



## **PLANNING ENFORCEMENT CHARTER**

**March 2023**

**A GUIDE TO THE ENFORCEMENT OF PLANNING CONTROLS**

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## **1. INTRODUCTION**

Planning permission is required for most development that takes place in Scotland, except for some minor works. Sometimes, however, developers or householders undertake work without planning permission or fail to develop in accordance with the permission they have been given.

Councils have powers to enforce planning controls in such cases, if they consider that it is in the public interest to do so. Councils monitor developments to ensure planning controls are being followed but there is also a role for the public in alerting the Council to any problems that they become aware of. In Angus this is known as making an observation.

This Charter explains how the enforcement process works, the role of Angus Council, the current powers available to the Council and the service standards it sets itself. It also explains what happens at each stage of what can be a lengthy process.

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.

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

## 2. KEY POINTS ON PLANNING ENFORCEMENT

A breach of planning control is not a criminal offence. The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. In addition, any action taken must be appropriate and proportionate to the scale of the breach.

Angus Council has statutory powers to investigate breaches of planning control and the conditions attached to planning consents, and to take formal action, where it is proportionate and necessary, and where a satisfactory outcome cannot be achieved by negotiation. However, enforcement is a discretionary power. That means that, even where there is a breach of planning control, the Council must 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. The Council will not act as an arbiter in neighbour disputes and may elect not to become involved where there is no wider public interest to be served by doing so.

The Council has the legal power to safeguard trees and woodlands by creating tree preservation orders. Tree preservation orders are used to protect trees, groups of trees or woodlands that add to the character and appearance of an area. In addition, trees in a Conservation Area are also protected. If you want to carry out work on any tree, or trees covered by an order or located within a Conservation Area approval should be sought from the Council through the submission of a tree works application. Application should be made using the [eplanning.scot](http://eplanning.scot) website. You should contact us [via our online enquiry form](#) in the first instance to establish what process is necessary for any tree works.

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 at the end 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.

By publishing our standards and targets, we aim to improve our enforcement service and make it responsive to the needs of our customers. We will monitor the contents of this charter to ensure that standards and targets are being met.

As part of a drive to improve planning enforcement performance, the council will review current live 'legacy' enforcement cases in line with the standards within this charter and consider whether action is required or justified on these cases. Where a case has been ongoing for more than 24 months and no further observations regarding adverse impact have been made to the council, the case is likely to be closed.

Further information on the use of enforcement powers can be found in the Scottish Government publication [Planning Circular 10/2009: Planning Enforcement](#).

Parties who fail to gain planning permission, listed building consent or advertisement consent before they carry out development or install an advertisement should be aware that their actions may have considerable financial or legal implications for them which could prove difficult to resolve. Individuals and developers should be aware that not observing the regulatory requirements may breach mortgage or insurance conditions and may significantly delay or impede the conveyancing transaction for the sale of a house or letting of commercial premises. In circumstances where works have been carried out without consent, the Council will not usually issue a "letter of comfort" or other similar statement on the likelihood of enforcement action being taken but will expect the developer to take the necessary steps to regularise matters. The failure to comply with conditions to which permission or consents are subject, prior to, during or following development, can have similar implications and may require an amended planning permission or listed building consent to be submitted in order to regularise the situation.

### 3. IDENTIFYING POSSIBLE BREACHES OF PLANNING CONTROL

Planning enforcement involves identifying whether a breach of planning control has taken place and whether it is expedient or appropriate to take enforcement action. The decision to take enforcement action is within Angus Council's sole discretion. Possible breaches of planning control can include:

- work being carried out without planning permission or consent.
- an unauthorised change of use.
- failure to comply with conditions attached to a permission or consent.
- departures from approved drawings, plans or the terms of a consent.
- unauthorised works to a listed building.
- unauthorised display of advertisements.
- carrying out works to trees that are protected by a planning condition, are located within a conservation area, or a tree preservation order (note that the felling of trees that are not subject of such protection is not a matter for the planning authority. Relevant contact details of Scottish Forestry can be found at Section 10).

