

Item: 8

Development and Infrastructure Committee: 15 February 2022.

Planning Enforcement Charter.

Report by Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.

1. Purpose of Report

To review the Planning Enforcement Charter.

2. Recommendations

The Committee is invited to note:

2.1.

That, in terms of section 158A of the Town and Country Planning (Scotland) Act 1997, as amended, the Planning Authority is required to prepare and publish an Enforcement Charter which must be kept under review.

2.2.

That the existing Enforcement Charter, approved by Council in December 2019, is still current with respect to legislation and only minor changes are proposed regarding the provision of updates to complainants and the content of preliminary enforcement investigations, as detailed in section 5 of this report.

It is recommended:

2.3.

That the Enforcement Charter, attached as Appendix 1 to this report, be approved.

3. Background

3.1.

Section 158A of the Town and Country Planning (Scotland) Act 1997, as amended, requires the Planning Authority to prepare and publish an Enforcement Charter which must be kept under review, updating and re-publishing it whenever required to do so by Scottish Ministers or within two years of last publishing it.

3.2.

The Enforcement Charter was adopted to establish the protocol for investigating alleged breaches of planning control and for conducting enforcement procedures, to meet the aforementioned statutory requirements.

3.3.

When republishing its Enforcement Charter, the Planning Authority is required to send two copies to the Scottish Ministers, place a copy in each public library in its district and to publish the Charter on the internet.

4. Resources and Caseload

4.1.

Planning enforcement matters are dealt with principally by the Planning Control Officer, which, between April 2011 and May 2019, was a 0.5 full-time equivalent post, and was increased to full-time in May 2019.

4.2.

The enforcement caseload has been affected by vacancies in recent years. The post was vacant from October 2018 until September 2020, when it was filled after four rounds of recruitment. Due to temporary staff absence, the post has been vacant more recently from September 2021 until January 2022.

4.3.

In terms of caseload, the figures for enforcement cases investigated, by financial year as reported to the Scottish Government, are as follows:

- 2016/17 – 124 cases.
- 2017/18 – 113 cases.
- 2018/19 – 60 cases.
- 2019/20 – 11 cases.
- 2020/21 – 57 cases.
- 2021/22 – on 7 January 2022 – 102 cases.

4.4.

Enforcement complaints result from various sources, including:

- Internally generated if works are noted by a planning officer.
- Raised by another Service – a common example would be an access reported to Development Management by Roads Services.
- Following submission of documentation by an applicant, for example, notification of initiation of development, but where pre-commencement conditions have not been discharged.
- Raised by Elected Members or other agencies if contacted by the public.

4.5.

However, most cases investigated by Development Management are raised directly by the public. Anecdotally, the number of new enforcement complaints received often decreases when the post is vacant and increases when the post is filled, as the

public can observe the benefits of appropriate planning control being exercised on various sites.

4.6.

Thirty-six enforcement cases were closed during 2020, and 22 during 2021. A case is closed in various circumstances, including:

- If a breach of planning control is remedied, for example, an unauthorised access stopped up.
- If information is submitted which is adequate to discharge a planning condition.
- If it is not considered expedient to take action.
- If a retrospective planning application is submitted for unauthorised development.

4.7.

In the latter scenario the enforcement case is closed, but that is without prejudice to any decision subsequently taken on that planning application. In any case, but particularly in cases where unauthorised development is not acceptable from a planning perspective and would be unlikely to be approved if a retrospective planning application was submitted, the enforcement process can take months or years to conclude. Therefore, there is rarely correlation annually between cases received and cases closed during any period.

4.8.

There are currently 192 active enforcement cases. This is a significant caseload for the Planning Control Officer post, including Planning Officer input. A triage system is therefore required, so that the most urgent cases are prioritised. Naturally this results in some enforcement cases not being pursued immediately, which is often viewed unfavourably by members of the public who have reported breaches of planning control, noting that the enforcement function is critical in protecting the integrity of the service and decisions made on submitted applications. Additional officer and/or technical staffing resource would be required to act on/investigate all new cases without delay, or to proactively pursue all active enforcement cases at any given time.

4.9.

