

Environmental Services Committee Tuesday 4th August 2015

Table of Recommendations

No	Item	Recommendation
5.	Grass Cutting	<i>Option B</i>
6.	Implementation of the licensing of Pavement Cafes Act (NI) 2014	<i>Advise DSD arrangements will be made to bring Act into operation on 1st April 2016</i>
7.	Street Trading	<i>Grant licences</i>
8.	Trading Concessions	<i>Extend to include butchers (subject to available pitch space) at Benone caravan Park and Tea and Coffee at Megaw Park and that such concessions be offered on the same bases as previously agreed (OD 150219, Item 5)</i>
9.	Entertainment Licences	<i>Grant</i>
10.	Harmonisation of Cemetery Rules & Regulations	<i>Defer</i>
11.	Implementation of Bus Shelter Guidelines	<i>Option2, add "for Rural areas, 5 people between 0700 and 0830 hrs and/or 10 people during the day"</i>
12.	Officer Authorisation and Delegation of Powers	<i>Delegate</i>
13.	Protocol and Service level Agreement (SLA) for Administration of The Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008	<i>Support</i>
15.	Matters for reporting to Partnership Panel	<i>DRD Grass Cutting</i>
19.	High Hedge Complaint Feeny EH/227/2013	<i>Oppose the time being extended in this case</i>
20.	Legal Proceedings Licensing and Regulatory Litter (NI) Order 1994 as revised by The Clean Neighbourhoods and Environment Act 2011 20.1 Failure to comply with a Litter Clearing Notice [ES/2015/1028] 20.2 Fixed penalty issued for Unlicensed dog [LC1100960-2015] 20.3 On Street Drinking Offences LC23705-2015] 20.4 The Litter (NI) Order 1994 – Failure to comply with an Article 20 Notice [EP23689-2015]	<i>Refer to Council's solicitor</i> <i>Instigate legal proceedings</i> <i>Refer to Council's Solicitor</i> <i>Refer to Council's Solicitor</i>
21.	Causeway Coast and Glens Tier 4 Environmental Services Organisational Design	<i>Defer</i>
22.	Any Other Relevant Business 22.1 Car parking Charges 22.2 Keep Northern Ireland Beautiful	<i>Review, effective from April 2016</i> <i>Invite Dr Ian Humphreys to present</i>

Environmental Services Committee

Minutes of the Meeting of Causeway Coast and Glens Borough Council Environmental Services Committee, held in Council Chamber, Civic Headquarters, Coleraine Office on Tuesday 4th August 2015 at 7.00 pm.

In the Chair: Councillor M Fielding

Members present: Councillor Chivers, Alderman Cole, Councillor Douglas, Councillor Duddy, Councillor Holmes, Councillor Hunter, Alderman King, Councillor McCaul, Councillor McKillop, MA, Councillor McLean, Councillor Mulholland, Alderman Mullan, Councillor Watton

In attendance: G Doyle, Head of Estates
S Duggan, Business Support Officer
A McPeake, Director of Environmental Services
M Quinn, Director of Performance, Deputy Chief Executive

Also in Attendance: R Mathers, The Heart of the Glens Landscape Partnership **[Item 3]**

1. Apologies

Apologies were received from Alderman Campbell and Councillor Baird.

2. Declarations of Interest

Councillor MA McKillop Declared an Interest in Item 3, The Heart of the Glens Landscape Partnership.

3. Presentation – The Heart of the Glens Landscape Partnership

The Chair invited R Mathers to make his presentation. R Mathers addressed committee with a view to formally extending a partnership with Council to extend piloted programmes that aim to provide a space to facilitate people to reconnect with the natural landscape, their native heritage as well as providing training in heritage skills, promoting tourism and business opportunities.

R Mathers responded to member questions, The Chair offered his support on behalf of the Committee.

* **Councillor Watton joined the meeting at 7.10pm during consideration of the above item.**

* **R Mathers left the meeting at 7.35pm.**

4. Minutes of meeting held 2nd June 2015

Summary recommendations circulated for information.

5. Grass Cutting

A McPeake presented the Report, summarised as undernoted:

Earlier this year DRD announced that it was withdrawing the funding for grass cutting previously paid to legacy councils for maintaining grass verges, primarily along arterial routes within town boundaries.

Council currently maintain in excess of 2.5 million square metres of grass which includes approximately 289,000m² (12%) for DRD.

Options include:

- a) Desist from cutting DRD grass***
- b) Continue to cut DRD grass and look at ways to make savings in the management of all grassed areas. For example:***
 - Use 'Don't Mow, Let It Grow' campaign to reduce both the area and frequency of grass cutting***
 - Re-assess the current practice of maintaining grassed areas for other 3^d parties.***

Recommendation

Council consider the options and agree a strategy for grass maintenance to mitigate against the loss of revenue (£57,000).

The Head of Estates further presented areas that had been identified with the potential to lend itself to the "Don't Mow Let It Grow Campaign", potentially 100,000m² of grass that could be managed less intensively.

Discussion ensued surrounding the apparent failings of DRD, Members condemned the withdrawal of £57K to maintain grass verges, primarily along arterial routes and within town boundaries. Members were of a mind that they did want such areas to be well maintained and tidy as it had an important positive visual impact for tourists visiting the area.

It was proposed by Councillor Mulholland, seconded by Councillor Holmes that Council progress Option B, as outlined above.

Councillor Duddy proposed Option A, citing that if Council continued to cut DRD grass, DRD would continue to allow it to happen, Councillor Duddy stated he would like to see the whole Scheme and in consultation with the community.

In response to member concerns, the Head of Estates estimated that approximately 95% of the identified areas for the Campaign would not lend itself to the DRD grassed areas.

Alderman Mullan felt that committee should write to DRD showing it was exasperated that DRD had failed to live up to its obligations.

The Chair put the Proposal to the vote, 13 voted for, 1 voted against, the Chair declared the proposal carried.

It was proposed by Councillor Mulholland, seconded by Councillor Holmes and AGREED that Council progress Option B, as outlined above.

6. Implementation of the Licensing of Pavement Cafés Act (NI) 2014

A McPeake presented the report summarised as undernoted:

The Department for Social Development intends to bring the Licensing of Pavement Cafés Act (NI) 2014, fully into operation with effect from 1 April 2016.

The Act balances the need for robust regulation of pavement cafés with the necessary flexibility for district councils to respond to local circumstances.

The licensing scheme will allow owners of cafés, restaurants, pubs, or other premises selling food or drink, to apply to their local council for a pavement café licence. The Act places an onus on a council to grant a licence unless it has a good reason to refuse an application. When considering applications, councils will be required to consult with Transport NI and, where the associated premises is a public house, with the PSNI, before coming to a final decision. Councils will be able to impose a range of licence conditions, charge a reasonable fee and may vary, suspend or revoke the licence in certain circumstances. The Act provides councils with the power to remove facilities at unlicensed pavement cafés and creates several new offences to aid enforcement by council officers.

The licensing scheme is similar to that for street trading. The Department has produced draft scheme guidelines following informal consultation with council licensing officers, Inclusive Mobility Transport Advisory Committee (IMTAC) and organisations representing visually impaired people.

The most significant safeguard is the statutory requirement for councils to consult with Transport NI on individual applications. Transport NI is considered best placed to advise councils on the needs of pedestrians and access issues in relation to applications for a pavement café.

The Department is seeking any comments councils may wish to make on the draft guidelines found at Appendix IV ¹attached to this report.

Confirmation is also being sought by 30 September 2015 that arrangements will be made to bring the Act into operation on 1 April 2016.

It is recommended that Council advise the Department of Social Development that arrangements will be made to bring the Act into operation on the 1st April 2016.

It was proposed by Councillor Duddy, seconded by Councillor Holmes and **AGREED** to recommend that Council advise the Department of Social Development that arrangements will be made to bring the Act into operation on the 1st April 2016.

7. Street Trading

¹ Report circulated

7.1 Mobile Street Trading Licences

Applications have been received for the grant of MOBILE STREET TRADING LICENCES and are listed below for consideration.

	Application	Applicant	Reg No	Commodity
1.	GRANT	Harry Douthart	KKZ 1640	Ice Cream
2.	GRANT	Keith Douthart	YB07 JLV	Ice Cream

In line with Council Street Trading Policy, all applicants have been requested to produce Access (NI) criminal record checks valid to within 1 year of the application.

IT WAS AGREED to recommend that Council grant the Mobile Street Trading licences as detailed at 1 and 2 above.

8. Trading Concessions

The Director of Environmental Services presented the report as undernoted:

Further to Environmental Services Committee minute 150602 item 6, a request has been received to review and extend the list of concessions at Benone Beach and Megaw Park.

It is recommended that the list of concessions that may be tendered for the sale of goods on Council land be extended to include butchers (subject to available pitch space) at Benone Caravan Park and Tea and Coffee at Megaw Park and that such concessions be offered on the same basis as previously agreed (OD Committee minute 150219 item 5 refers).

The Director responded to member queries surrounding the setting of a precedent, cost of advertising, possible revenue and any anticipated impact upon local shops.