Before making an observation, it is important to understand that planning enforcement is generally only concerned with matters relating to the use or development of land and buildings within the specific meaning of development which is defined by Section 26 of the Town and Country Planning Act 1997 (as amended) as:

*'the carrying out of building, engineering, mining or other operations in, on over or under land or the making of any material change in the use of any buildings or other land'.*

Marine fish farming in certain circumstances is also development although this has not been an issue in Angus to date. The planning act makes it clear that the carrying out of works that only affect the interior of a building or works that do not materially affect the external appearance of a building do not constitute development. Internal works within Listed Buildings may however be subject to a requirement for Listed Building Consent. Observations relating to matters not referred to above are unlikely to be matters for the Planning Service.

#### **Initial Contact**

The public plays a role in reporting breaches of planning control and any concerns should be raised with the Council, using the contact details provided below. Preliminary enquiries can be made by:

- Online: [Report a Breach Form](#)
- Telephoning ACCESSLine on 03452 777 778 where you do not have online access

The following information is required when reporting a suspected breach:

- the address of the property concerned.
- details of the suspected breach of planning control, with dates and times if relevant.
- your name, telephone number and postal address (**anonymous observations are unlikely to be investigated, particularly if they relate to minor or technical breaches**).
- an e-mail address if available or if the complaint is submitted electronically.
- information on how the breach affects you or creates an impact in terms of public safety, amenity or the environment.
- whether or not you wish the enquiry to be treated confidentially.

We will generally expect sufficient information to be provided with any observation to enable us to conclude that there are reasonable grounds for us to consider there may be a breach of planning control. We will generally not commence investigation until this information is provided. Such information may include:

- Photographic evidence (dated if possible).
- Plan based information illustrating the location/nature of an alleged breach.
- Diary Sheets detailing times and frequency of activity.
- Information relating to alleged unauthorised activity such a web links or other advertisements.

In accordance with the provisions contained in the [Freedom of Information \(Scotland\) Act 2002](#), the identity of any person submitting an observation will generally be treated in confidence. This is not however a guaranteed exemption and for legal reasons **we cannot guarantee the anonymity of people making observations**. Information directly relating to enforcement cases is generally considered to represent exempt information where the public interest test applies under the provisions of the above Act. Such exempt information will normally only be released where it is in the public interest to do so or as a result of a ruling by the Scottish Information Commissioner or a court of law. Requests for confidentiality may however limit the ability of the Council to take formal action and confidentiality cannot be guaranteed in all cases, particularly if the case leads to court proceedings where observers may be required to give evidence. In instances where the Council is required to divulge observer information however, in line with the Data Protection Act, your signature, email address and telephone number and any other personal information will not be divulged.

### **Monitoring of conditions**

Monitoring of conditions is required to ensure that a development is undertaken in accordance with the terms of the permission or consent granted. Details of the conditions are included within the decision notice

attached to the permission and decision notices can be viewed on the [Public Access web site](#). Breaches of conditions are investigated in the same way as other breaches of planning control.

Planning permissions for major development or that is subject to environmental impact assessment will be subject of annual monitoring during works to ensure compliance with conditions. The Planning Service may undertake routine monitoring of other planning permissions.

When members of the public consider that conditions attached to a permission or consent are not being complied with, or have not been discharged in a satisfactory way, then this information should be provided to the Planning Enforcement service using the contact methods highlighted above. The large number of permissions granted each year means that public observation can play a role in the conditions monitoring process.

### **Next Steps**

When information is received by the Planning Service on a possible breach of planning control, the information will be checked to ensure that it does constitute a breach and that it includes all the detail required to initiate an investigation. If the information suggests that a breach of planning control has occurred, then the observation will be registered, an enforcement case opened, and formal acknowledgement will be sent to the person who made the observation. At the conclusion of the case, a report setting out how the matter has been handled will be published on the Council's [Public Access](#) website.

Some complaints relating to matters such as neighbour or civil disputes or business competition relate to matters over which the planning system has no control, and such matters cannot be investigated by the Planning Service. The observer will be informed when this is the case. Where appropriate, a referral to other relevant services may be offered.

Anonymous observations cannot receive any response and may not be taken forward if it is determined that the activities reported do not amount to a significant breach of control that warrants investigation or action. The matter of how an observer is affected by a reported breach is often a determining factor in whether to proceed with action and this assessment cannot be done where observation is made anonymously.