The number of enforcement notices served is as follows:

- 2016/17 – 2.
- 2017/18 – 5.
- 2018/19 – 10.
- 2019/20 – 2.
- 2020/21 – 10.
- 2021/22 – on 7 January 2022 – 6.

4.10.

Generally, the number of enforcement notices served is low relative to the number of enforcement cases. All other cases are either ongoing or closed, as described above, without requirement for an enforcement notice.

5. Proposed Changes to Charter

5.1.

The existing Enforcement Charter, which was approved by Council in December 2019, has been reviewed and deemed still current with respect to legislation. Minor changes, however, are proposed regarding the provision of updates to complainants and the content of preliminary enforcement investigations, as noted in section 4 above.

5.2.

An amendment is proposed at paragraph 3.4 of the Charter to provide clarity regarding representations from the public, confirming that for representations to be regarded as a 'planning enforcement complaint', and therefore subsequent updates made available to the complainant, the representation must be in writing and include the details listed.

5.3.

An amendment is proposed at paragraph 3.10 of the Charter to confirm that any member of the public who has submitted a planning enforcement complaint thereafter has the right to seek an update, including whether the complaint has been investigated, if any further action is being taken and if the matter is concluded. This is a variation to the current wording which requires the planning authority to provide an update to a complainant at various stages of investigation. Given the volume of active enforcement cases, the many stages for each case, the potential for multiple complaints for an individual case and the resource involved in providing these discretionary updates, it is considered more proportionate to provide updates on request. It should be noted that complainants would still be informed if a planning application is submitted for the development subject to the complaint, as included in paragraph 4.4 of the Charter, thereby ensuring opportunity to submit a representation to the planning application would not be affected.

5.4.

It is proposed to insert paragraph 4.3 to the Charter, which relates to initial correspondence from the planning authority with persons with an interest in property that has been subject to a planning enforcement complaint. This may follow an initial site inspection and therefore potentially a face-to-face meeting, and so this paragraph relates to initial correspondence, not necessarily initial contact. Persons with an interest in property may request that follow-up advice or requirements are provided by telephone; however, to provide an unambiguous record given the role of such correspondence in the planning and enforcement functions, correspondence is

provided in writing only. Inclusion of this paragraph in the Charter is to confirm this position.

5.5.

Paragraph 4.3 also confirms that initial correspondence may include service of a Planning Contravention Notice (PCN) or Notice under Section 272 (272 Notice). These powers are to obtain information about interests in land and activities on land where a breach of planning control is suspected, i.e. part of establishing the facts of the situation to determine whether further correspondence and/or action is required or not. The alternative is initial, less formal correspondence, which would generally include requests for that information regarding ownership and activities, but which, if provided, is not in a format suitable for inclusion in formal correspondence, and the result is often duplication, with that same information requested in a PCN or 272 Notice. The proposed paragraph 4.3 would avoid this unnecessary duplication to the benefit of the planning authority and the interested party.

5.6.

The updated Charter, incorporating the amendments and additions outlined above, is attached as Appendix 1 to this report.

6. Equalities Impact

An Equality Impact Assessment has been undertaken and is attached as Appendix 2 to this report.

7. Corporate Governance

This report relates to the Council complying with governance and procedural issues, as well as fulfilling its statutory responsibilities, and therefore does not directly support and contribute to improved outcomes for communities as outlined in the Council Plan and the Local Outcomes Improvement Plan.

8. Financial Implications

Enforcement action can include the application of financial penalties or fines, and the recovery of costs in certain circumstances, as set out in Section 7 of the attached Charter.

9. Legal Aspects

In terms of Section 158A of the Town and Country Planning (Scotland) Act 1997, as amended, the planning authority must prepare an enforcement charter being a document which contains:

- A statement of the authority's policies as regards their taking enforcement action for the purposes of the Act.
- An account of how members of the public are to bring any ostensible breach of planning control to the attention of the authority.
- An account:

- Of how any complaint to the authority as regards the taking by them of enforcement action is to be made.
- Of their procedures for dealing with any such complaint.

