

Planning and Economic Development Services

Planning enforcement charter

A guide to enforcing planning controls

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1 Introduction

- a You need planning permission for most types of development, including new buildings and change of use of land or buildings. However, some minor work (known as permitted development) can be carried out without applying for permission. People sometimes carry out work without planning permission because they are unaware that permission is needed. Developers may fail to keep to the permission they have been given.
- b We have legal powers to enforce planning controls if we think that it is in the public interest to do so. As well as investigating work that may have been carried out without permission, we also monitor developments that have been given permission to make sure that they are built in line with approved drawings and keep to planning conditions attached to the permission.
- c This charter explains:
 - how the enforcement process works;
 - our role;
 - what happens at each stage of what can be a lengthy process; and
 - the service standards we have set.
- d Enforcement is one of the most complicated parts of the planning system. The aim of this charter is to make sure that our procedures are fair and reasonable and that we keep everyone involved informed when enforcement issues arise.
- e There is also a role for the public in letting us know when planning controls may have been broken. Enforcing planning controls interests many members of the public. We hope you will find this charter useful. Let us know how you think we could further improve the service. Our contact details are in section 13.

This charter sets out the current powers available to planning authorities. These powers are set out in the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc (Scotland) Act 2006 and the Planning (Scotland) Act 2019.

2 The main points on planning enforcement

- a Breaking planning control is not in itself a criminal offence. This only applies when a notice served by the Council has not been complied with in the timescale required.
- b When dealing with planning enforcement we seek to deal with a problem rather than to punish what is often a mistake. Any action that we take has to be appropriate to the scale of the problem and the harm that it may be causing. It is a last resort when other ways of resolving the problem have been exhausted.
- c We have legal powers to investigate cases where planning control has been broken and to take formal action if we cannot negotiate a satisfactory solution to any problems that have arisen. However, it is important to remember that enforcement is a discretionary power. This means that we have to decide whether it is in the public interest to take

enforcement action. We do not have to take action when planning control has been broken and, if we have good reason to do so, we may decide that no action is needed.

- d You can find more information on using enforcement powers in the Scottish Government Planning circular 10/2009: Planning Enforcement. You can see this online at: <https://www.gov.scot/publications/planning-circular-10-2009-planning-enforcement/>
- e Planning enforcement also covers displaying advertisements such as signs, billboards and advertisement hoardings, although slightly different procedures apply. These procedures are set out in section 10 of this charter – Enforcement and advertising. The actual content of an advertisement is not covered by planning control. If you have a complaint about this, you should contact the Advertising Standards Authority. You will find their contact details at the end of section 13.
- f We also have powers to intervene when trees that are protected by a Tree Preservation Order or trees within a conservation area are under threat. There may be also a condition on a planning permission that prevents work to trees.

Service standard

By publishing our standards and targets, we aim to improve our enforcement service so we respond to the needs of our customers. We will monitor this charter to make sure that we are meeting standards and targets.

3 Informing us about a possible breach of planning control

- a Members of the public have a vital role in reporting situations where control has been broken. If you are concerned that someone is carrying out work without permission or not keeping to planning permission they have been given, please contact the Planning Enforcement team. You can phone or e-mail them or call in person at Planning and Economic Development, Montrose House, 154 Montrose Crescent, Hamilton. You can also report a breach using an online form. Contact details can be found in section 13 of the charter.
- b The following information is important and helpful to us when you report a suspected case where planning control has been broken.
 - The address or location of the property or land involved.
 - Full details of the suspected problem (for example, details of the building work or activities being carried out, or the particular condition on a planning permission which you think may not be being kept to).
 - Dates and times when the activity is carried out or when the building work began, if this applies.
 - Details of any problems caused by breaking the planning controls.

Details of your name, phone number, address and e-mail address, if you have one are helpful if you want to know the outcome of an investigation into your enquiry.