### **Service Standard**

If preliminary checking of an observation suggests a breach of planning control that merits further investigation and/or action, it will be registered. Once registered, a written or e-mail acknowledgement will be sent to the person who made the observation within 10 working days. The acknowledgement will include a reference number and contact details for the investigating officer. You will be informed in the same timescale if we do not intend to investigate further.

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

A priority system is used for investigating possible breaches of planning control. This will be based upon matters such as the effect of the breach, the significance of the site and the nature of the breach of control.

##### **Priority Approach**

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

- unauthorised development that may significantly adversely affect public safety, amenity or the environment.
- unauthorised development affecting designated sites of nature conservation value.
- breaches of condition where such breaches would potentially lead to a significant adverse effect on public safety, amenity or the environment.
- unauthorised works to listed buildings.
- unauthorised felling of protected trees.

##### **Preliminary Investigations**

Where it is established that an observation relates to a potential breach of planning control, an investigation begins with an enforcement officer visiting the site; this will normally be within 20 working days of receipt of the complaint with priority given as detailed above. In more serious cases the site will be inspected as soon as is reasonably practicable (usually within 5 working days). Observers should however be aware that Planning Enforcement is not an emergency service and an emergency response is unlikely in most circumstances.

The length of time required to resolve a case or to take action can be affected by a number of factors. This can include for example, where evidence must be collected and verified over a period of time; to allow negotiations to take place; or for formal procedures to be concluded. This can include delay caused by establishing who is responsible and who owns the land. Similarly, a landowner may submit a retrospective planning application; either voluntarily or as requested by the planning authority in order to attempt to regularise the breach of control; or an appeal may be submitted against a decision of the Planning Authority.

If formal action is taken against a developer, it should be noted that, for the majority of enforcement notices, the recipient has a right of appeal to Scottish Ministers and this is often a contributory factor to the length of time that can be taken to remedy a breach of planning control. For more information in relation to formal powers available to the Council to deal with breaches of planning control, please see Section 8.

The 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 aim to keep interested parties informed of significant stages in the progress of a case but they may also wish to contact the case officer for a more regular update.

In instances where a property or land has been subject to an enforcement investigation and no breach has been identified or no action has been required to be taken, the owners or occupiers of such property may be unaware that an investigation has been undertaken. In such circumstances, owners or occupiers will be made aware that an investigation has been undertaken where they are readily identifiable.

| <b>Service Standard</b>   |  |
|---|--|
| <b>Action</b>   | <b>Additional Information</b>  |
| Acknowledge the observation in writing within 10 working days   | The acknowledgement letter or e-mail will contain the Enforcement Case reference number and the contact details for the investigating officer  |
| Visit and inspect the site within 20 working days   | Priority will be given to significant breaches and those will generally be visited as soon as possible.  |
| Provide updates to interested parties at significant stages in the enforcement process. However, if you want regular updates, you should contact the case officer direct. | It can often take some time to establish the nature of a breach and who is responsible.<br><br>For cases which last more than 2 months we will contact the person who made the initial observation to provide an update on any notable progress in relation to the case. |
| Advise interested parties within 10 working days when an enforcement case is closed and publish a report that sets out why the case has been closed.                      | It may take some time to establish an appropriate and proportionate course of action in respect of the breach.<br><br>If any legal proceedings are required, this may lead to significant delays in the process.   |

## 5. ACTING ON BREACHES OF PLANNING CONTROL

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. Enforcement action will only be taken when it is in the wider public interest and planning enforcement powers will not be used to protect the interests of one party against another. The planning authority must consider each case on its merits and decide on the most appropriate solution in planning terms. The Council is unlikely to take formal action, for example, in respect of developments which, in planning terms, are seen to be acceptable. Additionally, planning enforcement powers will not be utilised in cases where there are other available means of addressing a complaint e.g. through the use of roads legislation or statutory nuisance complaints procedures or through the enforcement of lease conditions. The Planning Service will liaise with other services as appropriate to determine the most appropriate course of action depending on the nature of the issue that has been reported.

The Council has discretion on whether to take enforcement action in any given situation and various options are available in that regard. The following guidelines set out the basis on which the Council will make such decisions. However, it must be noted that circumstances and levels of impact vary between cases, and different approaches to similar breaches may be appropriate depending upon site specific factors. In all cases, the Council will consider the likelihood of successful resolution having regard to matters including public interest and the anticipated cost and complexity of action; the potential benefit of enforcement action will be balanced against the complexity and associated resource implications of pursuing such action.