10. Contact Officers

Gareth Waterson, Interim Executive Director of Finance, Regulatory, Marine and Transportation Services, Email gareth.waterson@orkney.gov.uk

Roddy Mackay, Head of Planning, Development and Regulatory Services, Email roddy.mackay@orkney.gov.uk

Jamie Macvie, Planning Manager (Development Management), Email jamie.macvie@orkney.gov.uk

11. Appendices

Appendix 1: Planning Enforcement Charter.

Appendix 2: Equality Impact Assessment.

Planning Enforcement Charter

Contents

1. Introduction	1
2. The Service	2
3. Identification of Possible Breaches of Planning Control	2
4. Investigating Breaches of Planning Control.....	4
5. Time-Limited Procedures	6
6. Complaints Procedure.....	6
7. Powers Available to the Planning Authority.....	6
8. Types of Notice	7
9. Other Powers	9

1. Introduction

1.1.

Under Scottish legislation primary responsibility for planning issues rests with the planning authority. In Orkney this is Orkney Islands Council.

1.2.

The planning authority's principal role is to grant or refuse permission for development. However, the planning authority is also responsible, where necessary, for taking enforcement action where planning legislation has not been followed.

1.3.

This Charter explains the meaning of planning control and enforcement, the powers and restrictions on the planning authority, and what happens at each stage of what can be a lengthy process. It outlines some of the procedures of the planning control system, and the standards of service that can be expected when enquiries are made about unauthorised development.

1.4.

Sometimes developers or householders either undertake work without planning permission or fail to accord with the permission they have been given. The planning authority has the power to take action in cases like this and enforce planning control.

1.5.

The planning authority has statutory powers to investigate breaches of planning control and breaches of conditions attached to planning permission, and to take formal action where a matter is not resolved.

1.6.

Planning enforcement is a discretionary power; if there is a breach of planning control the planning authority is not bound to act because sometimes it might not be in the public interest to do so. Any action taken must be reasonable and proportionate to the breach.

1.7.

This Charter sets out the powers that the Council as planning authority can use. These powers are set out in the Town and Country Planning (Scotland) Act 1997, as amended. It is important to note that a breach of planning control is not a criminal offence, unless it involves unlawful works to a listed building. It should also be noted that a 'planning enforcement complaint' is not a complaint against the Council, which would instead be processed under the Council's Complaints Handling Procedure.

1.8.

Enforcement is one of the most complex parts of the planning system, and often has long and unpredictable timescales. 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.

Copies of this Charter are available on the Council's website and at the Council Offices, School Place, Kirkwall.

2. The Service

Planning enforcement is administered by Development Management. The key officer undertaking this role is the Planning Control Officer. When formal enforcement action is taken the Council's approved Scheme of Delegation is followed.

3. Identification of Possible Breaches of Planning Control

3.1.

Planning enforcement involves two issues – whether a breach of planning control has taken place, and whether it is expedient or appropriate to take enforcement action. That decision is within the planning authority's sole discretion.

3.2.

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 plans approved in association with a planning permission or consent.

3.3.

Preliminary enquiries can be made by telephone but should be followed up in writing by post or email. You should post correspondence to the Planning Control Officer, Orkney Islands Council, Development Management, Council Offices, School Place, Kirkwall, KW15 1NY, or email planning@orkney.gov.uk

3.4.

To be considered a planning enforcement complaint, and therefore to guarantee this is investigated by Planning Authority, the representation must be in writing. Whether by post or email, the following information is essential:

- The address (or detailed description if no address) of the property concerned.
- Details of the suspected breach of planning control, with times and dates if relevant.
- A contact name and registered postal address for the complainant.
- An email address if available or if the complaint is submitted electronically.
- How the breach affects the complainant.
- Whether the enquiry is to be treated confidentially.

3.5.

Wherever possible we will honour requests for confidentiality regarding any planning enforcement complaint made or information supplied, however it should be noted that it may not be possible to respect such a request in all cases, and the effects of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004, must be taken into consideration. Requests for total confidentiality limit the ability of the authority to take formal action and cannot be guaranteed if the case were to be considered at Appeal or in the Courts.

3.6. Monitoring of Planning Conditions

Monitoring of planning conditions is required to ensure that development complies with the consent granted. Details of the conditions are included within the decision notice attached to the permission. Monitoring of conditions is undertaken regularly by the Planning Control Officer supported by other officers in Development Management.

