notice:** This seeks to remove advertisements which do not have consent.

**Discontinuance Notice:** This allows the Council to challenge a consented display which is no longer considered acceptable. This usually applies to displays which have been in place for some time.

### **Breach of Condition Notice (under Section 145 of the Town and Country Planning (Scotland) Act 1997)**

This can be used to enforce the conditions applied to any planning permission. It is effective from the date it is served. It may be used as an alternative to an Enforcement Notice (see above), and is served on any person carrying out the development and/or any person having control of the land. There is no right of appeal. Contravening a Breach of Condition Notice can result in the Council serving a Fixed Penalty Notice for £300 or deciding to prosecute, where a fine can be imposed of up to £1,000.

## **Stop Notice (under Section 140 of the Town and Country Planning (Scotland) Act 1997)**

This is used in urgent or serious cases where unauthorised activity must be stopped, usually on grounds of public safety. When a Stop Notice is served, the Council must have first issued an Enforcement Notice. There is no right of appeal against a Stop Notice and failure to comply is an offence. An appeal can be made against the accompanying Enforcement Notice. If a Stop Notice is served without due cause, or an appeal against the Enforcement Notice is successful, the Council may face claims for compensation, which differentiates a Stop Notice from other types of enforcement notice. There are, however, exemptions. For example, a Stop Notice cannot be served on a dwelling.

## **Temporary Stop Notice (under Section 144A of the Town and Country Planning (Scotland) Act 1997)**

This is used to stop the unauthorised activity immediately. It may be served before the issue of an Enforcement Notice and ceases to have any effect after 28 days.

## **Amenity Notice (under Section 179 of the Town and Country Planning (Scotland) Act 1997)**

This allows planning authorities to serve a notice on the owner, lessee or occupier of land which is adversely affecting the amenity of the area. This sets out the action that needs to be taken to resolve the problem within a specified period. There is a right of appeal against an Amenity Notice. Such a notice will normally only be used where serious disamenity is caused to the wider area, not for relatively minor instances of untidiness such as poor maintenance of garden lawns.

## **High Hedges (Scotland) Act 2013**

Once the local authority has decided that action needs to be taken regarding a high hedge, it must issue a High Hedge Notice. This Notice gives effect to the local authority's decision and details the action to be taken to restore a suitable balance between the amenity enjoyed by the applicant and the hedge owner, having regard also to the needs of the wider community. A High Hedge notice will specify the 'initial action' and any 'preventive action' required by the owner of the hedge. The Notice will detail what action is required to alleviate the problem (most likely to reduce the height of the hedge) and any maintenance required to prevent recurrence of the problem. A High Hedge Notice remains in existence for as long as the hedge remains on the land or a local authority has withdrawn the notice.

## **Interdict and Interim Interdict (Section 146 of the Town and Country Planning (Scotland) Act 1997)**

An interdict may be granted by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and the Council normally only seeks interdicts in very serious cases e.g. where public safety may be involved or unauthorised works are taking place to a listed building. The Council can seek an interdict, however, in relation to any breach without having to use other powers first. Breaching an interdict is treated as a contempt of court and carries heavy penalties.

## **Request for Application Notice (Section 33A of the Town and Country Planning (Scotland) Act 1997)**

This may be served where the Council requires the submission of a planning application for development which has already taken place without the appropriate planning permission. Technically, this constitutes formal enforcement action and extends the period within which other enforcement action may be taken.

## **Fixed Penalty Notice (Sections 136A and 145A of the Town and Country Planning (Scotland) Act 1997)**

This may be served as an alternative to seeking prosecution where the terms of a notice have not been complied with. The penalties are £2,000 (£1,500 if paid within 15 days) for non-compliance with an Enforcement Notice, and £300 (£225 if paid within 15 days) for non-compliance with a Breach of Condition Notice. Failure to pay a Fixed Penalty fine may result in the case being referred to the Procurator Fiscal for possible prosecution.

## **Listed Building Fixed Penalty Notice (Section 39A (5) and (13) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997)**

For Listed Building Enforcement Notices the penalties are £2,000, £3,500 for a 2nd breach and £5,000 for 3rd and subsequent breaches. Failure to pay a Listed Building Fixed Penalty fine may result in the case being referred to the Procurator Fiscal for possible prosecution.

## **Tree Replacement Notice (under Sections 167 and 172 Town and Country Planning (Scotland) Act 1997)**

This may be served when a protected tree (either protected by a Tree Preservation Order or a tree located within a Conservation Area) is felled or otherwise destroyed without prior consent. An appeal may be made against a Tree Replacement Notice.