It was proposed by Councillor Duddy, seconded by Councillor Homes to recommend that Council do not extend the list of concessions that may be tendered for the sale of goods on Council land to include butchers (subject to available pitch space) at Benone Caravan Park, nor Tea and Coffee at Megaw Park and that such concessions may not be offered on the same basis as previously agreed.

It was proposed by Councillor Cole, seconded by Councillor Douglas to recommend that the list of concessions that may be tendered for the sale of goods on Council land be extended to include butchers (subject to available pitch space) at Benone Caravan Park and Tea and Coffee at Megaw Park and that such concessions be offered on the same basis as previously agreed (OD Committee minute 150219 item 5 refers).

The Chair put the Amendment to the committee to vote, 8 voted for, 6 voted against, the Chair declared the Amendment carried:

It was proposed by Councillor Cole, seconded by Councillor Douglas and **AGREED to recommend that the list of concessions that may be tendered for the sale of goods on Council land be extended to include butchers (subject to available pitch space) at Benone Caravan Park and Tea and Coffee at Megaw Park and that such**

concessions be offered on the same basis as previously agreed (OD Committee minute 150219 item 5 refers).

9. Entertainment Licences

9.1 Transfer of Entertainment Licence

Premises: Shenanigans, 78-79 The Promenade, Portstewart, BT55 7AF

Applicant: Mr Dermot O'Kane

Application: Transfer of entertainment licence for Shenanigans, 78-79 The Promenade, Portstewart, BT55 7AF

Days and times on which it is intended to provide entertainment:

Monday - Thursday 11.30am – 1am

Friday and Saturday 11.30am – 1.30am

Sunday 12.30pm – Midnight

Representations: Closing 4th August 2015

PSNI and NIFRS: Awaiting response

Recommendation

Transfer of an Entertainment Licence subject to compliance with any recommendations of the Councils licensing department inclusive of the following special conditions

- 1) No representations
- 2) No objections from PSNI or NIFRS
- 3) All requirements as contained within Nightsafe Coleraine Code of Best Practice 2012.
- 4) All door supervisors employed must be licensed with a scheme recognised by Causeway Coast and Glens Borough Council.

9.2 Grant of Entertainment Licence

Premises: Mussenden Temple, Bishops Road, Castlerock, BT51 4RP

Applicant: Ms Laura Laverty

Application: Grant of entertainment licence for Mussenden Temple, Bishops Road, Castlerock, BT51 4RP

Days and times on which it is intended to provide entertainment:

Monday - Sunday 09:00am – Midnight

Representations: Closing 20th August 2015

PSNI and NIFRS: Awaiting response

Recommendation

Grant of an Entertainment Licence subject to compliance with any recommendations of the Councils licensing department inclusive of the following special conditions

- 5) No representations
- 6) No objections from PSNI or NIFRS
- 7) All requirements as contained within Nightsafe Coleraine Code of Best Practice 2012.
- 8) All door supervisors employed must be licensed with a scheme recognised by Causeway Coast and Glens Borough Council.

IT WAS AGREED to recommend that Council grant Licences as outlined at Items 9.1- Item 9.2 above.

10. Harmonisation of Cemetery Rules & Regulations

Councillor McLean requested a deferral on the item, having been contact by local Undertakers expressing concern with the proposed Rules and Regulations.

It was proposed by Councillor McLean, seconded by Alderman King to recommend that Council defer the item.

A discussion ensued on the proposed deferral, the Director of Environmental Services responded to queries in relation to the information report circulated.

The Chair put the proposal to the committee to vote, 13 voted for, 1 voted against, the Chair declared the proposal carried.

It was proposed by Councillor McLean, seconded by Alderman King and **AGREED to recommend that Council defer the item, Harmonisation of Cemetery Rules & Regulations.**

11. Implementation of Bus Shelter Guidelines

The Director of Environmental Services presented the report, summarised as undernoted:

Guidelines for the provision of bus shelters were presented to members in May and June 2015. Members discussed whether or not Council should continue to provide bus shelters. A decision was deferred pending further information on usage of the existing stock of shelters. It was agreed that the 8 proposed shelters currently at the request stage are to be progressed pending the outcome of the process as stated in the proposed guidelines.

Figures have been provided by Translink for Ballymoney, Coleraine and Moyle areas (Appendix 1). It is hoped that figures will be available for Limavady in time for the committee meeting.

- 1) ***It is recommended that Council decide whether or not to provide further bus shelters.***

2) In the event that Council decide to continue to provide bus shelters then the attached guidance (Appendix 2²) should be approved to ensure consistency and fairness in the decision making process.

The Director of Environmental Services responded to queries surrounding the statistics presented, urban and rural disparities and potential for revenue through advertising.

Councillor Hunter voiced concern at the high criteria set at Point 4 for Rural areas within the Bus Shelter Application Guidelines document, circulated.

It was proposed by Councillor Cole, seconded by Councillor Mulholland and **AGREED to recommend that Council approve Option 2, furthermore, replace Point 4 within the Council Bus Shelter Application Guidelines document (attached as Appendix A) adding, "For Urban areas, there will be a requirement for a minimum number of passenger footfall through the stop either at peak times or during the day 8 people between 0700 and 0830 hrs, and/or 15 people during the day and for Rural areas, 5 people between 0700 and 0830 hrs, and/or 10 people during the day".**

12. Officer Authorisation and Delegation of Powers

Report summarised as undernoted:

Members may recall further to Shadow Council meeting SC 150326, item 5.2 and Organisational Development Committee meeting OD 150312 item 5.5 that a Scheme of Officer Authorisation and Delegated Powers items 1 to 3 was approved. Following receipt of legal advice items 4 & 5 of the original report item are presented for reconsideration and decision to ensure clarity of the original committee minute.

Item 4. Where a person has been offered the opportunity to discharge any liability to conviction of an offence under:-

- ***Dogs (NI) Order 1983 (as amended)***
- ***The Litter (NI) Order 1994 (as amended)***
- ***The Clean Neighbourhoods and Environment Act (NI) 2011***
- ***Street Trading Act (NI) 2001***
- ***Noise Act (NI) 1996***
- ***The Smoking (NI) Order 2006***
- ***The Tenancy Deposit Scheme Regulations (NI) 2012***
- ***The Landlord Registration Scheme Regulations 2014***
- ***Pollution Control and Local Government (NI) Order 1978***
- ***Sunbed Act (NI) 2011***
- ***Energy Performance of Buildings (Certificate and Inspection) Amendment Regulations 2014***

and the fixed penalty has not been paid, the Council delegate authority under Section 47A of the Local Government Act (NI) 1972 as amended by Article 26 of The Local Government (Miscellaneous Provisions) (NI) Order 1985 to the Chief Executive, Director of Environmental Services or Head of Health and Built Environment to instigate legal proceedings for the offence on behalf of the Council.

² ..of the Report, circulated.

Item 5. The Council, in pursuit of its powers under Section 47(A) of the Local Government Act (NI) 1972, as amended by Article 26 of The Local Government (Miscellaneous Provisions) (NI) Order 1985, having considered the competence of the Chief Executive, Director of Environmental Services and Head of Health and Built Environment, authorises them to discharge its functions relating to:

- ***the making of recommendations for prosecution on behalf of Council (where legislative provisions permit) and referral of case files to the Council's solicitor for legal action on behalf of the Environmental Health Service without prior approval of Council.***

Effectively delegating powers, functions and duties to appropriate staff will ensure that efficient regulatory activities can be performed by the Environmental Services Directorate in accordance with the Council's Enforcement Policy.

It was proposed by Councillor Duddy, seconded by Alderman Cole and **AGREED to recommend that Council delegate the power to instigate legal proceedings for the prosecution of non-payment of fixed penalties as stated in point 4, furthermore, that Council delegate the power to instigate legal proceedings for all other offences as stated in point 5.**

13. Protocol and Service Level Agreement (SLA) for Administration of The Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008

The Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (the EPB Regulations) came into force as a result of an EU Directive requiring a wide variety of buildings, both public and private, to have a certificate rating the energy efficiency of that building. The duty for administering and enforcement of the EPB Regulations sits with district councils.

A dedicated team of officers (the EPB Team) was set up in January, 2009, tasked with coordinating enforcement of the EPB Regulations across Northern Ireland. Funding for this team is provided by the Department of Finance and Personnel. This approach to funding has proven highly effective in achieving consistent application of the legislation and high levels of compliance compared with other UK regions.

A Protocol and Service Level Agreement (SLA) were also put in place outlining the relationship between the EPB Team and district councils to ensure transparent deployment of grant funding. The SLA outlines the responsibilities of both the EPB Team and of district council building control managers with respect to the regulations and protocol.

The DFP have confirmed funding of £150,000 is available for the year 2015/16 with a primary stipulation the centralised Energy Performance of Buildings Team and mechanisms put in place via the Enforcement Protocol are the basis on which funding is secured. This ring fenced approach to funding a dedicated team has proven effective in the past and is beneficial in reducing potential for EU infraction proceedings.

IT WAS AGREED to recommend that Council support the continuation of Belfast City Council as the employing authority for the EPB Team and agree to and accept

the updated Enforcement Protocol and the terms and conditions outlined in the Service Level Agreement, attached as Appendix B.