3.7.

Where members of the public believe that the conditions attached to a planning permission are not being complied with or have not been discharged in a satisfactory way, they can provide information to Development Management.

3.8.

When breaches of conditions are identified, they are investigated in the same way as other breaches of planning control.

3.9.

When information is received in writing by Development Management regarding a possible breach of planning control, the information will be checked to ensure that it does constitute a possible breach of planning control, and that it includes all the detail required for a possible enforcement case to be investigated.

3.10.

Receipt of written complaints will be acknowledged within 20 working days. You should be aware that some complaints relate to matters over which Development Management has no control, for example neighbour disputes relating to the position of boundaries, land ownership, rights of access or matters associated with superior's consent. These matters cannot be investigated by the Planning Control Officer. If you have submitted a planning enforcement complaint in writing, you can subsequently enquire whether the complaint has been investigated and, if so, whether the planning authority has concluded that a breach of planning control has occurred and if any further action will be taken, or if the information submitted is not a planning matter.

4. Investigating Breaches of Planning Control

4.1. Preliminary Investigations

Following registration of a possible breach of planning control, the Planning Control Officer will visit the site. Priority for both site visits and dealing with complaints is based on the relative significance of the site, and the nature and effect of the breach of planning control, and no set timescale exists for preliminary investigations.

4.2.

In some cases, following the site visit, additional investigation is required to establish if a breach has occurred, and this may lengthen the process involved in taking action.

4.3.

Initial correspondence with persons at the property concerned, other than in exceptional cases, will be in writing only, to provide a record of any correspondence. Where necessary to establish details of ownership, activities that are alleged to have taken place or other details, the initial correspondence may include service of a Planning Contravention Notice or Notice under Section 272. For more detail, see Section 7 'Powers Available to the Planning Authority'.

4.4.

It is not always possible to anticipate the length of time required for a decision or for action on a case, nor for a case to be resolved. Progress can be delayed for several reasons, for example if evidence must be collected and verified over a period, if negotiations take place, or if formal procedures must be used. Where an application is submitted to regularise the breach, or where an appeal is made to the Scottish Ministers against a decision of the planning authority, this will affect the timescale for

resolution of the case. Complaints will be advised in writing if a planning application is submitted to regularise a reported breach of planning control.

4.5.

The Council recognises that delays can be a source of considerable frustration to those submitting information, particularly if they consider that their amenity is affected.

4.6. Resolution of a case prior to further action being sought

In some instances, even though a breach of control has occurred, it may not be appropriate to take further action. This is because a planning authority must consider whether, having regard to the local development plan and material considerations, and to the circumstances of each case, it is expedient and proportionate to take formal action including issuing a notice. Most enforcement cases are resolved without formal action.

4.7.

Where the development is likely to be acceptable, it may be appropriate to seek the submission of a planning application. There are provisions in the Planning Acts for applications to be made in retrospect. In these cases, any action proposed is suspended until a decision is made on the application.

4.8. Formal Action

Only a small number of cases require to be dealt with by formal enforcement action. Formal action is instigated by the service of a notice.

4.9.

If an appeal is lodged against a notice, this appeal is submitted to and considered by Scottish Ministers. In almost all cases appeals are dealt with by the Scottish Government's Planning and Environmental Appeals Division (DPEA).

4.10.

It should be noted that there is no right of appeal against a Breach of Condition Notice. If such a notice is not complied with, those responsible for the breach may be prosecuted.

4.11.

The planning authority has additional powers, including the use of Interdicts, which complement the serving of notices. For more detail, see Section 7 'Powers Available to the Planning Authority'.

4.12. Enforcement Register

Details of Enforcement Notices, Breach of Condition Notices, Notices under Section 33A, Stop Notices and Temporary Stop Notices which have been served in relation to land in the planning authority area are entered on the Enforcement Register,

which is published on the Council's website for inspection by the public at all reasonable hours.

4.13. Powers of Entry

The Council as planning authority has powers at any reasonable hour to enter land:

- To ascertain if there has been a breach of planning control.
- To determine whether there has been compliance with a formal notice.
- To determine whether a breach has been satisfactorily resolved.