- c We will do our best to honour requests for confidentiality and treat personal data in accordance with data protection legislation. We are however subject to information requests and we may have to release personal information in some limited circumstances. Requests for total confidentiality may also limit our ability to take formal action and we cannot guarantee this if the case leads to court proceedings.
- d Members of the public also have an important role in monitoring the conditions that are placed on most planning permissions. Anyone applying for permission must keep to any conditions attached to the decision notice which is issued when planning permission is granted. You can see decision notices at Planning and Economic Development, Montrose House, Montrose Crescent, Hamilton or online at www.southlanarkshire.gov.uk. Planning permissions are monitored by our Planning and Economic Development Service. However, we grant permission to a large number of applications each year and it is not practical for us to monitor all conditions at all times. In some cases, the developer has to put up a notice at the development site showing information that might help you when you contact us. It will have the name of the developer, the date when planning permission was granted, and details of how to contact us.
- e We check any information we receive from the public to see if it involves a possible problem and to make sure that all the details that we need to carry out an investigation have been provided. After our first checks, we will log the enquiry. We will then send a written or e-mail acknowledgement to the person who made the enquiry which will include details of the case reference number, details of the officer dealing with the enquiry and other contact details.
- f We recognise that delays can be frustrating to people sending us information about situations where planning control has been broken, particularly if you consider that you are affected. We will try to keep you informed about significant stages in the progress of a case. However, if you want regular updates, you should contact the case officer direct. You will be informed of the outcome of the case in writing.

4 Identifying possible situations where planning control has been broken

- a Situations where planning control may have been broken include:
 - work being carried out without planning permission or other types of permission (for example, listed building consent or advertisement consent);
 - an unauthorised change of use of land or buildings;
 - people using their home to run a business;
 - not keeping to conditions attached to any permission;
 - carrying out work which does not keep to approved plans which have been given planning permission; or
 - carrying out work to trees that are protected by a planning condition or a tree preservation order.

There will be cases where the work that has been carried out is permitted development because of its size and position and does not require planning permission in the first place. It is not always the case that works to a listed building need consent if that work does not affect its character. In addition, there are many situations where running a business from a house does not require permission. You can get further guidance on these matters by contacting the Planning Service.

- b Our ability to take enforcement action is restricted by when the unauthorised development or change of use originally took place. We have to take enforcement action within the following strict time limits.
 - A four-year limit – applies to ‘unauthorised operational development’ (carrying out building, engineering, mining or other operations in, on, over or under land) and the change of use of a building to a single home. Four years after the planning control has been broken, the development becomes lawful and we cannot take any enforcement action.
 - A ten-year limit – applies to all other development including a change of use (other than to a single home) and breaching any condition. After ten years, the development becomes lawful if we have not taken any enforcement action.
- c In many circumstances, we receive enquiries which do not relate to planning matters. For example we cannot become involved in boundary disputes and legal issues are matters that are dealt with under other legislation.

If this is the case, we will tell you that we cannot take action and if appropriate, we will refer you to the council service or other agency which can help you with your concern.

5 Our policy on enforcement and monitoring

- a When we conclude that planning control has been broken, we have to decide what action, if any, is needed. These situations can sometimes have a serious effect on an area and the local environment, but equally, some are less harmful.
- b When considering whether to take formal enforcement action, our main concern is whether the unauthorised development or activity has a harmful effect on an area (for example, through noise, visual impact (what it looks like), smell, dust, fumes or traffic safety).

General enforcement policy

We will take enforcement action against any unauthorised development that unacceptably harms public amenity, public safety or the existing use of land and buildings which need protecting in the public interest.

In considering whether to take enforcement action, we will assess the situation against:

- the local development plan and enforcement policies;
- the effect on residential amenity (for example whether a development would result in a loss of privacy, overlooking or overshadowing or whether it would affect the overall character and its enjoyment by residents or visitors);
- the effect on road safety;
- the scale of the problem;
- how sensitive the area is to the harmful effects of noise, visual effect, smell, dust, fumes and so on; and
- how much harm will be done to the environment – this can include landscape character, listed buildings, archaeology and habitats.

Justification

Scottish Planning Policy states that the Scottish Government's confidence in the planning system depends on reliably enforcing the law and planning decisions. The policy also says that the controls and requirements involved in the planning process must be in proportion to how serious the situation is. We will not take action against trivial or technical breaks that cause no harm to amenity or safety. We will try to persuade an owner or occupier of land to voluntarily put right any harmful effects of unauthorised development. However, any negotiations will not delay formal enforcement action that we may need to take to either stop the activity or make the development acceptable for planning reasons.

General monitoring policy

We will monitor a development to make sure it is carried out in line with planning laws and approved plans and conditions. We will give priority for monitoring to those developments which are most likely to have an effect on the environment or residents or on public safety. We will also monitor and record the compliance with planning permissions which have been granted in respect of major developments.