## **Possible Further Action**

If an Enforcement Notice has not been complied with and the time for compliance has elapsed if the breach is continuing, the Council can pursue the following actions:

### **Fixed Penalty Notice**

This may be served as an alternative to seeking prosecution in the Courts.

### **Prosecution**

The Council may refer the matter to the Procurator Fiscal for possible pursuit of the case in the Sheriff Court. A fine of up to £50,000 may be imposed but this will not necessarily resolve the breach of planning control. If the breach continues, the Council can again refer the matter to the Procurator Fiscal.

### **Direct Action**

Failure to comply with the terms of an Enforcement Notice or a High Hedge Notice within the time specified can result in the Council carrying out the required work. The Council will seek to recover the costs it incurs from the current landowner.

### **Burden on Property**

In some circumstances the Council may decide not to take any action and leave an extant enforcement notice as blight on land/property. This can lead to a delay if a house/land is to be sold and the sellers agents require these breaches to be rectified in order for the sale to conclude. Where there are any outstanding financial implications registered against land/property that appear on a Councils Property Enquiry Certificate, all sums due to the Council will be deducted from the future sale of that land/property.

## **APPENDIX 2: THE PRINCIPLES UNDERLYING GOOD PLANNING ENFORCEMENT**

### **Expediency**

Planning Enforcement is a discretionary power. This means that the council has to consider whether it is in the public interest to take enforcement action. There is no requirement for the council to take any particular course of action in response to an alleged breach, and in many cases, the most reasonable approach is to not take any action, such as if the breach is of a very small scale, does not cause harm, or enforcement action would be disproportionate.

Harm can arise through a range or combination of factors:

- Adverse impact on visual amenity

- Inappropriate development that harms the surrounding area
- Failure to comply with a condition of planning permission
- Loss of privacy or loss of natural light
- Loss of protected trees
- Irreversible damage to a listed building or demolition of a building within a conservation area
- Extremely untidy land and derelict buildings.

Harm does **not** include:

- Competition caused to another business
- Ownership disputes, including trespass onto land
- Loss of value to a property

## Proportionality

Enforcement action should always be proportionate to the scale and nature of the breach of planning control and the seriousness of the harm caused as a consequence. It is important to recognise that generally, it is not a criminal offence to carry out works without planning permission.

It is however a criminal offence to do the following without consent:

- Work affecting the character of a listed building
- Felling, lopping, uprooting or wilful damage/destruction of trees protected by Order (TPO)
- Display of an advertisement requiring consent
- Failure to comply with an Enforcement Notice which has taken effect

Planning legislation enables people who have carried out unauthorised development to apply for retrospective planning permission. In dealing with such applications, the Council must consider them in exactly the same way as any other application.

There are many options available when dealing with a breach of planning control. An opportunity will always be given to allow the breach to be resolved without formal action, however, unreasonable delay should not prevent swift action where it is clearly necessary.

The most severe breaches showing flagrant disregard for the planning system and concerns regarding the impact of unauthorised development will be met with swift action, including the use of Temporary Stop Notices (stopping any

unauthorised activity for 28 days to allow consideration longer term action) and through the use of Interdicts where an Enforcement Notice has not been complied with. Relatively minor breaches may be acceptable and an application will be asked for where appropriate. At the lowest end of this spectrum, technical breaches with little or no impact will not be pursued for further action. All investigations and Notices are identified on property enquiry certificates and may present problems to an owner should they wish to sell their property. Solutions to the breach are often sought at that juncture.

## **Consistency**

Whilst each situation presents its own unique circumstances, we endeavour to carry out our duties in a fair, equitable and consistent manner. We will consider each individual matter on its own merits. There will be a consistent approach to enforcement action against breaches of a similar nature and circumstance, guided by the City Development Plan and supplementary planning guidance to establish what action is required. In reaching a decision we will be mindful of advice contained within relevant government guidance as well as taking into account emerging planning appeal decisions and case law where appropriate.

## **Negotiation**

Enforcement powers provide leverage to resolve breaches and are not intended to be used as punishment where planning permission has not been obtained.

In all but the most severe cases requiring immediate action, we will seek to negotiate compliance in the first instance. However negotiations will not be allowed to cause unreasonable and unjustified delay where clearly action should be taken.

## **Standards**

The Planning Enforcement Charter explains the service which will be provided and the standards of performance that customers can expect to receive. The Planning Enforcement Charter is subject to review every two years. Service standards are monitored quarterly to ensure that performance meets expectations.