5. Time-Limited Procedures

5.1.

In some cases, the planning authority is time-barred from taking enforcement action.

5.2. Time-Limited to Four Years for Enforcement Action

Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of 4 years beginning with the date on which the operations were substantially completed.

5.3.

Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach.

5.4. Time-Limited to Ten Years for Enforcement Action

In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach.

6. Complaints Procedure

Disagreement with the outcome of an investigation by the planning authority will not, in itself, be a ground for complaint. We will consider all complaints made about the way in which a planning control enquiry was dealt with in accordance with the Council's Complaints Handling Procedure.

7. Powers Available to the Planning Authority

7.1.

The planning enforcement powers available to the planning authority are set out in the Town and Country Planning (Scotland) Act 1997, as amended. Listed building enforcement notices are covered by the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, as amended. The Planning Acts can be viewed online: <http://www.opsi.gov.uk/>

7.2.

Government advice on planning enforcement is set out in Planning Circular 10/2009: Planning Enforcement. The Circular can be viewed on the Scottish Government website: <http://www.gov.scot/Publications/2009/09/16092848/0>

8. Types of Notice

8.1.

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 prosecution, with a fine of up to £1,000.

8.2.

Enforcement Notice - this is generally used to deal with unauthorised development but can also apply to a breach of planning conditions. There are similar notices and powers to deal with Tree Preservation Orders and advertisements. An Enforcement Notice will specify:

- A notification period before it comes into effect (a minimum of 28 days - but see the section below on advertisements).
- The steps that must be taken to remedy the breach.
- A further period (known as the compliance period) which is set by the planning authority and gives the recipient time to carry out any work 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.

8.3.

There are rights of appeal to Scottish Ministers against an Enforcement Notice and, if an appeal is made, the terms of the notice are suspended until a decision is reached.

8.4.

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 planning authority taking **Direct Action** to correct the breach (see other powers below).

8.5.

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 like 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 a 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 or extend a listed building or to alter a listed building in any way that would affect its character. In certain circumstances, this can lead either to an unlimited fine or imprisonment.

8.6.

Stop Notice - this is used in urgent or serious cases where an 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 the Council as planning authority may face claims for compensation. The use of Stop Notices therefore needs to be carefully assessed by the planning authority.

8.7.

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 dwelling house. TSNs are enforceable for 28 days, after which time they expire. They may, however, be followed by further enforcement action such as an Enforcement Notice and Stop Notice. There is no right of appeal against a TSN.

8.8.

Fixed Penalty Notice (FPN) – this provides planning authorities with an alternative process, in addition to 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.

8.9.

Notice Requiring Application for Planning Permission for Development Already Carried out (Notice under Section 33A) – 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.

9. Other Powers

9.1.

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.

9.2.

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.

9.3.

Notice under Section 179 (of the Town and Country Planning (Scotland) Act 1997) – this allows the planning authority 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.

9.4.

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 planning authorities normally only seek interdicts in serious cases or where enforcement notices have been ignored in the past. However, a planning authority can seek an interdict in relation to any breach without having to use other powers first. Breaching an interdict can carry heavy penalties.

9.5.

Direct Action – failure to comply with the terms of an Enforcement, Listed Building or Amenity Notice within the time specified can result in the planning authority carrying out the specified work. The planning authority may recover any costs it incurs from the landowner.

9.6.

Notification of Initiation and Completion of Development (NID/NCD) and Display of Notices While Development is Carried Out – whilst not in themselves planning enforcement powers, these notices are intended to improve delivery of planning enforcement by requiring positive confirmation that development has commenced and been completed, and, in the case of on-site notices, to raise

community awareness of developments in the local area. Planning authorities will be made aware of active development in their areas, enabling them to prioritise resources with a view to monitoring development. For any development for which permission has been granted, a NID must be submitted to inform the planning authority of the date on which development will commence. It is to be submitted after planning permission has been granted and before development has commenced. Initiating development without submitting a NID is a breach of planning control and the planning authority may consider enforcement action. The NCD requires a developer to submit a further notice as soon as practicable after development has been completed.

9.7.