The progress of works on sites where mineral extraction or renewable energy development is taking place will also be monitored and the council, where appropriate, will appoint at the expense of the developer a suitably qualified independent assessor. The role of the assessor will be to verify that the works being carried out match the earthmoving, phasing and restoration works shown on the approved planning permission.

Justification

We need effective controls to make sure development is carried out strictly in line with planning laws and planning permission. Problems may arise if a development is not carried out in line with the planning permission which has been granted. For example:

- building in the wrong place;
- not providing enough protection to existing trees and hedgerows;
- using inappropriate materials;
- not doing the right kind of hard and soft landscaping; or
- problems with boundaries.

We may also add conditions to planning permission to tackle possible problems arising from a development. As a result we need effective monitoring to make sure that development takes place in line with approved plans and conditions.

Service standard

A priority system is used to investigate the complaints and information that we receive about cases where planning control may have been broken. We will give greater priority to those cases that have the most serious potential effects and which may affect important or sensitive sites. Although a case may not fall within the 'high priority' category, it may be that the level of harm being caused by it is high. If this is the case, we will consider that the case is high priority and will take appropriate action. Therefore, the level of harm caused by the case will always be considered, as well as which priority category it belongs to.

Malicious or hoax complaints use up valuable resources. Therefore we will not investigate anonymous complaints unless it is considered that the level of harm that may be being caused by the case is high.

Complaints will be prioritised as set out in the following table.

High priority: Investigation - immediate or within 1 working day of notification	Comments
Unauthorised works causing an immediate threat to public safety	
Unauthorised works to, or demolition of, a listed building	Full/partial demolition or significant alteration of a listed building
Unauthorised works which are adversely affecting or likely to adversely affect a designated natural or historical site of international or national importance	Includes for example, New Lanark World Heritage site, Scheduled Monuments, SSSIs, National Nature Reserves, Special Protection Areas and Special Areas of Conservation
Unauthorised works to protected trees where the tree is under threat and likely to be lost or damaged	Felling or lopping of trees covered by TPO or within a conservation area or trees protected by a planning condition
Unauthorised works likely to cause significant or irreparable damage to the character of a conservation area, including demolition	Demolition of unlisted buildings
Any unauthorised development, including a breach of planning conditions, which causes significant and immediate harm to the amenity of a locality (in terms of visual impact, noise, traffic, smell, pollution, loss of privacy or light)	

Medium priority: Investigation - within 5 working days	Comments
Unauthorised ongoing building operations or changes of use which are not significantly impacting on amenity	
Harmful breaches of planning control that are nearing immunity from enforcement action by virtue of the 4 or 10 year immunity rule	

Medium priority: Investigation - within 5 working days	Comments
Works where significant and rapidly ongoing building works or engineering operations are ongoing	
Unauthorised minor development in conservation areas or unauthorised minor works to listed buildings	
Non-compliance with approved plans or conditions	
Low priority: Investigation - within 10 working days	Comments
Unauthorised development that has no significant impact on visual or other amenity	
Unauthorised advertisements	Unless creating a public safety issue
Unauthorised minor or small scale developments which, if retrospective planning permission was applied for, would comply with development plan policy and would be likely to be approved	Including the erection of domestic outbuildings, boundary fences and walls, decking, satellite dishes.

6 Investigating possible situations where planning control has been broken

- a An investigation begins with an enforcement officer visiting the site. In some cases, we may need to do more investigation. This can involve serving a Planning Contravention Notice to gather information.
- b We will then let you know if we plan to take no further action because:
 - there has not been a breach of planning control
 - we cannot prove that planning control has been broken;
 - the problem is minor and causes no harm; or
 - there is not enough evidence to take the matter further.

c If we do find that a breach has occurred , there are three main courses of action which we may take.

d **Negotiate a solution**

We will usually try to sort out the situation by negotiating with the person who is responsible for breaking planning control, rather than immediately taking enforcement action against them. In many cases, we can sort the situation out through discussion and negotiation. We will take this approach when we consider that it is the most reasonable way of dealing with a problem.

This will normally mean the person responsible being asked to stop the activity and get them to carry out work to put right any harm that it has caused; or so that the development does not require planning permission.