## **Openness**

Information and advice will be provided in plain language on the rules we apply. We are happy to discuss general issues, specific cases or other issues with anyone with an interest in our service, subject to data protection and freedom

of information legislation. We will keep those who submit complaints identity anonymous.

## **Helpfulness**

We will work with the public to address their concerns and win dealing with developers will advise them towards compliance in the spirit of cooperation. Officers contact details will be provided to enable customers to contact them directly when seeking advice and/or an update on the progress of a case. We will issue a Planning Impact Report in accordance with service standard 4.

Whilst we aim to assist wherever possible, abusive, threatening or unacceptable language or behaviour, either in person or in correspondence will not be tolerated. Such actions will be referred to the Councils Customer Care team for potential action in relation to the Councils Unacceptable Actions Policy.

## **APPENDIX 3: PLANNING ENFORCEMENT SERVICE PLEDGES**

### **THE ENFORCEMENT SERVICE PLEDGES**

The way the Council deals with complaints is outlined above. In following this process the Council commits itself to service pledges which are a public commitment to a basic code of conduct of service delivery. The service pledges provide the overarching service direction and context to the detailed service standards which follow on from them.

#### **Service Pledge 1: To follow agreed procedures in resolving cases**

The Council will follow the procedures below in dealing with its enforcement activities. The general approach is that any action taken will be in proportion to the scale and nature of the breach.

- a. Each complaint regarding a possible breach of planning control will be followed up when it is received, in accordance with the Service Standards identified in this Charter.
- b. The Council will investigate all written or email complaints, where the complainant provides an email or postal address to receive a written reply. Anonymous complaints will not be investigated although discretion in this may be exercised where the allegation relates to a very serious breach of control (as described in Service Pledge 4 below).

- c. The Council will treat the complainant's personal details, name, address, phone number and any other contact details as confidential, unless the complaint is made on behalf of a corporate body or public body such as a community council. Complainants should, however, be aware that, if the case progresses to a planning appeal, then their name and some contact details may be released by Scottish Ministers into the public domain.
- d. The Council will attempt to resolve the alleged breach without recourse to the service of a formal notice, but will not allow the process to be unnecessarily delayed where it appears unlikely from the outset that planning or other consent would be granted by the Council.
- e. Where a breach of planning control appears at face value to comply with the City Development Plan and does not unduly impact on amenity or public safety, the Council will initially invite a retrospective planning or other appropriate application to be submitted. Subsequent failure to submit an application under these circumstances may result in the service of a Section 33A Notice (See Appendix 1) which is an enforcement notice formally requiring the submission of an application.

**Service Pledge 2: To take action where it is considered expedient to do so.**

The Council will take formal enforcement action only where the breach is considered to have an unacceptable effect on public amenity, or where the use of land and buildings merits protection in the public interest. Each case will be considered on its merits and the decision will be informed by the relevant policies of the City Development Plan and the degree of harm caused by the breach, assessing the impact relative to the established appearance or character of the property and area. Generally, a higher priority will be given to a breach where it affects the complainant's amenity in the locality of their own address. Correspondingly, less weight will be given to complaints from one source about many similar breaches located throughout the wider area, which may have little or no direct impact on the amenity of the complainant concerned.

**Service Pledge 3: To use powers which are in proportion to the harm caused by the breach**

The Council will consider the range of its enforcement powers (see Appendix 1) to remedy an unacceptable breach. The action taken will depend on the nature of the breach.

Where an effective Enforcement Notice is not being complied with the case will be assessed in term of further action. Legal action may be an option but will usually only be possible where the impact of the development is unprecedented and severe enough to be considered by the Procurator Fiscal to be in the public interest to prosecute.

Fixed Penalty Notices may be a more realistic option as these will have repercussions when a Property Enquiry Certificate is obtained by solicitors on behalf of the property owner when selling the property. The threat of the FPN may also provide leverage to bring about resolution and can be a useful tool in this way.

Direct Action is possible where a Notice has not been complied with; but given the substantial financial cost with no guarantee of costs being recovered this may not be practical or financially feasible. However, each case will be considered in light of prevailing circumstances at the time and all options will be considered.

#### **Service Pledge 4: To identify cases for higher priority action**

The Council will generally deal with complaints about alleged breaches in accordance with the order in which they are received except for the following which will be given priority. Where there is a conflict between priorities those cases involving the historic fabric of the City will take precedence.