14. Consultation - Waste Management Licensing

Report circulated as undernoted for information:

The Department of the Environment has published a consultation on the draft Waste Management Licensing (Amendment No. 2) Regulations (Northern Ireland) 2015.

This consultation is seeking comments on proposed changes to waste management licensing exemptions. The proposed changes apply to paragraphs 12, 15, 17, 18, 19, 27 and 45 of Part 1 of Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003.

The closing date for receipt of responses is 25th September 2015.

The consultation document may be viewed and downloaded from the Department of the Environment's website at:

http://www.doeni.gov.uk/index/protect_the_environment/waste/waste_framework_directive.htm

15. Matters for reporting to Partnership Panel

- DRD Grass cutting (Item as above at Item 5)

Members also sought an update on previous matters that had been collated to report to the Partnership Panel.

16. Items for Information Report

Members **NOTED** the following information Items 16.1- Item 18 as follows:

16.1 The Tobacco Retailers Act (Northern Ireland) 2014

Linkage to Corporate Plan	
Strategic Priority	Resilient, Healthy and Engaged Communities
Objective	Support healthy lifestyle choices
Lead Officer	Bryan Edgar
Cost: (If applicable)	None

The Department of Health Social Services and Public Safety is seeking views on three sets of draft regulations under the Tobacco Retailers Act (Northern Ireland) 2014. The Act aims to reduce youth smoking prevalence by making it more difficult for children

and young people to access tobacco products. The Department is consulting on the following draft regulations:

- The Tobacco Retailer (Registration and Display of Notices) Regulations – will establish Belfast City Council as the registration authority under the Act, will set out the registration information to be completed by the applicant, and will specify requirements in relation to display of a notice if a premises is subject to a banning order;
- The Tobacco Retailer (Fixed Penalty) (General) Regulations – will provide the form of a fixed penalty notice which may be handed out for certain offences under the Act; and
- The Tobacco Retailer (Fixed Penalty) (Amount) Regulations – will prescribe the amount of fixed penalties for a number of tobacco-related offences.

The consultation document is available on the Department’s website:

<http://www.dhsspsni.gov.uk/index/consultations/>

The closing date for comments is 5pm on Friday 4th September 2015.

16.2 Drinking Water Report for Northern Ireland 2014 Causeway Coast & Glens Borough Council

Linkage to Corporate Plan	
Strategic Priority	Protecting and Enhancing our Environment and Assets
Objective	Natural assets carefully managed
Lead Officer	Bryan Edgar
Cost: (If applicable)	N/A

Northern Ireland Water has recently furnished the above report. The report may be found at Appendix V. The report is written to demonstrate water quality by individual council areas on a mean zonal compliance basis (MZC). This looks at the average quality of water at customer tap or authorised supply point but does not include parameters at water treatment works or service reservoirs. The water supply zones (of which there are 9 across the area) may be found at page 5 to the report. The document provides background information on water quality results. The following pages may be of interest to members.

Page	2014 Water Supply Commentary
14	ZN0101 – Ballinrees Coleraine
17	ZN0202 – Altnahinch Bushmills
20	ZN0204 – Rathlin Island

23	ZN0302 – Dungonnell Glarryford
26	ZN0501 – Moyola Magherafelt
29	ZN0601 – Ballinrees Limavady
32	ZN0603 – Carmoney Eglinton
35	ZN0604 – Clough Hill Dungiven
38	ZN0607 – Corrody Derry

The mean zonal compliance equates to the overall NI MZC of 99.8%.

16.3 Licensing (Northern Ireland) Order 1996 Occasional Liquor Licences

Linkage to Corporate Plan	
Strategic Priority	Accelerating Our Economy and Contributing to Prosperity
Objective	Encourage existing enterprises to grow and prosper
Lead Officer	Bryan Edgar
Cost (if applicable)	Officer time spend

The undernoted applications for occasional licences have been received, acknowledged and responded to without objection during the report period.

<u>Applicant</u>	<u>Purpose</u>	<u>Dates</u>
Stephen and Sharon McKillop 250 – 252 Castlecat Road Dervock BT53 8BP	Occasional licence for the sale of liquor at Stranocum Orange Hall, 47 Main Street, Stranocum	Friday 24 th July to Saturday 25 th July 2015 from 7:00pm to 1:00am
Darrel Stevenson and Stephanie Gray	Occasional Licence at Ballinlea Orange Hall, 76 Straid Road Ballycastle	Friday 3 rd July – Saturday 4 th July 2015 from 7.30pm to 1.00am and Friday 10 th July – Saturday 11 th July 2015 from 6.30pm to 1.00am
Darrel Stevenson and Stephanie Gray	Occasional licence for the sale of liquor at Ballinlea	Friday 31 st July from 12 noon to Saturday 1 st August 2015 1:00am

<u>Applicant</u>	<u>Purpose</u>	<u>Dates</u>
22 Main Street Ballintoy BT54 6LX	Orange Hall, 76 Straid Road, Ballinlea	
Charles E. Mullaghan, Mullaghan's Bar, 53 Main Street, Rasharkin, BALLYMENA, BT44 8PY.	Occasional Licence at 22 Drumlee Road, Ballymoney.	13 th /14 th June 2015 between 9pm and 1am.
William Huey and Charles Dobbin, 19 Main Street, Armoy, BALLYMONEY, BT53 8SH.	Occasional Licence at Stranocum Orange Hall, 47 Main Street, Stranocum, Ballymoney.	27 th June 2015 between 6pm and 12 midnight.
Brook Huey, 23 Church Street, BALLYMONEY, BT53 6HS.	Occasional Licence at 133 Kirk Road, Stranocum, Ballymoney, BT53 8HT.	25 th /26 th July 2015 between 7pm and 1am.
Ramore Restaurant Limited	Occasional Licence at a Marquee Castle Erin, Portrush	Saturday 11 th July – Sunday 12 th July 2015 from 12.00pm to 1.00am
Jim Bowman	Occasional Licence at The Walled Garden, Downhill Castle	Saturday 25 th July 2015 from 11.30am to 11.30pm
John Joseph Eastwood	Occasional Licence at the Farm Shed Adjacent to 70 Ballinteer Road, Coleraine	Saturday 8 th August – Sunday 9 th August 2015 from 19:00 to 01:00

Transfer of Liquor Licence

The undernoted application for the Transfer of a Liquor licence has been received, acknowledged and responded to without objection during the report period

<u>Applicant</u>	<u>Purpose</u>
Continental Cuisine Coleraine Limited	Transfer of Liquor Licence for a restaurant at 4 Riverside Park East, Coleraine

16.4 Local Government (Miscellaneous Provisions) (NI) Order 1985

Entertainment Licences

Linkage to Corporate Plan	
Strategic Priority	Accelerating Our Economy and Contributing to prosperity
Objective	Encourage existing enterprises to grow and prosper
Lead Officer	Bryan Edgar
Cost (if applicable)	Officer time spend offset by licence fee

The undernoted applications for entertainment licences have been received, acknowledged and processed during the report period.

<u>Applicant</u>	<u>Name of Premises</u>
Mr. David Dunlop, Finvoy YFC	J. Gamble 22 Drumlee Road.
Mrs. Linda Dunlop	Joey's Bar
Mr. Martin Doyle	The Diamond Bar
Mr. Gareth Montgomery	Patton's Bar
Mr. James Murphy	Lavin Orange Hall
Ms. Deborah McCrellis	Stranocum Community Centre
Mr. Robert Wright	The Huey Memorial Stranocum Orange Hall
Mr. Daniel J. McFerran	The Bridge Bar
Mr. James Craig Black	The Bush Tavern
Mr. Samuel Gardner	Mr. Samuel Gardner's Farm 133 Kirk Road

<u>Applicant</u>	<u>Name of Premises</u>
Mr. Brooke Huey	The Glynn's Bar
Mr. Ivan McCook	Marquee at The Hedges Hotel
Mr. Noel Lamont	Marquee for Ballymoney Utd Football Club at Castle Street Ballymoney.
Mr. Dessie Elder	Ballymaconnelly Hall 239 Vow Road, Rasharkin, Ballymena.
Mr Patrick Joseph Kelly	Portstewart Arms
Mr Colin Kennedy	Village Tavern
Mr Gareth Witherow	Tides Restaurant
Ms Gwynee Fletcher	55 North
Mr James Bowman	Berthas Bar
Mr Noel Kennedy	The Offshore Bar 95-97 Mark Street Portrush
Rev Fr Austin McGirr	St Mary's Star of the Sea Parish Centre 4 The Crescent Portstewart
Mr Noel McQuillan	Kilrea Orange Hall New Row, Kilrea
Mr Trevor Kane	Bayview Hotel 2 Bayhead Road Portballintrae
Mrs Adele Kennedy	Inn On The Coast 50 Ballyreagh Road Portrush
Honorary Secretary	Coleraine Bowling Club Lodge Road Coleraine
Mr Mark Fairley	Fairley's House of Wine 62 – 64 Railway Road, Coleraine
Ms Claire Johnston	Railway Arms 53 Railway Road, Coleraine
Mr Arnaz Walker	Portstewart Royal British Legion 21 Lever Road, Portstewart

<u>Applicant</u>	<u>Name of Premises</u>
Mr Kris Charteris	Brew Bar 47 Main Street, Portrush
Ms Eleanor Boyd	The Forge Bar 6 Newmarket Street, Coleraine

16.5 Petroleum (Regulation) Acts (NI) 1929 And 1937

Petroleum Spirit Licence

Linkage to Corporate Plan	
Strategic Priority	Accelerating Our Economy and Contributing to prosperity
Objective	Encourage existing enterprises to grow and prosper
Lead Officer	Bryan Edgar
Cost (if applicable)	Officer time spend processing application offset by licence fee

The undernoted applications for renewal of petroleum spirit licences have been renewed during the report period.

