

# North Lanarkshire Council Report

## Planning Committee

approval  noting

**Ref** PH/LM

**Date** 26/03/20

## Enforcement Charter Review 2020

**From** Pamela Humphries, Head of Planning and Regeneration

**Email** bowdenl@northlan.gov.uk

**Telephone**

---

### Executive Summary

The purpose of this report is to advise the Committee that the Council's Enforcement Charter has been revised, as required by the Planning etc. (Scotland) Act 2006 and to request that the Committee approve the revised contents of the Charter.

---

### Recommendations

The Committee is asked to approve the revised Enforcement Charter attached at Appendix 1.

---

### The Plan for North Lanarkshire

**Priority** Improve the health and wellbeing of our communities

**Ambition statement** (25) Ensure intelligent use of data and information to support fully evidence based decision making and future planning

## **1. Background**

- 1.1 The 2006 Act requires planning authorities to produce an enforcement charter which sets out how the enforcement system works, how the public can report breaches of planning control, the role of the council and the service standards it sets itself. The charter must be reviewed every two years.
- 1.2 The Council's first Enforcement Charter was approved by the Committee on 20th May 2010 and published online in November 2010. The current version was approved by Committee on 25 February 2018.
- 1.3 It should be noted that there have been no changes to the Enforcement legislation which would have necessitated changes to the Charter since it was first published or reviewed.

---

## **2. Report**

- 2.1 The Charter explains how the enforcement process works; the role of North Lanarkshire Council; the service standards we set and what happens at each stage of what can be a lengthy process.
- 2.2 Enforcement is one of the most complex parts of the planning system. The aim of this Charter is to ensure that adopted procedures are fair and reasonable and that interested parties are kept informed and are made aware of what is required.
- 2.3 The main revision is to make the public more aware of the practicalities of the enforcement system and process and expand on the reasoning why discretionary powers are used. The enforcement process looks to protect the principles set out by the planning legislation and allow the resources available to be targeted towards matters that are serious in nature and scale.

---

## **3. Equality and Diversity**

### **3.1 Fairer Scotland Duty**

No impact - the aim of this Charter is to ensure that adopted procedures are fair and reasonable, and that interested parties are kept informed and are made aware of what is required.

### **3.2 Equality Impact Assessment**

This is a review of our existing charter no negative impacts on equality groups or potential for infringement of individuals' human rights have been identified.

---

## **4. Implications**

### **4.1 Financial Impact**

There will be no financial impact arising from this proposal

4.2 HR/Policy/Legislative Impact

There will be no impact arising from this proposal

4.3 Environmental Impact

There will be no environmental impact arising from this proposal

4.4 Risk Impact

There will be no additional risk impact arising from this proposal

---

**5. Measures of success**

- 5.1 The measures of success would be an increased public awareness and understanding of the enforcement system which prioritises resources on addressing the most significant breaches including those where there is a risk of environmental harm.

---

**6. Supporting documents**

- 6.1 Appendix 1 – Enforcement Charter



**Pamela Humphries**  
**Head of Planning and Regeneration**



**North Lanarkshire Council  
Planning Enforcement Charter**

**A guide to enforcing planning controls**

**March 2020**

## EXECUTIVE SUMMARY

Planning permission is required for most development that takes place in Scotland. Sometimes, however, developers or householders undertake work without planning permission or fail to keep to the permission they have been given. Councils have powers to enforce planning controls in such cases, if they consider it is in the public interest to do so. This Charter explains how the enforcement process works, the role of the council and the service standards it sets itself. It also explains what happens at each stage of what can be a lengthy process.

The council will investigate breaches of planning control. These can include:

- work being carried out without planning permission;
- an unauthorised change of use;
- not following conditions imposed by a planning consent; and
- not following plans approved by a planning consent

The community can play a vital role in reporting such incidents to North Lanarkshire Council. This will need to include:

- the address of the property concerned;
- details of the suspected breach of planning control, (with times and dates if relevant); and
- the name and contact details for the person providing the information

Complainants details are treated confidentially, however, anonymity cannot be guaranteed if statutory enforcement action is undertaken; where court action is pursued the information we hold on a complaint must form a part of the report to the Procurator Fiscal.

The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. Action can involve negotiating a solution, asking for a retrospective planning application to be made, or more formal action such as the issue of an enforcement notice or a breach of condition notice. In addition the council can also decide that no action is necessary.

The decision not to take action against minor breaches is not taken lightly. This is a necessary tool to ensure that resources are targeted to matters that are serious in nature and scale while protecting the principles set out in planning legislation.