- Complaints alleging conspicuous irreversible damage to listed buildings.
- Complaints alleging breaches of control which have a severe impact on the character of a Conservation Area.
- Complaints alleging damage to trees protected by a Tree Preservation Order (TPO), or trees in Conservation Areas.
- Complaints alleging damage to Sites of Special Scientific Interest (SSSI), local nature reserves and other environmentally designated sites as identified in the City Development Plan.
- Complaints alleging the storage of hazardous substances.
- Complaints alleging breaches of planning control which have more than a local impact on amenity and/or public safety.
- Non-compliance with the terms of a legal agreement entered into between the Council and a developer.

#### **Service Pledge 5: Monitoring of Major Developments**

**The Planning (Scotland) Act 2019** includes the requirement for planning authorities' enforcement charters to include a statement on the authority's monitoring of compliance with planning permission for major developments. Official guidance on how this should be delivered has not been provided. In the meantime, the following approach will be taken:

- The Planning (Development Management) Officer handling the major planning application will receive, discharge and monitor conditions, prior to and post-initiation of the development and will be the initial point of contact for the developer.
- If the Planning (Development Management) Officer is unable to resolve outstanding conditions within a reasonable timescale, the planning officer will advise the developer that the matter will be referred to the Planning Enforcement Team for consideration of appropriate action. The Planning (DM) Officer will notify the Planning Enforcement Team of the breach of condition and an enforcement case will then be logged and investigated accordingly.
- There may be a specific condition that the Planning (DM) Officer considers was pivotal to planning permission being granted and should therefore be monitored during the course of construction works such as the creation of a site access or ground remediation on a contaminated site. Consequently, the Planning (DM) Officer may notify the Planning Enforcement Team of this and an enforcement case will be created to monitor compliance with the condition at regular intervals. This may involve joint site visits with the Planning (DM) Officer, Planning Enforcement Officer and any other specialist area of expertise as required from within NRS to assess and assist for appropriate action.

#### **Service Pledge 6: Communication with the subject of the complaint and the complainant**

The Council will notify the owner/occupier of the property/site of the alleged breach.

- Progress updates will be provided to complainants and subjects of the complaint, at significant junctures (including closure of the case).
- Following confirmation that enforcement action is necessary, formal enforcement action will be taken where negotiations fail within a reasonable timescale.

- The Planning Enforcement service can be contacted when updates are required.

## APPENDIX 4: ADDITIONAL SOURCES OF INFORMATION

In this section you can find further information on the planning enforcement legislation and suggested key contacts.

### **Planning Legislation and Supporting Documents**

#### **Town & Country Planning (Scotland) Act 1997.**

Enforcement specific legislation can be found under Part VI Enforcement.

#### **Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.**

Planning Legislation controlling works to listed building and within conservation areas.

#### **The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984**

Planning Legislation controls the display of advertisements. Please note, Planning powers cannot regulate the content of advertisements. This is regulated by the [Advertising Standards Authority](#).

#### **Scottish Government Circular 10-2009 PLANNING ENFORCEMENT**

Sets out guidance on the use of enforcement powers in planning.

### **Glasgow City Council City Development Plan and Supplementary Guidance**

Glasgow's [City Development Plan](#) was adopted in March 2017, replacing City Plan 2 (2009). The Plan sets out the Council's vision and strategy for land use whilst also providing the basis for assessing planning applications along with its associated [Supplementary Guidance](#)

### **Scottish Government's Guidance on Householder Permitted Development Rights**

Some minor works can be considered to benefit from planning permission through statute. These are called Permitted Development Rights. A guide to householder permitted development rights can be found [here](#).

## APPENDIX 5: KEY CONTACTS

### **Key Contacts within Glasgow City Council**

- **Planning Enforcement**

The Planning Enforcement webpage can be found [Planning Enforcement Webpage](#)

- **Online Planning**

[Online Planning](#) is a planning portal where plans and other documents are available for planning applications received on or after 1<sup>st</sup> January 2007.

- **Duty Planner**

The Planning Service operates a Duty Planner service to advise the general public on planning matters. You may wish to contact them before submitting a complaint to clarify if the matter would be considered a planning enforcement matter or breach of planning control. They can be contacted via [online form here](#), via email at [planningenquiry@glasgow.gov.uk](mailto:planningenquiry@glasgow.gov.uk) or via telephone (Monday-Friday 9am to 1pm) on 0141 287 6060.