<u>Applicant</u>	<u>Name of Premises</u>
PSNI Transport Services Branch	PSNI 17 Lodge Road Coleraine, BT52 1LY
Mr Jonathan Morgan	Ballyness Service Station 40 Priestland Road Bushmills, BT57 8XB
Mr Crawford Henderson	Bush Filling Station 169 Bushmills Road Coleraine, BT52 2BS
Henderson Retail Ltd	Spar Castlerock Road Unit 2 Old Court Market

<u>Applicant</u>	<u>Name of Premises</u>
	1 – 11 Castlerock Road Coleraine, BT51 3HP
Henderson Retail Ltd	Eurospar Hillcrest 121 Coleraine Road Portrush, BT56 8HN
Henderson Retail Ltd	Spar Mountsandel 2 Knocklynn Road Coleraine, BT52 2NL
Henderson Retail Ltd	Spar Millburn 121 Millburn Road Coleraine, BT52 1QY
Mr Desmond Morgan	Larkhill Service Station 171 Coleraine Road Portstewart, BT55 7HU
Mr Jason Maguire	Exorna Filling Station 170 Mussenden Road Castlerock, BT51 4TX
Mr Kenny Bradley	Kilrea Service Station 26 Garvagh Road Kilrea BT51 5QP
Mr Kenny Bradley	Eurospar Garvagh 1 Main Street Garvagh, BT51 5AA
Mr Alistair Robinson	Costcutter and Go Filling Station 1 Sconce Road Articlave BT51 4UR
Morans Retail Ltd	Somerset Service Station 335 Dunhill Road Coleraine BT51 3QJ
Asda Stores Ltd	Asda Stores Ltd 1 Ring Road

<u>Applicant</u>	<u>Name of Premises</u>
	Coleraine BT52 1QP
Sainsbury Supermarket Ltd	Sainsbury Petrol Station 24 Riverside Regional Centre Coleraine BT51 3AN
Messrs Steven and Michael Wilson	Ivan Wilson Filling Station 277 Dunhill Road Coleraine BT51 3QJ
Mr James Thompson	Strand Service Station 1 -13 Strand Road Coleraine BT51 3AA
Maxol Oil Ltd	Portrush Filling Station 185 Bushmills Road Portrush BT56 8JG
Maxol Oil Ltd	Knockintern Filling Station 40 Newbridge Road Coleraine BT52 1TP
Mr David Perry	Wild Geese Parachute Centre 116 Carrowreagh Road Garvagh BT51 5LQ
Musgrave Retail Partners (NI) Ltd	Cahore Service Station 162 Station Road Portstewart BT55 7PU
Mr. Glenn Biesty	Centra 8 Ballybogey Road Ballymoney

The undernoted application for grant of petroleum spirit licence has been granted during the report period.

<u>Applicant</u>	<u>Name of Premises</u>
Applegreen Service Areas NI Ltd	Long Commons Service Station 134 Long Commons Coleraine BT52 1GG

16.6 The Betting, Gaming, Lotteries and Amusements (NI) Order 1985

Registration of a Society

Linkage to Corporate Plan	
Strategic Priority	Accelerating Our Economy and Contributing to prosperity
Objective	Encourage existing enterprises to grow and prosper
Lead Officer	Bryan Edgar
Cost (if applicable)	Officer time spend processing application offset by application fee

The undernoted application for registration of a society has been received, acknowledged and processed during the report period.

<u>Applicant</u>	<u>Name of Society</u>
Mr. David Getty	Cloughmills Apprentice Boys Derry Club

16.7 THE PRIVATE TENANCIES (NORTHERN IRELAND) ORDER 2005

Linkage to Corporate Plan	
Strategic Priority	Accelerating Our Economy and Contributing to prosperity
Objective	Encourage existing enterprises to grow and prosper
Lead Officer	Bryan Edgar
Cost: (If applicable)	Officer time spend offset by application fee

The following number of Certificates of Fitness have been granted under Article 36(4) of the above legislation, the dwellings having been inspected and deemed to meet the fitness standard for human habitation as set out in Article 46 of the Housing (Northern Ireland) Order 1981.

<u>Landlord</u>	<u>Dwelling House</u>
Mr. Martin Boyle	7 Edward Street, BALLYMONEY, BT53 6JE.
Mr. James Craig Black	48 Gate End, BALLYMONEY, BT53 6LB.
Mr. James Craig Black	50 Gate End, BALLYMONEY, BT53 6LB.
Mr. Richard Henderson	35 Queen Street, BALLYMONEY, BT53 6JD.
Mr. Robert Patton	Bushvale Presbyterian Church, 84 Bregagh Road, Armoy, BALLYMONEY, BT53 8TP.

17. OUTCOME OF LEGAL PROCEEDINGS

Linkage to Corporate Plan	
Strategic Priority	Health & Wellbeing
Objective	Enforcement of statutory duty
Lead Officer	Bryan Edgar
Cost: (If applicable)	N/A

The purpose of this report is to update members in relation to recent enforcement action.

17.1 Defendant: Richard Hogg

Address: 44 Coolestan Walk, Limavady

Offences: Stray dog contrary to the provisions of Article 22(1) and Article 22(3)(a)(1) of the Dogs (NI) Order 1983.

Results: Fine: £100

Offender Levy: £15

Legal Costs: £125

Court Costs: £32

The defendant was the owner of a dog that was seized while straying and impounded at Derry City Kennels. The defendant was offered the opportunity to pay a fixed penalty for the offence but failed to do so. The matter was heard at Limavady Magistrates Court on 20.05.15.

17.2 Defendant: Kyle Connolly

Address: 65 Alexander Road, Limavady

Offences: Unlicensed dog contrary to the provisions of Articles 3 and 17(1)(a) of the Dogs (NI) Order 1983.

Results: Fine: £100

Offender Levy: £15

Legal Costs: £125

Court Costs: £32

The defendant was the owner of an unlicensed dog. The defendant was offered the opportunity to pay a fixed penalty for the offence but failed to do so. The matter was heard at Limavady Magistrates Court on 20.05.15.

17.3 Defendant: Phillip OKane

Address: 1a Mill Place, Limavady

Offences: On street drinking offence contrary to Bye-Laws made by Limavady Borough Council under Section 92 (1) of the Local Government Act (Northern Ireland) 1972. The bye-law prohibits the consumption of intoxicating liquor in designated places.

Results: Fine: £25

Legal Costs: £100

Court Costs: £48

The defendant was observed consuming alcohol in an alcohol free zone on 19.08.14.
The matter was heard at Limavady Magistrates Court on 17.06.15.

17.4 Defendant: Mr Colin McClean t/a Wills Portstewart

Address: 72 The Promenade, Portstewart, Co. Londonderry, BT55 7AF

Offences: Breach of Article 6 (2) of The Food Hygiene Regulations (NI) 2006 – failure to comply with two No. Hygiene Improvement Notices.

Results:

Fine:	£250 per offence (£500 total)
Offender Levy:	£15
Professional Fees:	£150
Court Costs:	£ 19

A programmed food hygiene inspection was carried out at Wills Portstewart in which a number of contraventions were noted. The owner was requested both verbally and in writing to rectify these within a relevant time frame. Following a revisit these non-compliances remained outstanding. As a consequence, three Hygiene Improvement Notices were issued; of which one was complied with however the other two remained outstanding relating to ceiling in disrepair and bare wood remained within kitchen.

17.5 Defendant: Ms Jodie Douglas

Address: 14 Loughanhill Park, Coleraine

Offence: The Dogs (NI) Order 1983 as amended

Results:

Fine	£ 300
Legal Costs	£ 125
Court Costs	£ 38

The defendant was prosecuted for allowing dogs to stray on two occasions namely September 2014 and January 2015 and for failing to provide identification on the dog's collar with the name and address of the keeper inscribed in it.

17.6 Defendant: Miss Jade Duggan

Address: 31 Castle Place, Coleraine

Offence: Dogs NI order 1983 as amended

Results:

Fine	£ 100
Legal Costs	£ 125
Court Costs	£ 32

The defendant was prosecuted for being the keeper of a dog without holding a valid dog licence.