Formal action may require the agreement of elected members. This can include serving an enforcement notice on the relevant people, spelling out the action they are required to take. The notice can be challenged through an appeal to Scottish Ministers. If so, enforcement action is suspended until a decision is issued. Failure to comply with an enforcement notice can result in prosecution.

In some cases, the council is time-barred from taking action. Generally, work carried out more than four years ago or a change of use that took place more than 10 years ago is considered lawful and immune from action.

It is not always possible to anticipate how a particular case will develop, nor how long it will take. The council will try to keep people informed of progress. The council has set down the procedures, its service standards, and contact details in this Charter for Planning Enforcement.

Copies of this Charter are available on the North Lanarkshire Council website: [www.northlanarkshire.gov.uk](http://www.northlanarkshire.gov.uk) and at:

Planning and Regeneration  
Fleming House  
2 Tryst Road  
**Cumbernauld**  
G67 1JW

Tel: 01236 632521

Or by email to: [esplanning@northlan.gov.uk](mailto:esplanning@northlan.gov.uk)

**This document can also be made available in a range of languages and formats, including large print, braille, audio, electronic and accessible formats.**

To make a request, please contact Corporate Communications on 01698 302527 or email: [corporatecommunications@northlan.gov.uk](mailto:corporatecommunications@northlan.gov.uk)

## **CONTENTS**

1. Introduction
2. Key Points on Planning Enforcement
3. Identifying Possible Breaches of Planning Control
4. Investigating Possible Breaches of Planning Control
5. Acting on Breaches of Planning Control
6. Council Powers
7. Enforcement Powers
8. Enforcement and Advertising
9. Making a Suggestion or Complaint
10. Contact Information
11. Other Useful Contacts

## **1. INTRODUCTION**

1.1 This Charter explains:

- i. how the enforcement process works;
- ii. the role of North Lanarkshire Council and the service standards we set; and
- iii. what happens at each stage of what can be a lengthy process.

1.2 Enforcement is one of the most complex parts of the planning system. The aim of this Charter is to ensure that adopted procedures are fair and reasonable, and that interested parties are kept informed and are made aware of what is required.

1.3 This is an issue that concerns many members of the community. North Lanarkshire Council hope you will find this Charter useful and will let us know if you think we could improve the service further.

This Charter sets out the current powers available to planning authorities and the standards that North Lanarkshire Council has set. The guidance contained in this Charter will be revised regularly.

## **2. KEY POINTS ON PLANNING ENFORCEMENT**

2.1 The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. In addition, any action which may be taken has to be appropriate to the scale of the breach.

2.2 North Lanarkshire Council has statutory powers to:

- i. investigate breaches of planning control and the conditions attached to planning consents, and
- ii. to take formal action where a satisfactory outcome cannot be achieved by negotiation.

2.3 It is important to note that enforcement is a discretionary power. That means that, even where there is a breach of planning control, North Lanarkshire Council has to consider if it is in the public interest to take enforcement action. The council is not required to take any particular action on a specific breach of planning control, and indeed can decide that no action is necessary.

2.4 Certain developments do not require planning permission and are classed as permitted development. The permitted development legislation often has limits beyond which planning permission is required. Just because a development exceeds these limits this does not mean that it is unacceptable. The enforcement process looks to protect the principles set out by the planning legislation and allow the resources available to be targeted towards matters that are serious in nature and scale.

2.5 Fuller information on the use of enforcement powers can be found in the Scottish Government's Planning Circular 10/2009: *Planning Enforcement* which can be viewed online at:

<http://www.scotland.gov.uk/Resource/Doc/284738/0086481.pdf>

2.6 Planning enforcement also covers the physical display of advertisements such as billboards and advertisement hoardings, although slightly different procedures apply,

these are set out in a separate section 8 of this document. The actual content of an advertisement is not covered by planning control. Any complaints about this should be made to the Advertising Standards Authority.

- 2.7 To clarify it should be noted that the breaching planning control is not in itself a criminal offence. However a criminal offence occurs when certain formal notices, which are discussed further below, are not complied with.

#### **SERVICE STANDARD**

We will review this charter on a biannual basis to ensure that it remains relevant and effective.

### **3. IDENTIFYING POSSIBLE BREACHES OF PLANNING CONTROL**

- 3.1 Possible breaches of planning control can include:

- i. work being carried out without planning permission or consent;
- ii. an unauthorised change of use of land or buildings;
- iii. failure to comply with conditions attached to a permission or consent;
- iv. departures from approved plans or consent; and
- v. carrying out work to trees that are protect by planning condition or a Tree preservation order.