We will give the person responsible a specific amount of time to meet either of these requirements. The length of time will depend on how serious the problem is and any harm it is causing.

e **Make a retrospective application**

In some cases it may be appropriate to ask the person responsible to send us a retrospective planning application. Until we make a decision on the retrospective application, we will not take formal action. We will only encourage or ask for a retrospective application if we consider that the situation has no negative effects or if the operations or work could be made acceptable by placing conditions on the planning permission. The person applying would then have to keep to these conditions. This does not prevent the developer submitting an application where they are advised it is unlikely it will be granted.

An owner or developer should never rely on ‘retrospective permission’ to get permission for unauthorised work. Anyone doing this is taking a considerable risk and may face formal enforcement action if planning permission is refused

If we do receive a retrospective planning application the normal neighbour notification and publicity will be carried out and we will fully consider any comments made before we make a decision. Retrospective planning applications are dealt with like any others and we will take into account the Local Development Plan, responses from consultees and the impact on the area and public safety. The application cannot be refused simply because it is retrospective.

If we grant planning permission or if the unauthorised activity stops and any harmful effects are put right, we will not take any enforcement action. We will let you know this if you previously asked about the problem.

Take formal enforcement action

f If the problem continues beyond the timescale that we give to put right any harmful effects or to send a planning application, we will consider what formal enforcement action we should take to deal with the matter. We will normally take formal action if a situation where planning control has been broken is causing harm to an area and where negotiations have failed to deal with the matter. We may also take action if we have

received a retrospective application which is unacceptable on its planning merits and cannot be made acceptable by placing conditions on it.

We will only take formal enforcement action if we consider that the problem is having an unacceptable or harmful effect on an area. Taking action has to be in the public interest. We will not take action simply because someone does not have planning permission or refuses to send us a retrospective planning application.

Only a relatively small number of cases result in us taking formal enforcement action. This usually involves either an 'enforcement' or 'breach of condition' notice being served on the owner and occupier of the land and other persons with an interest in the development – this can include those with a financial interest in the land such as a lender. (See section 11 of the charter - 'Enforcement powers' for more details on all types of notice and powers available to us). Serving a notice can have severe repercussions for a property and can for example impact on the ability of the owner to sell it or seek further lending.

Most notices include:

- a description of the problem;
- the steps that should be taken to put the situation right;
- the timescale for taking these steps;
- the consequences of not taking these steps; and
- where appropriate, any rights of appeal that the person has and how to make an appeal.

- g We keep an online enforcement register with details of enforcement notices, breach of condition notices, notices which will need an application to be provided to us, temporary stop notices and stop notices. Details of monitoring and recording of compliance with planning permissions for major developments and other developments will also be recorded within the planning application register once the relevant legislation takes effect. You can inspect these documents at Planning and Economic Development, Montrose House, Hamilton . You can see details of notices which have been served since 1st September 2012 online at www.southlanarkshire.gov.uk.

Service standard

If we cannot sort out a situation and action is justified, we will serve a formal notice. This will usually be either an enforcement notice or a breach of condition notice.

The notice will explain what is needed to be done to remedy the breach, the timescales involved and the available options to deal with the issue.

7 Not keeping to legal notices

- a It is only when someone who has been served with a notice does not comply with its requirements that an offence is committed. If this is the case the options available to us include
- carrying out work to put the problem right and charging the person for the costs involved;
 - getting a court order to stop or prevent someone from breaking planning controls;
 - referring the case to the Procurator Fiscal for possible prosecution; and
 - serving a fixed-penalty notice.

- b In the first instance, we will do everything possible to make sure that the person responsible for the problem carries out any action or work needed by the notice. This may mean that, if necessary, we give more time to the person to carry out the work and keep to the notice.
- c We may consider whether we could carry out the work ourselves (although only a very limited number of cases are likely to involve direct action due to the nature of the problem, the costs involved and the problems of recovering the costs from the person responsible).
- d We may also decide to seek prosecution. This involves reporting the case to the Procurator Fiscal. If the Fiscal accepts a case, the matter is referred to the Sheriff Court and a date is set for a trial. If the case is not accepted, we will not continue with enforcement action unless a revised notice is served based on new evidence. We would usually only make a report to the Fiscal as a last resort and if the problem is causing serious harm.