17.7 Defendant: Ms Joanne Stirling
Address: 20 Newmills Road, Coleraine, BT52 2JB
Offence: The Dogs (NI) Order 1983 as amended
Results: Fine £100 and conditional discharge
Legal Costs £ 125
Court Costs £ 38

The defendant was prosecuted for allowing her dog to stray on two occasions in December 2014 and February 2015

17.8 Defendant: Mrs A Falgowska
Address: 29 Cloonavin Green, Coleraine
Offence: The Dogs (NI) Order 1983 as amended
Results: Fine £ 550
Legal Costs £ 125
Court Costs £ 19

The defendant was prosecuted for allowing dogs to stray on two occasions namely February 2015 and April 2015 and for failing to provide identification on the dog's collar with the name and address of the keeper inscribed in it.

17.9 Defendant: Ms D Kelly
Address: 3 Ramore Street, Portrush
Offence: The Dogs (NI) Order 1983 as amended
Results: Fine £ 100
Legal Costs £ 100
Court Costs £ 25

The defendant was prosecuted for allowing her dog and foul and failing to remove the excrement at East Strand Portrush on October 2014

17.10 Defendant: Ms Michaela Moore
Address: 95 Millburn Road, Coleraine
Offence: The Dogs (NI) Order 1983 as amended
Results: Fine £ 80 1st offence and 2 conditional Discharges
Offender levy £ 15
Legal Costs £ 125

Court Costs £ 19

The defendant was prosecuted for being the keeper of 3 dogs without holding valid dog licences.

17.11 Defendant: Miss Dawn Fairclough

Address: 139 Cornshell Fields, Londonderry, BT48 7UJ

Offence: Failure to comply with Article 20 Notice Litter NI Order 1998

Results: Fine Conditional Discharge for 2 years

Legal Costs £ 125

Court Costs £ 32

Background: The defendant was prosecuted having being observed littering and failing to provide information to Council

7.12 Welfare of Animals Act (Northern Ireland) 2011 Conclusion of Animal Welfare Complaint W/2013/4994

Members will recall a report item to Environmental Services Committee on 2 June 2015 regarding an animal welfare complaint W/2013/4994 when it was agreed that a formal caution be issued against the person responsible for failing to make adequate welfare provisions for the dog under Section 9 of the said Act and for failing to comply with an Improvement Notice under Section 10 of the Welfare of Animals (NI) 2011, and that the dog should not be returned to the owner.

I can now confirm that the Formal Caution has been issued and accepted by the person responsible for the dog, in addition the dog has been surrendered for humane destruction. This concludes the investigation in relation to this matter.

18. BRICKKILN WASTE LTD

Brickkiln Waste Ltd are a waste processing company based at Maydown. They have successfully tendered for a number of Council waste contracts over the years such as Civic Amenity Site Residual waste and Kerbside Residual.

Brickkiln currently have contracts with Causeway Coast and Glens Borough Council for the processing of Civic Amenity Site residual waste from the legacy areas of Coleraine Borough Council and Moyle District Council.

Brickkiln also have contracts with the legacy area of Ballymoney Borough Council for the transportation of waste from the transfer shed a Crosstagherty to landfill and compost sites.

Brickkiln Waste Ltd were placed into administration on Friday 24 July 2015.

Brickkiln Waste Ltd are therefore unable to continue servicing the contracts as outlined from Friday 24 July 2015.

A new tender for the processing of Civic Amenity Site and Kerbside Residual Waste had already been advertised with a contract commencement date expected to be in September 2015.

Interim arrangements for the processing and transport of waste, to ensure that landfill diversion continues have been put in place with River Ridge Ltd.

19. High Hedge Complaint Feeny EH/227/2013

It was proposed by Councillor Hunter, seconded by Councillor McLean and **AGREED to recommend that Committee move in-committee.**

*** Press left the meeting at 9.35pm.**

The Director of Environmental Services presented the report, circulated.

It was proposed by Councillor Douglas, seconded by Alderman Cole and AGREED to recommend that a response be made to the Northern Ireland Valuation Tribunal opposing the time being extended in this case, relating to a High Hedge Complain, Feeny, EH/227/2013.

*** Councillor McCaul left the meeting at 9.30pm.**

20 Legal Proceedings Licensing and Regulatory Litter (NI) Order 1994 as revised by The Clean Neighbourhoods and Environment Act 2011

20.1 Failure to comply with a Litter Clearing Notice [ES/2015/1028]

The Director of Environmental Services presented the following in-committee reports, circulated.

IT WAS AGREED to recommend that Council refer the matter to Councils solicitor with a view to legal proceedings being instigated for failure to comply with A Litter Clearing Notice, reference ES/2015/1028.

20.2 Fixed Penalty issued for Unlicensed dog [LC1100960-2015]

IT WAS AGREED to recommend that Council instigate legal proceedings against the owner of the dog for keeping an unlicensed dog, reference LC1100960-2015.

20.3 On Street Drinking Offences, [LC23705-2015]

IT WAS AGREED to recommend to Council that details of the above matter be referred to Council's solicitor with a view to legal proceedings being taken against the person identified for the contravention of the bye-law prohibiting the consumption of intoxicating liquor in a designated place, reference LC23705-2015

20.4 THE LITTER (NI) ORDER 1994 - Failure to comply with an Article 20 Notice [EP23689-2015]

IT WAS AGREED to recommend that the matter be referred to Councils solicitor with a view to legal proceedings being instigated for failure to comply with the Article 20 Notice issued under The Litter (NI) Order 1994, reference, EP23689-2015.

21. Causeway Coast and Glens Tier 4 Environmental Services Organisational Design

The Director advised committee that the staff Union had requested additional time to review the Report, circulated and therefore recommended a deferral.

It was proposed by Councillor Duddy, seconded by Councillor Watton and **AGREED to recommend that Council defer the Item, Causeway Coast and Glens Tier 4 Environmental Services Organisational Design.**

It was proposed by Alderman Cole, seconded by Councillor McLean and **AGREED to recommend that committee resolve itself out of in-committee.**

22. Any other relevant business

22.1 Car Parking Charges

Alderman Mullan stated he had been approached by retailers within Limavady who had been adversely affected by the recent car parking charges implementation.

It was proposed by Alderman Mullan, seconded by Councillor Chivers and **AGREED to recommend that Council review its Car Park Charging regime, effective from April 2016.**

22.2 Keep Northern Ireland Beautiful

At the request of Alderman King, **IT WAS AGREED to invite Dr Ian Humpreys to present to a future committee meeting.**

23. Date of next meeting – 7.00pm Tuesday 1st September 2015

This being all the business the meeting closed at 10.00pm.

Appendix A: Council Bus Shelter Application Guidelines

Appendix B: Energy Performance of Buildings (Certificates & Inspections) Regulations (Northern Ireland) 2008 (as amended)

Causeway Coast and Glens

Borough Council

Environmental Services

Estates Department

Guidelines & Procedure

Installation of Council Proposed Bus Shelters

July 2015

DOCUMENT PROFILE

Guide Line No.	1.0 –May 2015
Document Purpose	Policy and Procedure
Short Title	Funding and Installation of Council Owned Bus Shelters
Author	John Richardson
Publication Date	DRAFT
Target Audience	Estates Team
Circulation List	Estates Team
Description	A departmental policy and procedures document for the procurement of bus shelters
Linked Policies	
Action Required	
Review Date	No more than 2 years
Contact Details	Head of Estates Environmental Services Riada House 14 Charles Street Ballymoney BT53 6DZ

Council Bus Shelter Application Guidelines

1. Proposals for the funding and installation of new bus shelters will only be accepted if made in writing on the attached form and has been fully completed and signed by the proposer.
2. Accompanying the application form must be confirmation in writing of information from Translink on the peak morning usage and general daytime usage figures for the stop and confirmation from the company that the new shelter is to be placed at a formalised stop.
3. Accompanying the application form must be a 1:1250 or similar plan showing the exact position of the shelter and its relationship to its surroundings.
4. There will be a requirement for a minimum number of passenger footfall through the stop either at peak times or during the day 8 people between 0700 and 0830 hrs, and/or 15 people during the day.
5. Where the proposal application is to provide specific facilities to support persons with disabilities in accessing public transport, the applicant will need to provide written confirmation from Translink that buses on the route are able to meet the persons requirements for access. A comprehensive assessment by a specialist of the individuals disability needs for access to public transport must also be enclosed.
6. The funding for the provision of new shelters will only be considered if associated with designated Translink stops, this is to avoid “formalising” stops which have not been designated by the company.
7. Council Officers will progress the new shelter application, which will only progress when formal written consent of the partner organisations of Translink, DRD Road Service , PSNI & planning consent (where necessary) has been obtained. (ensuring legislative criteria compliance and third party approval (where necessary))
8. The maximum number of new shelters that can be considered will be commensurate with the total sum allocated to bus shelters for capital expenditure per annum. This sum is set aside to include for the maintenance and repair of the 48 existing shelters (as at Jan 2013). The priority for the monies will be for repair and maintenance to safeguard the Councils existing stock and to avoid health, safety and wellbeing issues affecting third parties. An annual budget shall be made available for both maintenance of existing stock and providing new provisions.

9. Allocation of monies from the budget for new shelters will be on a first come first served basis and a queuing system will be operated for applications. However, maintenance of existing shelters will take priority over all applications for new shelters.

Causeway Coast and Glens Borough Council

APPLICATION FOR FUNDING AND INSTALLATION OF A NEW BUS SHELTER

1. **Proposer:** (in Block Capitals)

Name:

Address:.....