- 3.2 The community has a vital role in reporting breaches of control. Any concerns should be raised with North Lanarkshire Council. You can make preliminary contact by telephone or in person at the council offices but these must be followed up by letter or by e-mail. Verbal and anonymous enforcement complaints will not be acted upon unless the breach is of a serious nature, for example where there is a threat to public safety or significant or irreversible harm to the environment.

- 3.3 The following information is essential when reporting a suspected breach:

- i. the address of the property concerned;
- ii. details of the suspected breach of planning control, with times and dates if relevant;
- iii. your name, telephone number and address;
- iv. if the complaint is submitted electronically an email address must be provided;
- v. information on how the breach affects you;

It would be helpful if you could also submit any photographic in relation to fences or structures or evidence you have with dates and times of unauthorised uses, including the names and addresses of any additional witnesses. This information will be used to assess the nature of the activity and form part of the background to the investigation, but may not be considered as 'proof' of a breach.

- 3.4 Members of the community may question the need for a verbal complaint to be followed up in writing however the following should be noted:
  - i. written complaint allows accuracy of information;
  - ii. it provides a point of contact if further clarity is required; and
  - iii. provides the ability to provide updates on progress.
- 3.5 Whilst North Lanarkshire Council will do its best to honour requests for confidentiality, it is subject to the requirements of the Freedom of Information (Scotland) Act 2002 and some details of a complaint may require to be disclosed upon receipt of such a request. The personal details of a complainant will be held confidentially, however, requests for total confidentiality may limit the ability of the authority to take formal action and cannot be guaranteed if the case leads to court proceedings.
- 3.6 The community also has an important role in enforcement, it is not practical, nor is it expected, that North Lanarkshire Council will be aware of every breach of planning control. Your involvement is therefore invaluable in providing information where it is believed that a breach has occurred.
- 3.7 Breaches of conditions are investigated in the same way as breaches of planning control. Details of the conditions imposed upon a planning approval are included within the decision notice attached to the permission and can be viewed online at [www.northlan.gov.uk](http://www.northlan.gov.uk)
- 3.8 When information is received by the council's Planning Service it is checked to ensure that it involves a possible breach of planning control and includes all the details required for a possible investigation. The complaint will then be registered and a written or e-mail acknowledgement will be sent to the person who made the complaint.
- 3.9 Some complaints, relate to matters over which the planning service has no control, such as disputes over boundaries or land ownership, matters relating to the behaviour of builders/contractors, or can relate to developments that do not require planning approval, these cannot be investigated. If preliminary checking of a complaint indicates that there is no breach of planning control, the complainant will be advised and no further action will be taken. If we receive a complaint that relates to another council Service we will pass it to the relevant service and we will inform you who the matter has been directed to. Complaints relating to works on council owned land will be passed on to the appropriate service/property rather than pursued as enforcement complaints.
- 3.10 Notwithstanding the above it should be noted that even where a breach of planning control is identified the powers of enforcement are discretionary and not all breaches identified will be acted upon.

**SERVICE STANDARD**

On receipt of a written or e-mail enforcement complaint acknowledgement will be sent to the person who made the complaint within **5 working days**. The acknowledgement will include a reference number and contact details for the local office. If preliminary checking of a complaint indicates that there is no breach of planning control, the complainant will be advised and no further action will be taken.

**4. INVESTIGATING POSSIBLE BREACHES OF PLANNING CONTROL**

4.1 An investigation begins with the allocated case officer checking the historical information and visiting the site. Following this visit, the individual who has made the complaint will be informed of what action, if any, is proposed. In some cases, additional investigation may be needed before it can be clarified if a breach has occurred and what action may be appropriate.

**SERVICE STANDARD**

Members of the community who make a complaint will receive a formal response within **6 weeks** of receipt of their letter or e-mail when they will be advised of the status of the case and whether additional investigation is required prior to deciding on a course of action.

4.2 It should be noted that, dependant on the nature and scale of the breach, the length of time taken to investigate will vary from case to case. Priority for investigating complaints is based on matters such as the level of impact of the breach and the significance of the site. Priority will be given to significant breaches of planning control and those involving significant or environmental harm such as: unauthorised works to a Listed Building or Scheduled Ancient Monument; unauthorised land engineering or waste tipping and unauthorised felling of a tree covered by a Tree Preservation Order. Low priority will be given to breaches relating to minor works such as walls, fences and advertisements, unless these are adversely affecting public safety, and minor or small scale householder developments that result in non-serious harm to the amenity of a neighbourhood.