8 Appeals against notices

- a Anybody served with an enforcement notice has a right of appeal to Scottish Ministers. Appeals are dealt with, in most cases, by the Planning and Environmental appeals Division. We will let anyone know about the appeal if they have sent us information on breaking planning controls.
- b If an appeal is made, the notice will have no effect until the Scottish Ministers make a decision on it. This may take a number of months from when the appeal is made. During this time, the unauthorised activity may continue. If the Scottish Ministers agree with us and decide that the person responsible should keep to the notice, they may give them extra time for this to be done. Or, the Scottish Ministers may cancel the notice.
- c There is no right of appeal against a breach of condition notice, a stop notice, a temporary stop notice or a fixed-penalty notice.

Service standard

If someone does not keep to the terms of any enforcement notice, we will make every effort to sort the case out satisfactorily. Options include:

- direct action by the council;
- getting a court order;
- referring the matter to the Procurator Fiscal for possible prosecution; or
- serving a fixed-penalty notice.

9 Enforcement and advertising

- a 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'. This means that they do not need advertisement consent if they meet the 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. Where an advertisement benefits from deemed consent but we require its removal, a discontinuance notice may be served. This can be appealed to the Directorate for Planning and Environmental Appeals. Whilst there are no penalty provisions for failing to comply with this notice it constitutes enforcement action and allows us to pursue further action in terms of an enforcement notice should this be necessary.
- b Displaying an advertisement against 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 regulations are still broken.
- c We have the power to serve an enforcement notice if we think the advert is affecting the amenity of an area or public safety. This gives a time period (normally 28 days) for a person to keep to the notice. However, we can reduce this period to seven days if we believe 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 needed.
- d An enforcement notice can also say that a particular piece of land should not be used to display advertisements. This will stay in force even if the original advertisement is removed. Any advertising on this site after this would amount to breaching the notice.
- e We also have powers to remove or destroy placards and posters that do not have planning permission or 'deemed consent'. If we can identify the person who put up the poster, we have to give them at least two days' notice that we plan to take the poster down. If we cannot easily identify them, we can remove the advert immediately.
- f Our officials can enter unoccupied land if we need to remove an advertisement. If we do so we will store the advert and let the person affected know how to collect it. If it is not collected within a reasonable time it will be discarded. However, we have no powers to remove advertisements displayed within a building if there is no public access to it.

10 Trees

- a We have powers to make Tree Preservation Orders where the trees make a positive contribution to the amenity of an area. When a TPO is in place it is an offence to cut down, lop, top or willfully damage a protected tree without our consent. The same restrictions apply to trees within a conservation area. Any person who is responsible for unauthorised works to trees is guilty of an offence and may be prosecuted.
- b Owners of trees that are protected should make an application to us before carrying out any work. When we grant consent it will normally be a requirement to plant a replacement tree(s).

- c When granting planning permission for new development we may add a condition to prevent the removal of trees as well as making sure trees that are to be retained are protected during the development. Failure to adhere to this type of condition can result in the serving of a breach of condition notice.
- d Where a tree protected by a tree preservation order is removed, uprooted or destroyed in contravention of the order or any conditions of a consent given under a tree preservation order requiring the replacement of trees is not complied with, the council can issue a replacement tree notice requiring the owner of the land to plant a tree or trees. Any notice served can be appealed to the Directorate for Planning and Environmental Appeals.

11 Enforcement powers

- a Our planning enforcement powers are set out in Part VI of the Town and Country Planning (Scotland) Act 1997, Part IV of the Planning etc. (Scotland) Act 2006, Part 4 Sections 42 to 44 Planning (Scotland) Act 2019, Part VII of the Town and Country Planning (Control of Advertisements)(Scotland)Regulations 1984 and in Chapter IV of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Part 3, Sections 22 and 26 of the Historic Environment (Amendment)(Scotland) Act 2011. You can get copies of the acts from the Glasgow agent for The Stationery Office (TSO), John Smith's Bookshop, Cowcaddens Road, Glasgow G4 0BA, and at www.opsi.gov.uk/legislation/scotland/about.htm.
- b Government policy on planning enforcement is set out in 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
- c We have a range of enforcement powers available and will need to decide, in each case, which power is best suited to dealing with a particular situation. If we need to take formal enforcement action, we will usually serve an enforcement notice, a breach of condition notice or, in urgent or very serious cases, a temporary stop notice or a stop notice, on the person responsible for breaking the condition as well as the landowner.
- d Types of notice
 - **Breach of condition notice** – this is used to enforce the conditions applied to any planning permission. It applies from the date it is served. We may use this instead of an enforcement notice (see below), and we can serve it on any person carrying out the development or any person who controls the land. There is no right of appeal. Not keeping to a breach of condition notice is an offence and can result in us deciding to prosecute, with a fine of up to £5000. Or, we can serve a fixed-penalty notice for each step that has not been taken, with a fine of up to £300 for each notice.
 - **Enforcement notice** – this must be served on the current owner, occupier and anyone else with an interest in the property. This is generally used to deal with unauthorised development, but can also apply to breaking planning conditions. There are similar notices and powers to deal with listed buildings (see below), and advertisements.