Tel. No.:**email address**.....

2. **Address of the Bus Stop for which a shelter is requested:**

.....

3. **Proposal:** **New Bus Shelter Existing Route/ New Bus Shelter New Route**
(delete not applicable)

4. **Reason for Proposal:**

.....

I enclose the following support documentation for a new bus shelter.

1. Written details from Translink of the daily usage of the bus stop, both 0730 – 0900 hrs usage in the morning and general day time usage. A minimum of 8 persons required between 07:30 – 09:00 and 15 persons during working hours.
2. Written Confirmation from Translink that this is a formal bus stop.
3. A 1:1250 map **or similar** of the proposed site showing the position of the new bus shelter.

Signed:.....

Date:.....

When completed this form and the required additional information should be returned to:

Head of Estates, Causeway Coast & Glens Borough Council, Riada House, 14 Charles Street, Ballymoney, BT53 6DZ

Note Upon successful submission above, Council will investigate compliances with PSNI, DRD Road Service, Translink, Planning & consult with third parties affected with the proposed new development.

The shelter will be placed in a queue, based on a "first come first served" basis and will also be subject to a set annual budget availability.

Causeway Coast & Glens Borough Council
For Official Use
CC&G BC reference:
Date Funding Proposal Received:
Date of Response:
Estimated date of provision:
Date Shelter Erected:

**Energy Performance of Buildings
(Certificates & Inspections)
Regulations (Northern Ireland) 2008
(as amended)**

Enforcement Protocol

between

**the Department of Finance and
Personnel**

and

**Belfast City Council
(facilitating authority)**

1 April 2015 – 31 March 2016

Contents

- 1. Introduction**
- 2. Enforcing the Regulations**
- 3. Monitoring Compliance**
- 4. Infringements of the Regulations**
- 5. Enforcement Actions**
- 6. Financing Enforcement of the Regulations**

List of Appendices

- Appendix A – Overview of the EPB Regulations 2008**
- Appendix B – Service Level Agreement**
- Appendix C – Monitoring Information**
- Appendix D – Activities Planned by EPB Team to Support Compliance**
- Appendix E – Penalty Charge Notice Income Sheet**
- Appendix F – General conditions**

1. INTRODUCTION

Enforcement responsibility for the Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended)¹ (the EPB Regulations 2008) transferred to district councils on 3 December 2009 with the coming into operation of the Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (NI) 2009. The exception to this is enforcement relating to district councils' own relevant buildings which remains with the Department of Finance and Personnel (DFP). An overview of the EPB Regulations 2008 is provided at Appendix A.

Belfast City Council (BCC), with the approval of all of the other district councils, has co-ordinated enforcement of the requirements on behalf of all district councils since January 2010 as set out in accordance with an Enforcement Protocol between DFP and BCC (facilitating authority).

The Energy Performance of Buildings Team (EPB Team), employed by BCC to work on behalf of all councils, forms the key link between DFP and district councils to co-ordinate enforcement activity and facilitate effective communication between all parties.

A Service Level Agreement (SLA) between BCC and the other district councils clarifies the roles and responsibilities of the EPB Team and district councils in meeting the requirements of the EPB Regulations 2008 and in delivering the requirements of this Enforcement Protocol (see Appendix B).

This Enforcement Protocol:

- covers the period 1 April 2015 to 31 March 2016;
- sets out the role of BCC, as the facilitating authority, in co-ordinating and supporting enforcement with all district councils and the reporting arrangements back to DFP on the enforcement activities of all other district councils;
- will be reviewed in September 2015 to ensure it remains appropriate and is being implemented in light of Local Government Reform; and
- follows the guiding principles of the Regulators' Code² in that regulatory activity should be carried out in a way which is transparent, accountable, proportionate, consistent and targeted.

¹ S.R. 2008 No. 170 as amended by S.R. 2008 No. 241, S.R. 2009 No. 369, SR 2013 No. 12, and SR 2014 No. 43

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

Quarterly monitoring meetings

EPB enforcement is undertaken by Building Control within district councils. DFP will meet a representative group of Building Control Officers, headed by the BCC representative and the EPB Team, on a quarterly basis. The purpose of the meeting is to review the enforcement activities undertaken by district councils in the previous quarter (see Section 3), to discuss any issues that may arise with the operation of this Enforcement Protocol and to agree the emphasis for forthcoming enforcement activities. DFP will respond to issues raised by this group within one month.

Amendments to this Enforcement Protocol

Suggested amendments, made by either DFP or district councils, will initially be discussed and agreed with representatives from Building Control and the EPB Team who attend the quarterly monitoring meetings. The EPB Team will inform the district councils of any suggested amendments. Amendments will be made once agreement has been received back from the Building Control representatives with the necessary authorisation from their district council. The EPB Team will facilitate this process.

2. ENFORCING THE REGULATIONS

In this and subsequent sections 'the EPB Regulations 2008' means the EPB Regulations 2008 (as amended) and any future amendments made to the Regulations during the period of this Enforcement Protocol.

DFP will continue to be the enforcement authority in relation to all district council buildings.

Each district council will continue to enforce the requirements of the EPB Regulations 2008 in relation to all other buildings within its district.

District councils will continue to adopt a compliance-based approach to enforcement of the EPB Regulations 2008, ensuring adherence to the requirements. District councils will work together in continuing to exchange information and maintaining public awareness of their responsibilities and the requirements for producing lawful and valid Energy Performance Certificates (EPCs), Display Energy Certificates (DECs), associated reports and air-conditioning systems' inspection reports (ACIRs).

The EPB Team, on behalf of BCC (as the facilitating authority), will continue to co-ordinate and facilitate cross-council working, delivering awareness raising activities with the aim of ensuring consistency in approach and messaging across all district council areas. The EPB Team may also check for compliance within any district council area with the agreement of that district council. However, it will be a matter for the relevant district council to undertake any enforcement action, or the issuing of Penalty Charge Notices, within its own district.

District councils and DFP will adopt a risk assessment approach to determining how best to target advice and publish information on enforcement activities.

3. MONITORING COMPLIANCE

The provision and maintenance of accurate statistical information is fundamental to monitoring of compliance. District councils will provide statistical and other relevant information to the EPB Team on a quarterly basis. The EPB Team will in turn summarise this information on a Northern Ireland basis. This will form the basis of a quarterly report to DFP which will include the following:

- awareness raising activities undertaken;
- stakeholder feedback;
- number of property advertisements checked by type of property and the estimated level of compliance;
- number of properties checked for display of EPCs and estimated level of compliance;
- number of properties checked for DEC's and estimated level of compliance;
- number of properties checked for air-conditioning systems compliance;
- number of complaints by type of property and nature of breach;
- action taken when EPB requirements have not been satisfied by type of action;
- number of enforcement letters issued by letter type and outcome achieved (e.g. EPC obtained, property taken off the market); and
- number of Penalty Charge Notices issued and associated income.

Additionally the EPB Team will report to DFP where any district council has failed to scrutinise EPCs, DEC's or air-conditioning compliance during the reporting period.

The full list of monitoring information is at Appendix C. The EPB Team will co-ordinate the returns from other district councils and submit the relevant information electronically in the format agreed with DFP.

The EPB Team will maintain cross-council benchmarking information, progress actions to correct gaps in compliance and enforcement activities and share ideas on best practice.

The EPB Team will support district councils in achieving better awareness of the EPB Regulations and establish, or improve appropriate mechanisms to record details of systems, enforcement activities and compliance levels. This will help to ensure consistency in the approach to enforcement across the district councils. Activities planned by the EPB Team in this regard are summarised at Appendix D.

The EPB requirements have now been in force for a number of years. Looking ahead, DFP would expect district councils to continue to monitor and improve compliance where possible in:

- the domestic rental sector;
- the non-domestic sector;
- air-conditioning requirements; and
- relevant public sector buildings.

DFP will include EPB Regulations 2008 enforcement work in the list of auditable functions which its own Internal Audit unit may scrutinise periodically and may raise issues for discussion at the quarterly meetings with district councils' representatives.

4. INFRINGEMENTS OF THE REGULATIONS

Infringements of the EPB Regulations 2008 will come to the attention of district councils in a number of ways. These include:

- as part of other Building Control enforcement duties which require inspections;
- complaints;
- referrals from, for example, the Department, Trading Standards Officers etc;
- through targeted investigations by the authorised officers; and
- where district councils have reason to believe a breach of duty has been committed.

All reported infringements of the Regulations must be investigated and appropriate and reasonable action taken in accordance with this Enforcement Protocol to ensure compliance with the EPB Regulations 2008.

5. ENFORCEMENT ACTIONS

Where an authorised officer is advised of a situation which **may** result in a future breach of the legislation (for example someone indicates that they will not be providing an EPC), s/he will deal with this either by visiting the relevant person to provide advice or by providing advice in writing.

In cases where a district council is advised that the EPB Regulations 2008 **have been** breached an authorised officer will investigate formally.

In cases where a breach has been established, and where there has been failure to comply with request letters, the district council in whose area the breach occurs will determine if the issue of a Penalty Charge Notice is the correct course of action. If so, it will be for that council to issue the Penalty Charge Notice.

