

DATA LABEL: PUBLIC



**ECONOMY, COMMUNITY EMPOWERMENT AND WEALTH BUILDING POLICY  
DEVELOPMENT & SCRUTINY PANEL**

**REVIEW OF THE PLANNING ENFORCEMENT CHARTER**

**REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION**

**A. PURPOSE OF REPORT**

The purpose of this report is to advise the panel of the proposed revisions to the Planning Enforcement Charter. The charter sets out the duties and responsibilities of the planning enforcement service within the Development Management section of Planning Services.

**B. RECOMMENDATION**

It is recommended that the panel notes the following recommendations which are intended to be submitted to Council Executive for approval after a consultation exercise has been undertaken:

- notes the comments received on the reviewed Enforcement Charter following consultation;
- agrees the responses to the comments received during consultation on the reviewed Enforcement Charter;
- approves the content of the reviewed Enforcement Charter,
- notes that enforcement is a discretionary power and that formal enforcement action should be seen as a last resort in terms of dealing with unauthorised development and activities.

**C. SUMMARY OF IMPLICATIONS**

<b>I Council Values</b>	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
<b>II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	<p>Enforcement is a discretionary activity delivered within the framework of the Planning Act and related regulations and guidance.</p> <p>The charter does not raise any Strategic Environmental Assessment (SEA), equality or health risk issues, although these might be considerations in individual enforcement cases.</p>
<b>III Implications for Scheme of Delegations</b>	There are no implications for the Scheme of Delegation to officers.

**to Officers**

<b>IV</b>	<b>Impact on performance and performance Indicators</b>	Measures about the speed and effectiveness of enforcement activity are part of the annual Planning Performance Framework reporting and KPI monitoring.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	<p><b>Outcome 3</b> - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.</p> <p><b>Outcome 4</b> – We live in resilient, safe and cohesive communities</p> <p><b>Outcome 8</b> – We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	No specific financial implications for the council are identified.
<b>VII</b>	<b>Consideration at PDSP</b>	This is the first consultations at PDSP of the reviewed Enforcement Charter.
<b>VIII</b>	<b>Other consultations</b>	None.

**D. TERMS OF REPORT**

**D1 Background**

Planning legislation gives local authorities enforcement powers to deal with a range of unauthorised land use activities. These generally involve the failure to obtain planning consent in advance of carrying out works or changes of use on land or to property, or failure to comply with a condition of a planning consent. The powers also allow the council to respond issues of loss of amenity resulting from with land or property which is in an untidy or derelict state.

**D2 The Enforcement Charter**

The council is required, under section 158A of the Town and Country Planning (Scotland) Act 1997, to produce and distribute an Enforcement Charter, which sets out:

- a statement of the authority's policies for taking enforcement action;
- an account of how members of the public are to bring any suspected breach of planning control to the attention of the council;
- how any complaint to the authority over a suspected breach is to be made; and
- the council's procedures for dealing with any such complaint.

The council's charter was previously reviewed in 2018 and 2021. The Act requires it to be updated and republished regularly and this review discharges that requirement.

No significant changes are proposed to the charter through this review with the changes being:

- Page 4 Non Planning Breaches Bullet 1  
 “Property ~~Services~~” name updated to “Property Management & Development”.
- Page 5 paragraph 1  
 “the carrying out development without ~~having~~ first ~~established~~ the requirement for, and then ~~having~~ obtained the necessary planning permission or approvals”  
 has been amended to  
 “the carrying out of development without first obtaining the necessary planning permission or approvals for that development”.
- Page 7 paragraph 2  
 “the Planning Enforcement Team undertake to visit the site of all alleged breaches of planning control within 10 working days of receiving a complaint”  
 has been amended to  
 “the Planning Enforcement Team undertake to either visit the site of all alleged breaches of planning control within 10 working days of receiving a complaint or to request additional photographic or other evidence to allow an assessment of the case”
- Page 7 paragraph 3  
 “An investigation begins with an officer visiting the site to gather information, before a decision is made on how to proceed.”  
 has been amended to  
 “An investigation begins with an officer visiting the site to gather information or an officer requesting additional information from the complainant or developer, before a decision is made on how to proceed”

The charter continues to set out the relevant matters which the council can take enforcement action against, those matters which cannot be addressed under the legislation, and the circumstances under which the enforcement service will act. It sets out the enforcement process and indicates the timescales for responses to initial complaints.

During 2021/22, the council received some 425 enforcement related complaints and the reviewed charter, in line with government guidance, sets out the nature of those complaints that will be investigated and those which will not be pursued, having regard to the wider public interest and the impact of a breach of planning control on residential and visual amenity.

Subject to council executive approval, the reviewed Enforcement Charter will be placed on the council's website and a copy will be sent to all elected members, community councils and amenity bodies within West Lothian.

### **D3 Consultation Arrangements**

It is proposed that public consultation on the reviewed Enforcement Charter will be carried out over a six-week period following consideration by the panel.

The reviewed Enforcement Charter will be published on the council's web site and invitations to comment will be issued through social media and to all community councils. Comments will be reported to the Council Executive together with the council's draft responses at a later date.

Further revisions to the Enforcement Charter may of course be identified following consultation with third parties.

### **E. CONCLUSION**

The reviewed Enforcement Charter, which contains no significant changes, sets out a clear route for reporting suspected breaches of planning control and provides an update on service contact details. The charter sets out the actions which can be taken in an attempt to resolve matters in advance of progressing enforcement action. It also sets out the public interest tests that will be applied when deciding if action is warranted.

### **F. BACKGROUND REFERENCES**

Town and Country Planning (Scotland) Act 1997  
[http://www.legislation.gov.uk/ukpga/1997/8/pdfs/ukpga\\_19970008\\_en.pdf](http://www.legislation.gov.uk/ukpga/1997/8/pdfs/ukpga_19970008_en.pdf)

The Planning (Scotland) Act 2019  
<https://www.legislation.gov.uk/asp/2019/13/section/44/enacted>

Appendices/Attachments: One

Appendix 1: Enforcement Charter 2023

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