Table: Priorities

<b>HIGH PRIORITY</b>	
<u>Theme</u>	<u>Examples</u>
Causing immediate harm to public amenity or the environment.	Adverts causing serious road safety issues.
Causing unrepairable or irreversible harm.	Partial or full demolition of a Listed Building(LB)
Cases where it is immediately apparent that development is unacceptable on planning grounds	Works to trees subject to a Tree Preservation order (TPO) or within a Conservation Area
Causing or likely to cause permanent damage/long term effects	Demolition of a building in a Conservation Area
Causing immediate danger or threat to public safety	Non-compliance with site investigation requirements
Potential to escalate in planning terms if not addressed promptly	

<b>LOW PRIORITY</b>	
<u>Theme</u>	<u>Examples</u>
Unlikely to give rise to severe or lasting harm.	Minor breaches of a Planning Conditions or approved plans.
Cases that may warrant the submission of a retrospective Planning Application to regulate acceptable development or impose conditions.	Adverts causing harm or serious harm to visual amenity.
Breach causing low harm/non immediate harm to public amenity or the environment.	Minor works without planning permission eg. gates, fences, satellite dishes, domestic outbuildings
Breaches likely to remain stable	Minor variations or breaches that minimally exceed permitted development limits.
	Breaches that have gone undetected for an extended period (but still within period when action could be taken).

#### **SERVICE STANDARD**

Priority will be given to significant breaches of planning control including:

- significant or irreversible harm to the environment;
- irreversible damage to listed buildings;
- unauthorised felling of trees and matters affecting trees protected by Tree Preservation Orders;

- 4.3 The length of time required to resolve a case or take action can be affected by a number of factors. Progress can depend on the need to gather further evidence, to allow negotiations to take place or for formal procedures to be concluded. Similarly, an application to regularise the breach of control or an appeal against a decision of the planning authority can also influence the time for resolution of the case.
- 4.4 North Lanarkshire Council recognises that delays can be a source of considerable frustration to those submitting information, particularly if they consider their amenity is affected. Consequently, we will try to keep interested parties informed of significant stages in the progress of a case but they may wish to contact the case officer for a more regular update.

## **5. ACTING ON BREACHES OF PLANNING CONTROL**

- 5.1 In some cases action may not be appropriate, even though planning controls have been breached. As stated previously, the purpose of planning enforcement is to resolve problems, not punish mistakes. The planning authority has to consider each case on its merits and decide on the best solution. North Lanarkshire Council is unlikely to take formal action, for example, over developments which, in planning terms, are seen as acceptable. It may be more appropriate, in such cases, to seek the submission of a retrospective planning application. If it is determined that no action is appropriate the case will be closed and a letter sent to inform the complainant.

- 5.2 Only a relatively small number of cases require formal enforcement action. This may be a Notice requiring a retrospective application to be made, an Enforcement Notice or a Breach of Conditions Notice, these Notices are explained in Section 7.
- 5.3 Appeals against enforcement notices are considered by Scottish Ministers and dealt with, in most cases, by Reporters from the Directorate for Planning and Environmental Appeals. Anyone who has submitted information on a breach of planning control is advised of the appeal.

**Note: There is no right of appeal against a breach of condition notice.**

**SERVICE STANDARD**

Where a planning breach cannot be resolved and action is justified, a formal notice will be served. North Lanarkshire Council will write to the recipient of the notice to explain what is required, the timescales involved and the available options to resolve the issue.

- 5.4 Failure to comply with a Notice may result in the Planning Authority taking further action.

This can include a range of possible options including:

- i. referring the case to the Procurator Fiscal for possible prosecution;
- ii. carrying out any work required by an enforcement notice and charging the person for the costs involved; and
- iii. seeking a court interdict to stop or prevent a breach of planning controls.

- 5.5 In addition to or instead of the above other action may be appropriate. This can include a range of possible options including:

- i. serving of a Stop Notice;
- ii. referring the case to the Procurator Fiscal for possible prosecution;
- iii. carrying out work and charging the person for the costs involved; and
- iv. seeking a Court interdict to stop or prevent a breach of planning controls.

For more detail, see the 'Enforcement Powers' section 7.

**SERVICE STANDARD**

Where the terms of any enforcement notice are not complied with, every effort will be made to resolve the case to the satisfaction of North Lanarkshire Council. Options for further action will vary depending upon the nature of the case, but include:

- in the case of an enforcement notice, direct action by the council;
- for either an enforcement notice or a breach of condition notice, the matter being referred to the Procurator Fiscal for possible prosecution or alternatively offering the opportunity to pay a fixed penalty (issue of a fixed penalty notice)

5.6 Details of notices requiring retrospective planning permission, enforcement notices, breach of condition notices, temporary stop notices and stop notices are entered into an Enforcement Register. The register can be inspected by contacting [esplanning@northlan.gov.uk](mailto:esplanning@northlan.gov.uk) or by calling 01236 632521.