### **WHERE DEVELOPMENT IS CARRIED OUT WITHOUT PLANNING PERMISSION OR LISTED BUILDING CONSENT**

**Development has been carried out without permission or consent but it is considered that planning permission or listed building consent should be granted without conditions.**

**Action:** The Council will exercise discretion regarding whether a retrospective application should be requested. In some cases where an identified breach is minor in nature, a planning application may not be requested, and the case will be closed. However, advice may be given as to the property implications of not obtaining the necessary permission at that time.

**Development has been carried out without permission or consent and it is considered by the Council that although the development is currently unacceptable, it could be made acceptable by alterations or the imposition of conditions.**

**Action:** discussion will take place with the developer to agree the terms of a retrospective application which will be invited and a period of 8 weeks

allowed for submission. If the developer refuses to cooperate within that time the Council will then proceed to consider whether it is appropriate to take enforcement action within the statutory time limits. Usually, in the case of Planning Permission, the first action will be to serve a Section 33A Notice and require submission of an application within 28 days of the serving of the Notice. Failure to apply may result in the serving of an Enforcement Notice requiring the removal or dismantling of the development within a period of time appropriate to the circumstances.

**Development has been carried out for business purposes and it is considered by the Council that it is unacceptable in its current position but would be acceptable in an alternative location.**

**Action:** Discussion and negotiation will take place and an application will be invited for an alternative site and any enforcement action will be held in abeyance for a period of not less than 28 days to allow relocation. If the developer refuses to cooperate then the Council will proceed to take enforcement action if it is appropriate in the circumstances. The period for compliance with any notice will vary with the circumstances of the business, its impact on wider amenity and the need to preserve employment.

**Development has been carried out without permission or consent and it is considered by the Council that it is unacceptable and has no potential to be made acceptable by alteration or the use of conditions.**

**Action:** The developer will be requested to remove the development or cease the unauthorised use and agree a timetable for this to take place, which will normally be no more than 28 days for changes of use or the siting of temporary buildings, or no more than 12 weeks for operational development. The submission of a retrospective application will not be encouraged. If the developer refuses to cooperate within the prescribed period, the Council will then proceed to consider whether it is appropriate to take enforcement action within statutory time limits.

**Commercial activity in domestic premises.**

**Action:** Where these uses involve no more than a single room, do not involve callers or deliveries, and there is no associated commercial signage, it is unlikely that formal action will be taken. However, the operator may be encouraged to make application for a Certificate of Lawfulness. In all other cases, the matter will be considered having regard to the likely acceptability of the use as detailed above. Where appropriate, an application for planning permission will be sought and if not forthcoming, an enforcement notice will be issued.

**Partially developed sites.**

**Action:** The Council will use its Completion Notice powers sparingly and will generally not intervene other than to work proactively with site owners to encourage the resumption of development either in its original form or as an

amended scheme.

**WHERE DEVELOPMENT IS CARRIED OUT NOT IN ACCORDANCE WITH APPROVED PLANS OR DRAWINGS, CONTRARY TO THE TERMS OF A PLANNING PERMISSION OR LISTED BUILDING CONSENT OR IN BREACH OF CONDITIONS ATTACHED TO A PLANNING PERMISSION**

**If the deviation from the planning permission is non-material.**

**Action:** An application for a non-material variation will be requested to regularise the situation but no action will be taken if no submission is made. Advice may be given as to the property implications of not obtaining the appropriate authorisation for the variation to the permission.

**If the deviation is material or more significant but likely to be found acceptable.**

**Action:** A planning permission or listed building consent application will be requested to regularise the situation but depending on the nature of the breach no action may be taken if no submission is made. Advice may be given as to the property implications of not obtaining the appropriate consent.

**If the deviation is significant and/or is unlikely to be found to be acceptable without alterations or new or modified conditions being imposed.**

**Action:** A planning permission or listed building consent application for an appropriately amended scheme will be requested, to be submitted within 28 days. If the developer refuses to cooperate the Council will then proceed to consider whether it is appropriate to take enforcement action, and if so, will take action normally within a further 28 days.