It will be for the relevant district council to review issue of the Penalty Charge Notice if requested and confirm or withdraw it (regulation 36), to progress the Penalty Charge Notice and to respond to any appeals to the County Court in accordance with the provisions of regulation 37.

6. FINANCING ENFORCEMENT OF THE REGULATIONS

DFP will provide funding to BCC (as the facilitating authority) of £150,000 for the financial year 2015/16.

DFP expects BCC to be economically responsible and cost efficient in their approach to the expenditure of the allocated budget. BCC will submit quarterly bills to DFP, a quarterly expenditure sign off sheet and all relevant supporting documentation completed by the Head of Building Control and confirmed by the Chief Financial Officer.

Each district council is responsible for underwriting the cost of any court proceedings. DFP will not bear any responsibility for any action, proceedings during the period 2015/16, cost, claims, demands or liabilities whatsoever arising from any or all of the activities associated with district councils' enforcement of the EPB Regulations 2008.

District councils will be entitled to retain the income from Penalty Charge Notices solely to resource enforcement duties in this regard, and shall detail this income on the pro-forma attached at Appendix E.

DFP is under no obligation to fund any claims for expenditure for work, goods or services which are not acceptable for funding and will require BCC to repay any such payments, or such lesser amount as DFP may specify, forthwith on written demand.

DFP officials, including those from its Internal Audit, and from the Northern Ireland Audit Office, will require access to all relevant documentation to

facilitate random verification spot-checks on the work being undertaken across Northern Ireland to enforce the EPB Regulations 2008. DFP will be undertaking quarterly audits of the new councils. Councils will be advised of this in advance of the visit.

See also Appendix F for General Conditions.

Signed on behalf of the Department of Finance and Personnel

DC McDonnell
Head of Properties Division

Date

Signed on behalf of Belfast Building Control Service, the facilitating authority

P Williams
Director, Planning and Place,
Belfast City Council

Date

OVERVIEW OF THE EPB REGULATIONS 2008

The EPB Regulations 2008³ implements Articles 7, 9 and 10 of the Directive on the Energy Performance of Buildings (2002/91/EC) and requires:

- the production of an EPC for all dwellings available for sale, from 30 June 2008 (regulation 5);
- the production of an EPC for all new build properties and properties modified into a different number of separate units where services are modified or extended, from 30 September 2008 (regulation 6);
- the production of an EPC for all other buildings available for sale and all new rentals, from 30 December 2008 (regulation 5);
- from 30 December 2008, the production and display of a DEC for buildings over 1000m² occupied by public authorities and by institutions providing a service to the public and therefore frequently visited by these persons (regulation 11); and
- the regular inspection of all air-conditioning systems with an effective rated output of more than 12kW (regulation 15) at intervals of not greater than 5 years, with the first inspection:
 - a. by 4 January 2011, for systems installed before 30 December 2008; or
 - b. within 5 years of installation for systems put into service after 30 December 2008.

EPCs are valid for not more than 10 years (regulation 8 (3)) and must be accompanied by a report that contains recommendations for the cost-effective improvement of the energy performance of the building (regulation 7).

DECs are valid for not more than 12 months (regulation 11(3)) and must be accompanied by an advisory report (containing recommendations for cost-effective improvement of the building's energy performance). The advisory report is valid for 7 years (regulation 11(4)).

Air-conditioning systems must be inspected at least every 5 years from the date of the first inspection (as defined in regulation 15). A written report of the inspection (ACIR) must include an assessment of the energy efficiency of the system compared to the cooling requirements of the building and advice as appropriate on possible improvement or replacement of the system (regulation 16).

EPCs, DECAs and ACIRs may only be produced by Accredited Energy Assessors (Part 5 of the EPB Regulations 2008).

³ <http://www.legislation.gov.uk/nisr/2008/170/contents/made>

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2008

The 2008 amendment⁴ came into operation on 30 June 2008 and made some minor corrections to the EPB Regulations 2008.

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2009

The 2009 amendment⁵ came into operation on 3rd December 2009. It identifies district councils as the enforcement authority for the EPB Regulations 2008, except for their own buildings, where DFP remains the enforcement authority.

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2013

The 2013 amendment⁶ came into operation on 18 February 2013 implementing Articles 4(2), 11, 12, 13, 16 and 27 of the recast Directive on the Energy Performance of Buildings (2010/31/EU). The key changes introduced are:

- advertisements in commercial media for sale or rent of properties must include details of the energy performance indicator (regulation 5);
- an EPC may be produced for a dwelling based on the assessment of another representative building of a similar design and size and with a similar energy performance (regulation 8);
- where an EPC has been issued for a non-domestic building larger than 500m² and that building is frequently visited by the public (retail outlets, banks, restaurants, cinemas etc.), the EPC is to be displayed in the building in a prominent place (regulation 8A); and
- DEC's must be issued for buildings larger than 500m² occupied by a public authority and frequently visited by the public. This threshold will fall to 250m² from 9 July 2015. The DEC is to be displayed in a prominent place clearly visible to the public (regulation 11).

The following is a summary of other changes which further enhance compliance and make better use of data on the Northern Ireland Registers:

- clarification on when an EPC should be produced (regulation 5);
- requiring the lodgement of Advisory Reports within 28 days of issue (regulation 11);

⁴ <http://www.legislation.gov.uk/nisr/2008/241/contents/made>

⁵ <http://www.legislation.gov.uk/nisr/2009/369/contents/made>

⁶ <http://www.legislation.gov.uk/nisr/2013/12/contents/made>

- requiring the lodgement of air-conditioning inspection reports on the Register (regulation 13);
- extending the use and disclosure of information and data from EPCs held on the Northern Ireland Register (regulations 14 & 15); and
- requiring persons with an interest in the non-domestic sector to provide energy use data to the occupier (regulation 21).

The 2013 amendment also provides for offences and penalties for breaches of the new requirements relating to EPCs, DEC's, air-conditioning inspections and the provision of data.

The Energy Performance of Buildings (Certificates and Inspections) (Amendment) Regulations (Northern Ireland) 2014

The 2014 amendment came into operation on 25 February 2014, implementing Articles 2(9), 11(2)(a), 11(2)(b), 11(3) and 13(2) of the recast Directive (2010/31/EU). The key changes are:

- inserting definitions for 'building element', 'controlled fitting' and 'thermal element' and amending the definition of 'recommendation report' (regulation 3).
- clarifying that recommendation reports shall include cost effective measures that could be carried out with and without major renovations. The cost-effective measures recommended by the energy assessor must be technically feasible (regulation 4).
- requiring the display of energy performance certificates in certain buildings where a certificate has already been issued on construction (regulation 5).

Service Level Agreement

between

**Causeway Coast and Glens
Borough Council**

and

**EPB Team (facilitating authority)
1 April 2015- 31 March 2016**

Effective Date: 01 April 2015

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Approval of the Service Level Agreement

This document identifies the roles of all parties to ensure effective working in partnership to satisfy the requirements of the EU Directive, the EPB Regulations and in delivering the requirements of the EPB Enforcement Protocol 2015-2016

In signing below, I agree to the terms and conditions outlined in this Service Level Agreement

Signed

Chief Executive of Council

Date

1.0 Forward

Enforcement responsibility for the Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended) referred to as the 'EPB Regulations' transferred to district councils on 3 December 2009. The exception to this is enforcement relating to district councils' own relevant buildings which remains with the Department of Finance and Personnel (DFP).

District councils (as the enforcement authority) should be seen to lead the way in demonstrating EPB compliance with regard to council owned/leased relevant buildings. Councils must ensure that the appropriate energy certificates are in place as required: Energy Performance Certificate (EPC); Display Energy Certificate (DEC) and Air-conditioning Inspection Report (ACIR).

Belfast City Council (BCC), with the approval of the other district councils, has coordinated enforcement of the EPB requirements on behalf of all district councils since January 2010 through a dedicated EPB Team funded by the DFP. The Co-ordination, administration and management of EPB activities are carried out in accordance with an Enforcement Protocol (between DFP and BCC) and follows the guiding principles of the Government's Regulators Code. This code requires that regulatory activity is carried out in a way which is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

This Service Level Agreement (SLA) clarifies the roles and responsibilities of all parties in satisfying the requirements of the EU Directive, the EPB Regulations and in delivering the requirements of the Enforcement Protocol 2015-2016. The SLA is an essential element which outlines how the EPB Team will work in partnership with district councils to collate data, determine EPB compliance levels and address any matters arising from quarterly feedback.

To date the feedback data from district councils has proved invaluable in providing statistical information and evidence of EPB Regulations enforcement across N.Ireland. This information has been used by the DFP to respond to a number of potential infraction proceedings which Europe has presented to the UK Region. The feedback data documents the EPB activities being carried out by councils: level and nature of compliance, volume of enforcement letters issued, number of site visits and various awareness raising activities.

Meetings between DFP representatives, the EPB Team manager, a representative of the Building Control Managers and a Belfast City Council manager are held on a quarterly basis to review the enforcement activities undertaken by the 11 councils during the previous quarter. This provides opportunity for all parties to discuss any issues that may have arisen with the operation of the Protocol or this SLA and to agree the emphasis for forthcoming enforcement activities.