## **6. COUNCIL POWERS**

6.1 North Lanarkshire Council has powers to enter land to:

- i. establish if there has been a breach of planning control;
- ii. check if there has been compliance with a formal notice; and
- iii. check if a breach has been satisfactorily resolved.

6.2 This power applies to any land and may involve officials entering land adjacent to the site of the breach.

6.3 Enforcement action has to be taken within strict time limits.

- i. A four year limit - this applies to "unauthorised operational development" (the carrying out of building, engineering, mining or other operations in, on, over or under land) and change of use to a single dwellinghouse. After four years following the breach of planning control, the development becomes lawful, and no enforcement action can be taken.
- ii. A ten year limit - this applies to all other development including change of use (other than to a single dwellinghouse) and breaches of condition. After ten years, the development becomes lawful if no enforcement action has begun. There is no limit with regard to enforcement action being taken against unauthorised works on a listed building.

## **7. ENFORCEMENT POWERS**

7.1 The Planning Enforcement powers available to North Lanarkshire Council are set out in Part VI of the Town and Country Planning (Scotland) Act 1997 as Amended by the Planning etc. (Scotland) Act 2006. Listed building enforcement notices are covered by the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Planning Acts are available from HMSO, 71 Lothian Road, Edinburgh and can be viewed online at the Office of Public Sector Information (OPSI) website; <http://www.opsi.gov.uk/>

7.2 Government policy on planning enforcement is set out in Planning Circular 10/2009: *Planning Enforcement*. The circular is published on the Scottish Government website and can be viewed at

[www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars](http://www.scotland.gov.uk/Topics/Built-Environment/planning/publications/circulars)

7.3 The potential Notices that can be utilised are listed and discussed below. However it should be noted that every case requires to be assessed on individual circumstances.

## Types of Notice

7.4 **Breach of Condition Notice** - this is used to enforce the conditions applied to any planning permission. It comes into effect 28 days after being served. It may be used as an alternative to an enforcement notice (see below), 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 seeking to prosecute, with a fine of up to £1,000, if convicted.

7.5 **Enforcement Notice** - 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 (see below), and advertisements. An enforcement notice will specify:

- i. a notification period before it comes into effect (a minimum of 28 days - but see the section 8 below on advertisements);
- ii. the steps that must be taken to remedy the breach; and
- iii. a further period (known as the compliance period) which is set by the planning authority and gives the recipient time to carry out any works required to comply with the notice. There is no minimum or maximum period, so long as the amount of time allowed is reasonable and reflects the amount of work that may need to be undertaken.

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 **fine of up to £20,000** in the Sheriff Court. Failure to comply may also result in the council taking **Direct Action** to correct the breach (see other powers below).

7.6 **Listed Building Enforcement Notice** - this must be served on the current owner, occupier and anyone else with an interest in the property. The procedures are similar to those outlined above. The notice must specify the steps to be taken to remedy the breach and a final date for compliance. Failure to meet the terms of the notice by the date specified is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaches of listed building control are a serious matter. It is a criminal offence to undertake unauthorised works to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.

7.7 **Stop Notice** - 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 planning authority must also issue 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 Stop Notice may be quashed and North Lanarkshire Council may face claims for compensation. The use of stop notices therefore needs to be carefully assessed by the council.

- 7.8 **Temporary Stop Notice (TSN)** - this is used to require the *immediate* halt of an activity which breaches planning control. The provisions make an exception in that a TSN cannot prohibit the use of a building or a caravan as a dwellinghouse. TSNs are enforceable for 28 days, after which they time they expire. They may, however, be followed by further enforcement action such as an Enforcement Notice and Stop Notice. There is no provision to appeal against a TSN.
- 7.9 **Fixed Penalty Notice (FPN)** - this provides planning authorities with an alternative process, instead of the option to seek prosecution, to address situations where a person has failed to comply with the requirements of an enforcement notice (EN) or a breach of condition notice (BCN). By paying the penalty imposed by the FPN, the person will discharge any liability for prosecution for the offence. They will not, however, discharge the obligation to comply with the terms of the EN or BCN and the planning authority will retain the power to take direct action to remedy the breach and recover the costs of such work from that person. The planning authority is not required to offer the option of paying a fixed penalty. Any decision to do so would be dependent on considerations such as the scale of the breach and its impact on local amenity.
- 7.10 **Notice Requiring Application for Planning Permission for Development Already Carried out** - Where the planning authority considers that a development which does not have planning permission may be acceptable (i.e. they consider that it might be granted planning permission) they may issue a notice requiring the landowner or developer to submit a retrospective planning application. This application will be considered on its planning merits and handled in the same way as any other planning application. Issuing such a notice does **not** guarantee that permission will be granted; the planning authority may, on consideration of the application, decide instead to refuse permission, or to grant permission subject to conditions or alterations to make the development acceptable.