**The deviation is significant and does not have the potential to be made acceptable.**

**Action:** The developer will be instructed to carry out the development strictly in accordance with the planning permission or listed building consent and usually given a period of 28 days to comply. The submission of a retrospective application will not be encouraged. If the developer refuses to cooperate by the stipulated deadline the Council will then determine whether it is appropriate to take enforcement action within a further 28 days. The period given for compliance with the planning permission, or listed building consent, or ceasing the activity will depend on the severity of impact on the environment and wider public interests.

**A breach of planning condition.**

**Action:** The developer or operator will be instructed to carry out the development in accordance with the planning conditions and usually given a period of 28 days to comply. The submission of a retrospective application

will not be encouraged. If the developer refuses to cooperate by the stipulated deadline the Council will then determine whether it is appropriate to take enforcement action within a further 28 days. The period given for compliance with the planning condition will depend on matters including the severity of impact on the environment and wider public interests.

**Formal enforcement action will be taken selectively and usually where, in the opinion of the Council, the breach of planning control is significant and would unacceptably affect public amenity or the amenity of occupants of a property or properties, public safety or the use of land and buildings meriting protection in the public interest. The action taken must be proportionate to the breach. The Council will consider seeking an interdict or taking direct action where such actions are merited.**

### **Service Standard**

Where a planning breach cannot be resolved and action is justified, a formal notice will be served. This will usually be either an enforcement notice or a breach of condition notice or any other type of formal notice as appropriate to the circumstance. The Council will usually write to the developer in advance of serving any notice warning of the intention to do so. Thereafter, the recipient of the notice will be advised as to what action is required, the timescales involved and the available options to resolve the issue.

Failure to comply with a notice may result in the planning authority taking further action. This can include a range of possible options including:

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

For more detail, see the Enforcement Powers section at the end of the Charter in Section 8.

## 6. INFORMATION ON VALID ENFORCEMENT NOTICES AND OTHER MATTERS RELEVANT TO PLANNING ENFORCEMENT

### Planning Register

Details of Enforcement Notices, Breach of Condition Notices and Stop Notices are entered into an Enforcement Register which forms part of the Planning Register. These Registers are available to view online at the Council's [Public Access](#) website.

### Powers of Entry

The Council has powers that allow officials to enter land, including land adjacent to the site of an alleged breach, to:

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

### Time Limits on Enforcement Procedures

Enforcement action has to be taken within strict time limits and in some cases the Council is time-barred from taking enforcement action.

- **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.
- **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.

**Owners of property or land that is subject of development that does not benefit from planning permission for a particular development or use, but which is immune from enforcement action by virtue of the above limitations are advised to obtain a Certificate of Lawfulness to ensure the lack of demonstrable permission or consent does not unduly affect future property transactions.**

## 7. ENFORCEMENT AND ADVERTISING

The display of advertisements (including any structure on which they are mounted) 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 formal consent 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.

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.

The 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.

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.

The 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 will 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 will be removed immediately.

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.

The Council has no powers to control the actual content of an advertisement. Any complaints about this should be made to the Advertising Standards Authority.

## 8. ENFORCEMENT POWERS

The Planning Enforcement powers available to Angus Council are set out in Part VI of the Town and Country Planning (Scotland) Act 1997 (as amended) and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Planning Acts are available from HMSO, 71 Lothian Road, Edinburgh and at [www.scotland-legislation.hmso.gov.uk](http://www.scotland-legislation.hmso.gov.uk).

Government policy on planning enforcement is set out in [Circular 10/2009: Planning Enforcement](#).

### Types of Notice:

**Breach of Condition Notice (under Section 145 of the Town and Country Planning (Scotland) Act 1997 (as amended))** – makes provision for enforcing the conditions to which any planning permission is subject. It is effective on the date of service. 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 against this notice. Those receiving the notice may make representations to the planning authority if they believe the notice to be unreasonable. Summary prosecution in Court is available for contravening a breach of condition notice.

**Enforcement Notice (Section 127 – 129 of the Town and Country Planning (Scotland) Act 1997 (as amended))** – 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 a time period to take effect (a minimum of 28 days – however note separate section on advertisements) and the steps that must be taken to remedy the breach and the time for this 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 fine of up to £50,000 upon conviction in the Sheriff Court. Failure to comply may also result in the Council taking **Direct Action** to correct the breach (see other powers below).