2.0 Terms of Reference

For the purpose this document the following terms of reference include:

Service Provider: The Energy Performance of Buildings (EPB) Team

Customer: Building Control Manager/ Head of Service on behalf of the Council

Stakeholders: Elected Council Members, Building Control staff of the 11 councils in N.Ireland, DFP, members of the public/ members of industry affected by EPB Regulations

Document owner: Chief Executive of Causeway Coast & Glens Borough Council

3.0 Agreement Overview

This Agreement represents a Service Level Agreement (the Agreement) between the Energy Performance of Buildings Team (the Service Provider) and the Council Building Control Manager (the Customer).

Each of the 11 councils in N.Ireland are responsible for the provision of EPB related services required to support and sustain enforcement of the EPB Regulations 2008 and any subsequent amendments to these regulations.

This Agreement remains valid until superseded by a revised agreement mutually endorsed by the Customer.

This Agreement outlines the parameters of all EPB related activities as identified in Section 9.0 Customer responsibilities, these are mutually understood by the stakeholders. This Agreement does not supersede current processes and procedures unless explicitly stated herein.

4.0 Goals & Objectives

The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide a consistent EPB related service support and delivery between the Customers and the Service Provider and to promote positive working in partnership.

The **goal** of this Agreement is to obtain mutual agreement on EPB related service provision between the Service Provider and the Customer.

The **objectives** of this Agreement are to:

- Fulfill the EPB enforcement requirements set out by the EPB Regulations
- Clearly define ownership, accountability, roles and/or responsibilities
- Present a clear, concise and measurable description of service provision to the Customer
- Monitor and raise levels of compliance for properties affected by the EPB Regulations
- Satisfy the requirements of the EPB Enforcement Protocol 2015-16 set out by the Department of Finance and Personnel (DFP) and agreed with the facilitating council.

5.0 Periodic Review

This Agreement is valid from the Effective Date outlined herein until further notice. This Agreement should be reviewed at a minimum once per fiscal year; however, in lieu of a review during any period specified, the current Agreement will remain in effect.

The Customer is responsible for facilitating regular reviews of this document. Contents of this document may be amended as required, provided mutual agreement is obtained from the primary stakeholders and communicated to all affected parties. The Customer will inform the Document Owner of all subsequent revisions and obtain mutual agreements / approvals as required.

Amendments and revisions are records in Section 10.0

Document owner: Chief Executive of the Council

Customer: Building Control Manager/ Head of Service on behalf of the Council

Review Period: as required and within 12 months from 01 April 2015

Review Date: before 01 April 2015

6.0 Confidentiality

The Service Provider will treat as strictly confidential all information acquired by it from, or about the other councils, and external suppliers. No party will disclose such information to any other party, directly or indirectly, except where disclosure is required by law or is with the relevant parties' prior written consent.

Whilst under the conditions of the Protocol, the EPB Team are required to report to the DFP where any council within which EPB compliance has not been scrutinised during a reporting period; the EPB Team may be required to identify any such council.

The DFP will monitor the EPB Activities of district councils by carrying out an audit of that council's processes, enforcement activities and means to record / act upon findings, and awareness raising activities.

7.0 Variations

There may be circumstances during the year which prevent the full discharge of the Service Level Agreement through no fault of any party. Circumstances in which variations may occur during the period of the Service Level Agreement may include:

- Non-provision of responsibilities by the Service Provider or Customer
- Significant changes in the anticipated workload
- New regulations or change in policy
- Performance of Hardware / Software

All parties will discuss the need for any variation to the Service Level Agreement at the earliest opportunity and will make any variation by mutual agreement.

8.0 Service Agreement

The following detailed service parameters are the responsibility of the Service Provider in the ongoing support of this Agreement.

The following sections provide relevant information as to the extent of services provided by the EPB Team in order to maintain a consistent level of support during this period.

8.1 Service Availability

Service Provider coverage parameters specific to the services covered in this Agreement are as follows:

- Telephone support : 0900 to 1700 Monday – Friday

- Calls received out of office hours will be forwarded to a mobile phone and best efforts will be made to answer / action the call, however there will be a backup answer phone service
- Email support: 0900 to 1700 Monday – Friday
- Emails received outside of office hours will be collected, however no action can be guaranteed until the next working day
- On-site assistance guaranteed within 72 hours during the business week

8.2 Request for Service

In support of services outlined in this Agreement, the Service Provider will respond to service related incidents and/or requests submitted by the Customer within the following time frames. The priority level will be determined by the Service Provider.

- 0-5 hours (during business hours) for issues classified as **High** priority.
- Within 12 hours for issues classified as **Medium** priority.
- Within 5 business days for issues classified as **Low** priority.

Remote assistance will be provided in line with the above timescales dependent on the priority of the support request.

8.3 Service Provider Responsibilities

The following Services to be provided are covered under this Agreement:

- Manned free phone and mobile telephone support available to the general public and 11 council building control services

- Email support available to the general public and all council building control services
- Each district council will have a dedicated support officer from within the EPB Team who will aim to provide assistance and advice on specific queries or opinions related to EPB regulations when required within one week of receiving the query.
- Monthly assistance provided by the dedicated EPB support officer to each council for EPB enforcement activities. This will be commensurate to individual council requirements in relation to EPB activity
- Dissemination of quarterly DFP reports to all councils along with any outcomes and relevant information arising within 10 days of the meeting.
- Provision of advice, guidance and interpretation of EPB legislation with the aim of achieving consistency of EPB enforcement across all councils
- Provision of DFP liaison on behalf of the councils
- Provision of Landmark Register liaison through the DFP on behalf of the councils
- Provision of training for any revisions / amendments to the EPB Regulations or recasts to the EU Directive
- Provision of EPB related information and web links to use on individual council websites where available
- Presentations to stakeholders as requested or required
- Provision of EPB Regulations related legal opinions
- Provision of EPB related data for individual council committee reports
- Attendance at relevant council committee meetings upon request

- Offer guidance and support with enforcement procedure and proceedings
- Provision of EPB related media information and articles within budget requirements
- Reporting to BCNI Committee and BCNI Managers upon request
- Provision of EPB advisory leaflets and literature within budget requirements
- Any revision or amendment to the SLA will be communicated and documented to the Customer

9.0 Customer Responsibilities

Customer responsibilities in support of this Agreement include:

- Availability of a customer representative when resolving EPB related requests or related incidents
- Councils shall maintain paper and/or electronic records in such a way that enables the DFP to verify enforcement activities undertaken in any given quarter. Such information should identify clearly verification checks or audits on the work being undertaken to enforce the EPB Regulations. If required, the DFP and/or NI Audit office will be given access to all relevant documentation to demonstrate that the EPB Regulations are being enforced.
- To facilitate the requirements of DFP officials (including those from its internal audit and from the NI Audit Office), access may be given to all relevant documentation to facilitate random verification spot checks on the work being undertaken to enforce the EPB Regulations.
- The enforcing council will underwrite the cost of any court proceedings.

- Provision of council EPB feedback data is required to assist in determining levels of compliance (as stipulated by the DFP) in the quarterly report and must be forwarded to the Service Provider within five business days from the end of quarter period

The EPB feedback data required from the Customer (as complied within the feedback form) includes the following information:

EPC (Energy Performance Certificate):

- number of marketing estate agents or private agents in council area
- number of marketing estate agents or private agents visited/checked for compliance in domestic and non-domestic sectors for properties for both sale and rental (on site, on internet, in press, etc)
- number of properties marketing agents advertising without the EPC energy rating indicator on all their advertising commercial media (90+ % of properties with energy rating indicator on commercial media may be deemed as being compliant)
- number properties identified as having to display the EPC (500m² visited by the public) and the number of properties compliant
- number of new build or buildings modified into units to be used separately
- number of new build or buildings modified into units to be used separately with EPCs lodged on the Landmark Register
- where compliance is not found, the reasons for this
- and the enforcement action taken for any non-compliance

DEC (Display Energy Certificate):

- number of properties visited which require a DEC (250m² publically funded and visited by the public);
- number of properties with valid DEC (in date and correctly displayed) and which have a valid advisory report (AR) issued
- where compliance is not found, the reasons for this
- and the enforcement action taken for any non-compliance

Air-conditioning Systems:

- number of properties identified as requiring an air conditioning inspection report (ACIR) to be carried out
- the number of properties with air-conditioning which are compliant, ie. have a valid ACIR lodged onto the Landmark Register
- where compliance is not found, the reasons for this, and
- any enforcement action taken for non-compliance

Complaints and queries:

- any complaints and queries to council in respect of EPC, DEC or air-conditioning, the action taken and the outcome.

Enforcement Correspondence:

- number and nature of breaches identified,
- number of enforcement letters issued (Letters 1 and 2)
- extent of compliance gained as a result of enforcement letters issued
- action taken and outcome
- where compliance is not found, the reasons for this
- number of Penalty Charge Notices issued by nature of breach and associated income
- number of Penalty Charge Notices (PCN) withdrawn and reason for withdrawal; and details of any County Court appeals.