### **Other Powers**

- 7.11 **Planning Contravention Notice** - 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, on a person with any other interest in the land or who is carrying out operations on the land. They 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.
- 7.12 **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 and can lead to a fine by the courts.
- 7.13 **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 is also known as an **'Amenity Notice'** and sets out the action that needs to be taken to resolve the problem within a specified period. As it can prove difficult to recover such costs and given budgetary constraints the use of such notices needs to be carefully assessed by the council, these will normally only be pursued when there is a significant adverse impact upon amenity of an area; the works required are in the wider public interest and there are no other means of addressing the concerns.

- 7.14 **Interdict and Interim Interdict** - an interdict is imposed by the courts and is used to stop or prevent a breach of planning control. Court proceedings can prove costly and councils normally only seek interdicts in serious cases or where enforcement notices have been ignored in the past. However North Lanarkshire Council can seek an interdict 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.
- 7.15 **Direct Action** - these powers enable North Lanarkshire Council to carry out any steps required by an enforcement notice, including such steps to discontinue a use of land and such steps for the purpose of making development comply with the terms of any planning permission which has been granted in respect of the land, or for the purpose of removing or alleviating any injury to amenity which has been caused by the development. If direct action is undertaken the council will seek to recover any costs it incurs from the landowner.

## 8. ENFORCEMENT AND ADVERTISING

- 8.1 The display of advertisements is covered by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Many advertisements are displayed with what is called 'deemed consent' which means they do not require planning permission if they meet the criteria and conditions set out in the regulations. One of these conditions is that the landowner has given permission for the advertisement to be displayed on their land.
- 8.2 Displaying an advertisement in contravention of the regulations is an offence and, if convicted in court, an offender can be fined. The court can impose further fines for each day the breach of the regulations continues.
- 8.3 North Lanarkshire Council has the power to serve an enforcement notice. This specifies a time period (**normally 28 days**) for compliance with the notice. However, this period can be reduced to **seven days** if the council believes there is an urgent need for the advertisement to be removed or altered in the interests of public safety, **or** if the advertisement can be removed without any other work being required.
- 8.4 An enforcement notice can also require that a particular piece of land should not be used to display advertisements. This remains in force even if the original advertisement is removed. Any subsequent advertising on this site would amount to a breach of the notice.
- 8.5 North Lanarkshire Council also has powers to remove or destroy placards and posters that do not have planning permission or deemed consent. If the person who put up the poster can be identified, they have to be given at least **two days** notice that the council intends to take the poster down. If they cannot be readily identified, then the advert can be removed immediately.
- 8.6 Council officials can enter unoccupied land, if necessary, to remove an advertisement. However they have no powers to remove advertisements displayed within a building to which there is no public access.

## 9. MAKING A SUGGESTION OR COMPLAINT

- 9.1 North Lanarkshire Council hopes the community will be satisfied with the planning enforcement service. However, if you have any suggestions, concerns or difficulties, we want to hear from you. We are committed to improving our service and dealing promptly with any failures.
- 9.2 We will consider all complaints made about the way an enforcement enquiry was dealt with. Some people may disagree with the outcome of an investigation but, of itself, that is not grounds for complaint. As noted above there is a separate appeals procedure for a recipient of an enforcement notice.
- 9.3 In the first instance, any concerns regarding the enforcement service should be discussed with the member of staff involved in the investigation or their line manager. If you are not happy with their response you may submit a formal complaint, full details of the council's complaints procedures are available online at [www.northlanarkshire.gov.uk/listening](http://www.northlanarkshire.gov.uk/listening) or at any council office. The council's complaints procedure has two stages. The first stage is frontline resolution which aims to resolve complaints within 5 working days. Stage two complaints require further investigation and we aim to respond to these within 20 working days. Formal complaints may be made online or in writing to:

Planning and Regeneration  
Fleming House  
Tryst Road  
Cumbernauld  
G74 1JW

Tel: 01236 632500

- 9.4 Lastly, if having made a formal complaint about service provided by North Lanarkshire Council and you remain dissatisfied with the council's handling of your complaint, having exhausted the council's complaint procedure, you have the right to take your complaint to the Scottish Public Services Ombudsman, at:

FREEPOST SPSO

Telephone: 0800 377 7339

E-mail: [ask@spsso.org.uk](mailto:ask@spsso.org.uk)

[www.spsso.org.uk](http://www.spsso.org.uk)

Generally, you must contact the Ombudsman within 12 months.