**Fixed Penalty Notice (Sections 136A and 145A of the Town and Country Planning (Scotland) Act 1997 (as amended))** – where an Enforcement Notice (or Breach of Condition Notice) has been served and has not been complied with, the Council can serve a Fixed Penalty Notice (FPN) on the recipient of the notice. There is no right of appeal against a FPN although timeous payment prevents the Council from reporting non-compliance with the original notice to the Procurator Fiscal. A FPN will not remedy a breach of planning control and the obligation to comply with the terms of the original notice remains and the Council can take direct action to remedy the breach and recover the costs of such work from that person.

**Listed Building Enforcement Notice (Section 39A (5) and (13) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997)** – 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 could lead either to a significant fine or imprisonment.

**Stop Notice (under Section 140 of the Town and Country Planning (Scotland) Act 1997 (as amended))** – 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 Council may be required to pay compensation. The use of Stop Notices therefore needs to be carefully assessed by the Council. There is no right of appeal against a Stop Notice and failure to comply with its terms is an offence.

**Temporary Stop Notices (under Section 144A of the Town and Country Planning (Scotland) Act 1997)** – in certain cases where a breach of planning control is considered to have a severe impact on amenity, a temporary Stop Notice can be served. These do not require to be accompanied by an Enforcement Notice and last for a maximum of 28 days.

**Amenity Notice (under Section 179 of the Town and Country Planning (Scotland) Act 1997 (as amended))** - 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. The notice sets out the action that is required to be taken to resolve the problem within a specified time. There is a right of appeal against an Amenity Notice. Such a notice will normally only be used where amenity of the wider area is seriously impacted upon, not for relatively minor instances of untidiness i.e. the condition of the garden of a residential dwellinghouse.

#### **Other Powers:**

**Planning Contravention Notice (under Section 125 the Town and Country Planning (Scotland) Act 1997 (as amended))** – this is used to obtain information about activities on land where a breach of planning control is suspected. It is served on the owner/occupier or on a person with any other interest in the land or who is carrying out operations on the land. Those who

receive a Planning Contravention Notice are required to provide information about operations being carried out on the land or relating to any conditions or limitations applying to any planning permission already granted. Supplementary information or representations on the matters raised in the notice may also be requested. 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 (as amended))** - 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.

**Notice under Section 272 (of the Town and Country Planning (Scotland) Act 1997 (as amended))** – 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.

**Notice under Section 33A (of the Town and Country Planning (Scotland) Act 1997 (as amended))** – this provides powers to formally require the submission of an application for planning permission to regulate the breach of planning control. Technically, this constitutes formal enforcement action and extends the period within which other enforcement action may be taken.

**Interdict and Interim Interdict (Section 146 of the Town and Country Planning (Scotland) Act 1997 (as amended))** – 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 the Council normally only seeks interdicts in serious cases or where Enforcement Notices have been ignored in the past. However, the 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.

**Direct Action** – failure to comply with the terms of an Enforcement Notice within the time specified can result in the Council carrying out the specified work. The Council may recover any costs it incurs from the landowner.

- Rights of Entry (Sections 156 – 158 of the Town and Country Planning (Scotland) Act 1997 (as amended) – Section 156 enables persons authorised by the planning authority to enter land, where it is suspected that a breach of planning control has occurred, at any reasonable hour without a warrant to ascertain if there has been a breach of planning control on the land or other land 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 must produce evidence of their authorisation and state the purpose of their entry before they enter the land.

## 9. MAKING A SUGGESTION, COMMENT OR COMPLAINT

### Improving Our Service to You

We want to continually improve our customer care and increase our customers' satisfaction. If you have any comments about how we can improve our service to you can submit comments at [https://www.angus.gov.uk/do\\_it\\_online](https://www.angus.gov.uk/do_it_online) . If you do not have access to online services you can call ACCESSLine on 03452 777 778.