An enforcement notice will say:

 - how long you have to appeal (at least 28 days);
 - what steps must be taken to sort out the problem; and
 - when they have to be completed. This amount of time has to be reasonable and will depend on the amount of work that needs to be carried out.

- There is a right of appeal and the notice is suspended until a decision is reached by the Planning and Environmental Appeals Division. If you do not keep to an enforcement notice within the time shown, it is an offence, and may lead to a fine of up to £50,000 in the Sheriff Court. Or, we can serve a fixed-penalty notice for each step that has not been taken, with a fine of up to £2000 for each notice. If you fail to do what the notice asks we may also take 'Direct Action' to correct the problem (see other powers below), even if the fixed penalty has been paid.
- **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 describe the steps to be taken to sort the problem out and a final date for doing so. If you do not do what the notices asks by the date shown, it is an offence. There is the right of appeal to Scottish Ministers against the notice. Breaking listed building control is a serious matter. It is a criminal offence to carry out unauthorised work to demolish, significantly alter, or extend a listed building. In certain circumstances, this can lead either to an unlimited fine or imprisonment.
- **Stop notice** – this is used in urgent or serious cases where unauthorised activity must be stopped, usually because of public safety. When we serve a stop notice, we must also issue an enforcement notice at the same time. There is no right of appeal against a stop notice and if you do not keep to the notice, it is an offence. You can though appeal against the enforcement notice. If a stop notice is served without a good reason, or an appeal against the enforcement notice is successful, we may face claims for compensation. As a result, we need to carefully assess when to use stop notices.
- **Temporary stop notice** – we can use this to stop an activity that will damage the environment or local amenity and there is a clear and immediate need to stop it. It can only be used to stop the activity for up 28 days. If the activity is to be stopped for longer, we will have to serve some other form of notice. We do not need to serve an enforcement notice at the same time and there is no right of appeal. If you do not keep to the notice, it is an offence. If we serve a temporary stop notice without a good reason, we may face claims for compensation. As a result, we need to carefully assess when to use a temporary stop notice.

e Other powers

- **Planning contravention notice** – this is used to gather information about activities on land where we suspect that planning control has been broken and is normally served at the beginning of the enforcement process. It is served on the owner or occupier, or a person with any other interest in the land or anyone who is carrying out operations on the land. That person will have to provide information about operations being carried out on the land and any conditions or limits applying to any planning permission already granted. If you do not keep to the notice within 21 days of it being served, it is an offence and can lead to a fine in the courts.
- **Notice under section 272 (of the Town and Country Planning (Scotland) Act 1997)** – this provides limited powers to gather information on interests in land and how land is used. If you do not provide the necessary information it is an offence.
- **Amenity Notice** under section 179 (of the Town and Country Planning (Scotland) Act 1997) – this allows planning authorities to serve a notice on the owner, lessee or occupier of land which is negatively affecting the area. The notice sets out the action that needs to be taken to sort the problem out within a certain period.
- **Notice under section 33A (of the Town and Country Planning (Scotland) Act – introduced by section 9 of the 2006 Act)** – this allows us to serve a notice saying someone needs to make a planning application for a development that has already taken place. We can use this to encourage you to send us an application that we think might be granted with some conditions that would make the development acceptable.

- **Order and interim order** – this is an order made by the courts and is used to stop or prevent a problem with planning control. Court proceedings can be expensive and we normally only apply for orders in serious cases or where enforcement notices have been ignored in the past. However, we can get an order in relation to any situation where control has been broken without having to use other powers first. Breaking an order is treated as a contempt of court and carries heavy penalties.
- **Direct action** – if you fail to keep to the terms of an enforcement notice within the time given, this can result in us carrying out the specified work. We will take action to recover any costs involved from the landowner.
- **Powers to enter land** - we have powers to enter land to:
 - see if planning control has been broken;
 - check if you have kept to a formal notice; and
 - check if a problem has been dealt with satisfactorily.