### **SERVICE STANDARD**

North Lanarkshire Council will respond to formal complaints within the timeframes set out in the complaints procedure, see "How to Make a Complaint/Listening to You" at [www.northlan.gov.uk](http://www.northlan.gov.uk). The council will monitor all complaints and suggestions made and use them to review and improve the service provided.

## 10. CONTACT INFORMATION

For reporting suspected breaches of planning control and for general enquiries:

### **Planning and Place**

Fleming House  
2 Tryst Road  
Cumbernauld  
G67 1JW

Tel: 01236 632500

All emails should be sent to: [esplanning@northlan.gov.uk](mailto:esplanning@northlan.gov.uk)

## 11. OTHER USEFUL CONTACTS

### **Dangerous & Dilapidated Buildings**

Building Standards  
Municipal Buildings  
Kildonan Street  
Coatbridge  
ML5 3BT

Tel 01236 812440

### **SEPA**

Angus Smith Building  
6 Parklands Avenue  
Eurocentral  
Holytown  
ML1 4WQ  
*Flytipping & Dumping* 0845 2304090  
*Customer Enquiries* 03000 996699  
[www.sepa.org.uk](http://www.sepa.org.uk)

### **Directorate of the Built Environment**

Victoria Quay Edinburgh EH6 6QQ  
tel 08457 741741  
[modernisingplanning@scotland.gsi.gov.uk](mailto:modernisingplanning@scotland.gsi.gov.uk)

### **Planning Aid for Scotland**

125 Princes Street Edinburgh EH2 4AD  
tel 0845 603 7602  
[office@planningaidscotland.org.uk](mailto:office@planningaidscotland.org.uk)

### **Directorate for Planning and Environmental Appeals**

4 The Courtyard, Callendar Business Park  
Callendar Road, Falkirk FK1 1XR  
tel 01324 696 465  
[dpea@scotland.gsi.gov.uk](mailto:dpea@scotland.gsi.gov.uk)

**Health and Safety Executive**

1<sup>st</sup> Floor Mercantile Chambers

53 Bothwell Street

Glasgow G2 6TS

tel 0300 003 1747

[www.hse.gov.uk/scotland](http://www.hse.gov.uk/scotland)

**Advertising Standards Authority**

Mid City Place, 71 High Holborn, London

WC1V 6QT

tel 020 7492 2222

[www.asa.org.uk](http://www.asa.org.uk)

**NLC Interim Impact Assessment form**  
**Public Sector Equality Duty and Fairer Scotland Duty**

**Section 1. About the Policy**

<b>1.1 Name of the policy / strategy / function / procedure:</b> The Planning Enforcement Charter	
<b>1.1.1.</b> Is this a: - A new policy /strategy / function / procedure / service Budget saving Review of policy /strategy / function / procedure Review of Service Other (please specify)	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>
<b>1.1.2.</b> Is this is a key strategic decision subject to the Fairer Scotland Duty	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>1.2 Person Responsible for the policy etc.</b>	
<b>Name:</b>	<b>Job Title and Service / Team:</b>
Lorna Bowden	Planning & Place Manager

1.3 What is the scope of the assessment?		Detail where appropriate
Whole of the organisation	✓	
Service specific	X	Planning Service
Discipline specific		
Other		

<b>1.4 What is the policy/ strategy/ function/ saving trying to achieve / do?</b>
The Charter sets out to make clear how the Planning Service intends to achieve a proportionate and consistent approach to dealing with planning enforcement issues across the council area. The Scottish Government requires that the Charter is reviewed every 2 years.
<b>1.5 If this is a budget saving, how will the saving be achieved?</b>
N/A

## Section 2. *What do I know now?*

<b>2.1 Who are the stakeholders and beneficiaries?</b>					
The residents and businesses of North Lanarkshire and the Council, through the Planning Service.					
<b>2.2 What data, consultation, research and other evidence or information is available relevant to this assessment? (This is a desktop exercise)</b>					
N/A					
<b>2.3 Considering the information in Section 1 and 2.1 and 2.2</b>					
<b>2.3.1 If this policy is subject to the FSD what does it suggest about the impact or potential impact on socio-economic disadvantage? (please refer to FSD Interim Guidance)</b>					
Low income					
Low wealth					
Material deprivation					
Area deprivation					
<b>2.3.2 Are any of the people communities listed below likely to be more affected by this policy than others?</b>					
People who share one or more of the protected characteristics of the Equality Act 2010	Yes	Details	No	Details	Don't Know
Age (a particular age or range of ages)			X		
Disabled people and people with long term health conditions			X		
Women and men, girls and boys			X		
People defined by their race, colour and nationality, ethnic or national origins.			X		
Married people and civil partners			X		
Pregnant women and new mothers			X		
Lesbian, gay and bisexual people			X		
People transitioning from one gender to another			X		
People of different religions or beliefs or non-beliefs			X		
<u>Other groups</u>					
Children and families			X		
Homeless people					