### Compliments, Comments and Complaints

Our aim is to provide all our customers with good quality services and wherever possible deal with your concerns as they arise. You can record your compliment, comment or complaint via our [online form](#) to tell us where we've got things right, help us improve services and sort things out if they've gone wrong. However we are keen to resolve any problems as soon as possible so if you have a comment or complaint about a service please raise the matter with those delivering that service first of all and we will do our best to help resolve any problem there and then.

If we cannot resolve a problem immediately; within the agreed service standards; or to your, satisfaction or if you have a complaint about how you have been treated we will record your complaint and give you our formal response within 10 days. If we cannot respond within that timescale, we will inform you when we will be able to provide you with a response.

Our aim is to work things out so we want you to tell us if you are satisfied with the outcome of your complaint or wish us to take further action and have the matter investigated by a senior officer or ultimately the Chief Executive. Full details of the [formal complaints procedure](#) can be viewed online.

### Scottish Public Services Ombudsman

If a customer is not satisfied with the Council's internal investigation and response to their complaint, they can refer the matter to the Scottish Public Services Ombudsman for attention where appropriate. The Ombudsman offers an independent national service and while complaints can be made to the Ombudsman any time, an investigation will usually only be made by the Ombudsman if the Council complaints procedure has been exhausted.

Complaints should be made to:

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|--|--|
| <b>Scottish Public Services Ombudsman</b><br>FREEPOST SPSO (no stamp required) | online at: <a href="http://www.spsso.org.uk/contact-us">www.spsso.org.uk/contact-us</a>                  |
| in person at: Bridgeside House,<br>99 McDonald Road,<br>Edinburgh, EH7 4NS     | Phone: 0800 377 7330<br>See <a href="http://www.spsso.org.uk">www.spsso.org.uk</a> for more information. |

## 10. CONTACT DETAILS

### Angus Council Contacts:

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|---|---|
| <p><b>Planning, Enforcement, High Hedge, Tree Works and Rights of Way Enquiries:</b></p> <p>Planning Service<br/>Angus House<br/>Sylvie Way<br/>Orchardbank Business Park<br/>FORFAR<br/>DD8 1AN<br/><a href="mailto:planning@angus.gov.uk">planning@angus.gov.uk</a></p> | <p><b>Neighbour Problems &amp; Antisocial Behaviour</b><br/>Public Protection &amp; Enforcement Team</p> <p><a href="https://www.angus.gov.uk/do_it_online">https://www.angus.gov.uk/do_it_online</a></p> <p>If you do not have access to online services you can call ACCESSLine on 03452 777 778.</p> |
| <p><b>Defective &amp; Dangerous Buildings</b></p> <p>Building Standards<br/><a href="mailto:bsprocessing@angus.gov.uk">bsprocessing@angus.gov.uk</a></p>  |   |

### Other Useful Contacts:

|   |  |
|---|--|
| <p><b>Scottish Government<br/>Planning, Architecture &amp; Regeneration Division</b><br/>Victoria Quay<br/>Edinburgh<br/>EH6 6QQ<br/><a href="http://www.gov.scot/policies/planning-architecture/">www.gov.scot/policies/planning-architecture/</a></p> | <p><b>PAS - Planning Aid for Scotland</b><br/>11/2B Tweeddale Court14 High StreetEdinburghEH1 1TE</p> <p><a href="http://www.pas.org.uk">www.pas.org.uk</a><br/><a href="mailto:office@pas.org.uk">office@pas.org.uk</a></p> |
| <p><b>Planning and Environmental Appeals Division</b><br/>Hadrian House<br/>Callendar Business Park<br/>Callendar Road<br/>Falkirk<br/>FK1 1XR<br/><a href="mailto:dpea@gov.scot">dpea@gov.scot</a></p>   | <p><b>Advertising Standards Authority</b><br/>37-45 Paul Street<br/>London<br/>EC2A 4LS<br/><a href="http://www.asa.org.uk">www.asa.org.uk</a></p>   |
| <p><b>Scottish Forestry</b><br/>Silvan House<br/>231 Corstorphine Road<br/>Edinburgh<br/>EH12 7AT<br/><a href="https://forestry.gov.scot/">https://forestry.gov.scot/</a></p>   |  |

Contact our ACCESSLine on 03452 777 778 if you would like this charter translated into Chinese, Urdu, Hindi, Punjabi or Gaelic or in large print, audio or braille.