This power applies to any land and may involve our officers entering land next to the site where the problem took place.

Other notices - these notices help us to monitor a new development to make sure it is carried out in line with planning laws and approved plans and conditions.

- Notification of initiation of development – for all development that has been given planning permission, we will need a notification of initiation of development to let us know the date that work will begin. It must be provided after planning permission has been granted and before the development begins. If you start your development without giving us notice, you will be breaking planning control and we may consider taking enforcement action.
- Notification of completion of development – you need to send us a notice as soon as possible after the development has finished. This lets us check the development to make sure it has been carried out in line with approved plans and conditions.
- Display of notices while development is carried out – if you are carrying out a development that is large or is of a particular type, you may also have to put up notices while the development is taking place. These notices give information about the development that is being carried out. They also provide contact details where members of the public may find out more information or report suspected cases of where planning control may have been broken. If a notice has to be put up and you do not do so, you will be breaking planning control.

12 Making a suggestion or complaint

- We hope you 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.
- 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 that in itself is not grounds for a complaint. There is a separate appeals procedure for you to use if you receive an enforcement notice.

c Guide to our complaints procedure

You can make your complaint in person, by phone, by email, using our comments and complaints form on our website at www.southlanarkshire.gov.uk or in writing. We have a two-stage complaints procedure. We will always try to deal with your complaint quickly. But if it is clear that the matter will need a detailed investigation, we will tell you and keep you updated on our progress.

Stage 1: frontline resolution

We will always try to deal with your complaint quickly, within five working days if we can.

If you are not satisfied with our response, you can ask us to consider your complaint again.

Stage 2: investigation

We will look at your complaint at this stage if you are not satisfied with our first response. We may also look at your complaint immediately at this stage, if it is clear that it is complicated or needs detailed investigation.

We will acknowledge your complaint within three working days. We will give you our decision as soon as possible. This will be after no more than 20 working days unless there is clearly a good reason for needing more time.

The Scottish Public Services Ombudsman (SPSO)

If, after receiving our final decision on your complaint, you are still not satisfied with our decision on the way we handled your complaint, you can ask the SPSO to consider it.

We will tell you how to do this when we send you our final decision.

The SPSO offers a range of fact sheets designed to give advice on some common topics of complaint that members of the public ask about. They outline what the SPSO can and cannot do about a specific complaint and provide details of other organisations that might be able to offer help or support to customers. You can find details on the SPSO website at www.spso.org.uk

Service standard

We will acknowledge your complaint within three working days. We aim to provide a full written reply within five working days (20 working days for stage 2) of receiving a complaint. If we cannot issue full replies within the agreed timescale, we will provide an update.

We will monitor all complaints made and use them to review and improve the service we provide.

13 Enforcement contacts

You can let us know about suspected breaches of planning control by submitting an online form. This can be found at

https://www.southlanarkshire.gov.uk/forms/form/100/en/planning_enforcement

You can also call in to our offices between 8.45am to 4.45pm Monday to Thursday, and from 8.45am to 4.15pm on Fridays at:

Planning and Economic Development Headquarters

Montrose House, Montrose Crescent, Hamilton, ML3 6LB

Planning and Building Standards can be contacted via the emails below:

Email: planning@southlanarkshire.gov.uk

Email: buildingstandards@southlanarkshire.gov.uk

For general enquiries please phone 0303 123 1015.

These lines are open between 8am and 6pm, Monday to Friday.

If you are not happy with any part of our service, please let us know so that we can look into it and improve our service if we need to. You can contact us in person, by phoning, by sending us a letter or by using our comments, compliments and complaints cards. You can get these from any council office or library and on our website www.southlanarkshire.gov.uk. The website also contains general information on comments, compliments and complaints under the Customer Services section.

Other Useful Contacts

Advertising Standards Authority

Mid City Place

71 High Holborn

London WC1V 6QT

Phone: 020 7492 2222

Website: www.asa.org.uk

If you need this information in another language or format, please contact us to discuss how we can best meet your needs.

Phone: 0303 123 1015

Email: equality@southlanarkshire.gov.uk

www.southlanarkshire.gov.uk