- **Building Standards**

Breaches of Building Standards regulations are often confused as a Planning Enforcement matter. However, Building Standards operate under different legislation from Planning and therefore action cannot be taken under Planning legislation. For further information on Building Standards at Glasgow City Council, their website can be found [Building Standards & Public Safety](#). They can be contacted via [online form](#); by emailing [building.standards@glasgow.gov.uk](mailto:building.standards@glasgow.gov.uk) or phoning 0141 287 8555

**FOR DANGEROUS BUILDINGS OR OUT OF HOURS PLEASE CALL: 0141 287 1059 (OPTION 2).**

- **Public Health**

Often matters pertaining to environmental health issues cannot be dealt with under planning legislation or would be more effectively addressed under environmental legislation. Our Public Health Group is located within Environmental Health. The group provides services in relation to Statutory Nuisances (including minor household disrepair, odours from commercial premises, draining issues, bug infestations, noise issues etc.), Commercial Waste enforcement, Fly-tipping enforcement, and Pest Control. For further information please view their [Public-Health Webpage](#) Public Health can be contacted via email at: [publichealth@glasgow.gov.uk](mailto:publichealth@glasgow.gov.uk) or by phone at 0141 287 1059.

- **Noise issues**

The Council's noise teams can investigate noise problems in domestic and commercial properties. For further information please view their page [Reporting a Noise Problem](#)

- **Landlord Registration**

Almost all private landlords must apply for registration with their local authority, under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004. Further information can be found at [Experiencing Antisocial Behaviour](#) They can be contacted via email at [PrivateLandlordRegistrationUnit@glasgow.gov.uk](mailto:PrivateLandlordRegistrationUnit@glasgow.gov.uk) or via phone at 0300 343 0414.

- **Housing in Multiple Occupancies (HMO)**

A landlord who permits their property to be occupied by three or more persons who are not related to one another must obtain a HMO license as well planning permission. It is a criminal offence to operate a HMO without a license and the maximum penalty upon conviction for doing so is a fine of £50,000. See Part 5 of the Housing (Scotland) Act 2006. The licensing process is regulated by the Housing and Regeneration Services. For further information please see

their [HMO Licence Webpage](#). They can also be contact via email at: [privatelandlordregistrationunit@glasgow.gov.uk](mailto:privatelandlordregistrationunit@glasgow.gov.uk) or via phone at 0300 343 0414.

- **Licensing**

Licences are not issued by the Planning Service. For information on licences issued by Glasgow City council and contact details see the Licensing [webpage here](#).

- **Roads and Parking**

Unless controlled specifically through a planning condition, generally parking matters are not controlled through planning legislation. For further information, view our Roads and Parking webpage [here](#).

- **Trees**

The responsibility for good management of all trees always rests with the property owner, as does the responsibility for obtaining the correct permissions for any proposed work. For further information please see our Tree Responsibility webpage including contact forms [here](#).

## **Key Contacts Outwith Glasgow City Council**

- **Advertising Standards Authority**

Planning powers do not regulate the content of advertisement. This is regulated by the Advertising Standards Authority whose website can be found [here](#). You can make a complaint via their [online form here](#).

- **Directorate for Planning and Environment Appeals**

The Directorate for Planning and Environment Appeals (DPEA) administers and determines any appeals against Planning decisions including against Planning Enforcement notices. Their website can be found [here](#). Guidance provided by the Scottish Government on Planning Enforcement appeals can be found [here](#).

- **Health and Safety Executive**

The Health and Safety executive provide information and advice on keeping people safe and healthy at work. Their website can be found [here](#). To report a health and safety issue you can use their [online form](#). Alternatively you can call 0300 003 1647.

- **Planning Aid Scotland**

Planning Aid Scotland can offer free, impartial advice and information on planning matters. Their website can be found [here](#) or you can contact their helpline on 0300 323 7602.

- **Police Scotland**

Police Scotland provide local community support for matters which can arise from a breach of planning control i.e. anti-social behaviour, criminal activity etc. For further information you can visit the [Police Scotland Website](#) If you wish to report a crime, ring 101 or in an emergency 999. Never use these email addresses for reporting crime.

- **Scottish Environmental Protection Agency**

Scottish Environmental Protection Agency (SEPA) is a non-departmental public body of the Scottish Government. Their role is to make sure that the environment and human health are protected, to ensure that Scotland's natural resources and services are used as sustainably as possible and contribute to sustainable economic growth. Further information can be found on the [SEPA Website](#). Alternatively they can be contacted via [online form](#) or via phone at 03000 99 66 99.

- **Scottish Assessors**

The Scottish Assessors provide information regarding Council Tax and valuation for rating (Commercial). To check if a property is correctly registered you can view the registers on the [Scottish Assessors Website](#)

- **Scottish Public Services Ombudsman**

Their website and contact information can be found at the [SPSO Website](#)

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