Looked after and accommodated people			X		
Care leavers			X		
Carers – paid / unpaid, family members			X		
Homeless people			X		
Asylum seekers			X		
Employees – full and part time. Including SES, MAs etc.			X		
Others			X		

**2.4 Do you have evidence or reason to believe that this policy will, or may potentially affect the Council's duty to: (Please tick all that apply).**

	Yes	No	Don't Know
1. Eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010?		X	
2. Advance equality of opportunity between people who share a relevant protected characteristic and those who do not		X	
3. Foster good relations between people who share a protected characteristic and those who do not?		X	
4. Protect and promote human rights?		X	
5. Reduce socio-economic disadvantage		X	
Please provide details.			

**Section 3. What else do I need to know /find out?**

**3.1 Further consultation – Please use the table directly below to say who you will consult with (tick Yes or No). Consider those groups from section 2.3 where you ticked yes or don't know. Once consultation has taken place provide the details below.**

<u>People and communities</u>	Yes	No	Describe what you did, with whom and when. Please provide a brief summary of the responses gained and links to relevant documents, as well as any actions
Age (a particular age or range of ages)			
Disabled people and people with long term health conditions			
Women and men, girls and boys			
People defined by their race, colour and			

nationality, ethnic or national origins.			
Married people and civil partners			
Pregnant women and new mothers			
Lesbian, gay and bisexual people			
People transitioning from one gender to another			
People of different religions or beliefs or non-beliefs			
<u>Other groups</u>			
Children and families			
Homeless people			
Looked after and accommodated people			
Care leavers			
Carers – paid / unpaid, family members			
Trade Unions			
Employee Equality Forum			.
Others			

**3.2 What additional research or data is required?**

none

**3.3 What does the additional research and data tell you about potential or known effects?**

#### Section 4. Assessing the impact and strengthening the policy

Considering all the evidence you now have from section 1-3, how will the policy affect different people and communities in relation to equality, socio-economic disadvantage and human rights?

**4.1 How does/will the policy and resulting activity affect those with the characteristics listed below (including employees)? Please use the table below to provide details.**

	Detail any Positive impact	Detail any adverse impact	If adverse how can we mitigate this? Where no mitigating action is planned please say why not
Age (a particular age or range of ages)			
Disabled people and people with long term health conditions			
Women and men, girls and boys			
People defined by their race, colour and nationality, ethnic or national origins.			
Married people and civil partners			
Pregnant women and new mothers			
Lesbian, gay and bisexual people			
People transitioning from one gender to another			
People of different religions or beliefs or non-beliefs			
<u>Other groups</u>			
Children and families			
Homeless people			
Looked after and accommodated people			
Care leavers			
Carers – paid / unpaid, family members			

Employees – full and part time. Including SES, MAs etc.			
Others			

**4.2 What measures could be taken to strengthen the policy / strategy to help advance equality of opportunity, foster good relations, promote human rights and reduce socio-economic disadvantage.**

--

**4.3 Considering questions 4.1 and 4.2 what actions / measures will be put in place before introducing this policy please provide details.**

Action	Timescales	Responsible Officer	Review details (include timescales)

### Section 5. *Monitoring, evaluating and reviewing*

**5.1. How will you monitor the impact and effectiveness of the new policy?**

The Charter will be reviewed in April 2022.

### Section 6. *Making a decision and sign-off*

Recommendation	Tick	Comment (where applicable, please give more information e.g. where to pilot, what modifications, etc.)	Timescales
Introduce the policy			
Adjust the policy then introduce			
Introduce the policy with justification regarding potential adverse impact			
Stop and withdraw the policy			

<b>Name of Policy</b>	Enforcement Charter		
<b>Head of Service /Senior Manager sign-off:</b>			
<b>Name</b>	<b>Job title and division/ team</b>	<b>Date</b>	<b>Signature</b>
Pamela Humphries	Head of Planning and Regeneration	16/4/20	

**For further information please contact:**

<b>Name:</b>	Lorna Bowden
<b>Job title:</b>	Planning & Place Manager
<b>Service:</b>	Planning & Regeneration
<b>Contact details:</b>	bowdenl@northlan.gov.uk