Depending on the nature or scale of a development, the developer may also be required to display on-site notices while development is taking place. These notices contain basic information about the site and the development. They also provide contact details where members of the public may find out more information or report alleged breaches of planning control. It is a breach of planning control to fail to display such a notice when required to do so.



Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Planning Enforcement Charter.
Service / service area responsible.	Development and Infrastructure, Development Management.
Name of person carrying out the assessment and contact details.	Jamie Macvie, Planning Manager, Development Management. jamie.macvie@orkney.gov.uk 01856 873535 extension 2529.
Date of assessment.	07 January 2022.
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	Updated version of existing Planning Enforcement Charter.

2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	The Charter explains what planning control and enforcement means, what the planning authority can and cannot do and what happens at each stage of what can be a lengthy process. It outlines some of the procedures of the planning control system, and the standards of service that can be expected when enquiries are made about unauthorised development.
Is the function / policy / plan strategically important?	Potentially everybody in Orkney, but in particular developers and those affected by development. Sometimes developers or householders either undertake work without planning permission or fail to accord with the terms of development that has

	<p>been approved. The planning authority has the power to take action in cases like this and enforce planning control. While planning authorities monitor development, the number and size of new developments means there is also a role for the public in alerting the planning authority if they become aware of breaches.</p>
<p>State who is, or may be affected by this function / policy / plan, and how.</p>	<p>The Charter was originally subject to public consultation, including presentation to a Planning Stakeholders forum which is made up agents and developers who have regular contact with the development management function. Representations from the public over alleged unauthorised developments and the investigations of these have instructed the monitoring and adaptation of the Charter.</p>
<p>How have stakeholders been involved in the development of this function / policy / plan?</p>	<p>The Charter explains what planning control and enforcement means, what the planning authority can and cannot do and what happens at each stage of what can be a lengthy process. It outlines some of the procedures of the planning control system, and the standards of service that can be expected when enquiries are made about unauthorised development.</p>
<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise. E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p>There is little that is locally sourced. Relevant issues may be raised and disseminated by the Scottish Planning Enforcement Forum (SPEF).</p>
<p>Is there any existing evidence relating to socio-economic disadvantage and inequalities of outcome in this policy area? Please summarise. E.g. For people living in poverty or for people of low income. See The Fairer Scotland Duty Interim Guidance for Public Bodies for further information.</p>	<p>None.</p>
<p>Could the function / policy have a differential impact on</p>	<p>Yes. The Charter refers to the serving of notices, completion of forms and display of written</p>

any of the following equality areas?	information. There may therefore be an issue regarding accessibility to the information for people who do not speak English as a first language.
1. Race: this includes ethnic or national groups, colour and nationality.	No.
2. Sex: a man or a woman.	No.
3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.	No.
4. Gender Reassignment: the process of transitioning from one gender to another.	No.
5. Pregnancy and maternity.	No.
6. Age: people of different ages.	No.
7. Religion or beliefs or none (atheists).	No.
8. Caring responsibilities.	There is little that is locally sourced. Relevant issues may be raised and disseminated by the Scottish Planning Enforcement Forum (SPEF).
9. Care experienced.	No.
10. Marriage and Civil Partnerships.	No.
11. Disability: people with disabilities (whether registered or not).	The Charter refers to the serving of notices, completion of forms and display of written information. There may therefore be an issue regarding accessibility to the information for people with reading difficulties or a visual impairment.
12. Socio-economic disadvantage.	No.

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	Yes.
How could you minimise or remove any potential negative impacts?	In the event that communication with someone with a visually impairment becomes an issue there are Council facilities to assist document 'reading' and documents can also be made in different

	formats such as large print. Officers are also available to assist. If someone who does not speak English as their first language has difficulty understanding the information the Council can provide documents in other languages upon request.
Do you have enough information to make a judgement? If no, what information do you require?	Yes.

4. Conclusions and Planned Action

Is further work required?	No.
What action is to be taken?	N/A.
Who will undertake it?	N/A.
When will it be done?	N/A.
How will it be monitored? (e.g. through service plans).	N/A.

Signature: Jamie Macvie

Date: 07 January 2022

Name: JAMIE MACVIE

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to HR and Performance at hrsupport@orkney.gov.uk