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This Charter outlines the procedures and standards of service that customers can expect when they make enquiries to Argyll and Bute Council about development that may not be permitted under the relevant laws.

The Charter also identifies the ways we monitor planning permissions and sets out the enforcement powers currently available to the Council. These powers include the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006, and the Planning (Scotland) Act 2019.

Copies of this Charter are available [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk) and at the following Council offices:

- Kilmory Castle, Lochgilphead, PA31 8RT**
- 1A Manse Brae, Lochgilphead, Argyll PA31 8RD**
- Municipal Buildings, Albany Street, Oban, PA34 4AW**
- Argyll House, Alexandra Parade, Dunoon, PA23 8AJ**







## CHAPTER 3: INVESTIGATING BREACHES OF PLANNING CONTROL

All enforcement complaints received by the Council will be processed in accordance with the Argyll and Bute Council Customer Service Charter which can be viewed online at <https://www.argyll-bute.gov.uk/my-council/plans-and-policy/customer-service-charter-and-strategy>

A written complaint will be acknowledged within **3 working days**. The case will then be passed to the relevant Officer who will undertake an investigation. This will normally require a site inspection and a determination as to whether or not there has been a breach of planning control. Where no breach of planning control has been established the complainant will be advised of the outcome and the case will be closed. Please note that the opening of an investigation does not necessarily mean that a breach has occurred or that formal action will be taken.

One of the priority rating timescales, listed below, will be applied to each case. Owing to home/hybrid working arrangements introduced in response to Covid and the geography of Argyll and Bute including many remote settlements and islands, some site inspections may fall out with the priority timescale shown.

Each case is assessed so as they have a level of priority, these are outlined below.

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- **Listed Building Enforcement Notice** – The Council may serve a listed building notice where unauthorised works have been, or are being, undertaken to a listed building. This notice must be served on the current owner, occupier and anyone else with an interest in the property. The notice must specify the steps to be taken to remedy the breach and a compliance period. 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. It is a criminal offence to execute or cause to be undertaken any works to demolish, alter, or extend a listed building which would affect its character as a building of special architectural or historic interest, unless the works are authorised. The legislation also extends to the interiors as well as the exteriors of statutory listed buildings. Unlike a breach of planning control unauthorised works to listed buildings can never become immune from enforcement action.
- **Advertisement Enforcement Notice** – This notice may be served by the Council where it appears to them that an advertisement has been displayed without the necessary consent, or without compliance with a condition or limitation attached to consent. The notice is served upon the owner, lessee and occupier of the land and on any other person known to the Council to be displaying the advertisement. The notice will require specific steps to be taken within a specified period to remove the advertisement, to restore the land to the condition it was in before the display began or to secure compliance with the condition or limitation. In addition the notice may specify, as an alternative, steps to be taken to bring the display up to an acceptable condition. Where any of the steps required by the not

(ii) **OTHER POWERS/NOTICES OPEN TO USE BY ARGYLL AND BUTE COUNCIL**

- **Planning Contravention Notice** – The Council may issue a planning contravention notice on the owner or occupier of any land, on any other person with an interest in such land, or on a person who is carrying out operations on the land in order to obtain information about activities where a breach of planning control is suspected. Those who receive a planning contravention notice are required to provide specified information about operations being carried out on the land. Failure to comply with the notice within 21 days of it being served is an offence with a current maximum fine of £5,000.
- **Fixed Penalty Notices** – These provide the Council 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 or a breach of condition notice. By paying the penalty imposed by a fixed penalty notice 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 enforcement or breach of condition notice and the Council will retain the power to take direct action to remedy the breach and recover the costs of such work from that person. This notice may be increasingly used as an intermediary option prior to taking direct action or in

(iii) **FURTHER CONTROLS**

- **Tree Preservation Order and Trees in Conservation Areas** – Trees within a Conservation Area or subject to a Tree Preservation Order are protected in law and it is an offence to cut down, uproot, willfully













## Planning and Related Enforcement Legislation and Advice

Planning Enforcement powers are set out in Part IV 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 and at [www.scotland-legislation.hmso.gov.uk](http://www.scotland-legislation.hmso.gov.uk)

The High Hedges (Scotland) Bill was passed on 28th March 2013. Below is a link to the Council online 'Questions & Answers'. <http://www.argyll-bute.gov.uk/high-hedges-scotland-act>

Scottish Government policy on planning enforcement is set out in Planning Circular 10/2009: Planning Enforcement available in electronic format on the Government website at [www.scotland.gov.uk/planning](http://www.scotland.gov.uk/planning)

Other Council Services and external Agencies with separate enforcement and/or regulatory powers that may overlap or compliment planning enforcement powers include:

**ABC Building Standards:** <https://www.argyll-bute.gov.uk/planning-and-building/building-standards>

**ABC Environmental Health:** <https://www.argyll-bute.gov.uk/environment/environmental-health>

**ABC Licencing:** <https://www.argyll-bute.gov.uk/licencing>