

<b>Report on</b>	Energy Performance of Buildings Regulations
<b>Date of Meeting</b>	10 <sup>th</sup> March 2020
<b>Reporting Officer</b>	William Wilkinson

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To advise Members on the Enforcement Procedural Document (see Appendix 1) developed to achieve compliance of the Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended).
<b>2.0</b>	<b>Background</b>
2.1	<p><u>Energy Performance of Buildings</u></p> <p>The Council has responsibility for enforcing The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended) (the EPB Regulations). As the enforcing authority, the Council is responsible for ensuring that all relevant buildings are in compliance with the exception of Council owned buildings, for which the Department of Finance retained enforcement responsibility. The legislation requires:</p> <ul style="list-style-type: none"> <li>• Energy performance certificates for properties which provide A-G efficiency ratings and recommendations for improvement</li> <li>• Public buildings to display energy certificates</li> <li>• Inspections for air conditioning systems</li> </ul>
2.2	<p><u>Energy Performance Certificates (EPC)</u></p> <p>EPC's are required whenever a building is constructed or for existing buildings, before it is marketed for sale or rent (see sample in Appendix 2).</p> <p>An EPC, records the energy efficiency of a property, providing a rating of the energy efficiency and carbon emissions of a building on a scale from A to G, where A is very efficient and G is very inefficient.</p> <p>EPC's are produced using standardised methods detailing energy usage so that the energy efficiency of one building can easily be compared with another building of the same type. This allows prospective buyers, tenants, owners, and occupiers to see and compare information on the energy efficiency and carbon emissions from a building, so they can consider energy efficiency and fuel costs as part of their investment decision.</p>

	<p>The EPC will expire after 10 years and a new EPC (valid for the next 10 years) should be produced if the property is marketed for sale or rent at that time. An EPC will include a recommendation report listing measures (such as low and zero carbon generating systems) to improve the energy rating of the building. The EPC also contains information about the rating that could be achieved if all the recommendations were implemented.</p> <p>An Energy Performance Certificate (EPC) is required when:</p> <ul style="list-style-type: none"> <li>• A building is newly constructed or an existing building has been modified</li> <li>• A building is for sale or rent</li> </ul>
2.3	<p><u>Display Energy Certificates</u></p> <p>Display Energy Certificates (DEC's) show the actual energy usage of a public building (the Operational Rating) and allow the public to see the energy efficiency of that building. This is based on the energy consumption of the building as recorded by means of oil, gas, electricity and other meters. The DEC should be displayed at all times in a prominent place clearly visible to the public.</p> <p>DEC's are only required for buildings that have a total useful floor area of more than 250m<sup>2</sup> which are occupied by a public authority or an institution providing a public service to a large number of people, and are frequently visited by members of the public. DEC's are valid for one year. The accompanying Advisory Report is valid for 7 years which makes recommendations for improvements to the energy performance of the building (see Appendix 3 for sample DEC and Advisory Report).</p>
2.4	<p><u>Air Conditioning Inspections</u></p> <p>All air-conditioning systems with an effective rated output of 12kW must be regularly inspected by an energy assessor at intervals not greater than 5 years.</p> <p>Systems installed before 30th December 2008 and an inspection for energy efficiency has yet to be carried out, should be inspected as required by the Energy Performance of Buildings (EPB) (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended).</p> <p>If a system was installed on or after 30th December 2008, it must be inspected within 5 years of its installation date and every five years thereafter</p> <p>The relevant person in the building must have in their control at all times a copy of the most recent air-conditioning inspection report – see sample in Appendix 4.</p>
<b>3.0</b>	<b>Main Report</b>
	<u>Enforcement</u>
3.1	An aligned EPB Enforcement Policy, has been developed by the Northern Ireland EPB team and is being used as guidance by Councils across Northern Ireland,

thereby ensuring that there is an effective and consistent approach to EPB Regulations enforcement.

3.2 Mid Ulster Council's approach to EPB enforcement to date has been to educate and obtain compliance through awareness raising through periodic inspections and media checks, which promoted the benefits of the legislation with compliance found to be at a consistent level. However, there are instances of breaches of the EPB Regulations which should be subject to enforcement action by way of a fixed penalty fine known as a Penalty Charge Notice (PCN).

3.3 Officers will take all reasonable steps to work with all non-compliant relevant person/s to ensure compliance is achieved and maintained and that the use of a Penalty Charge Notice will only be used as a last resort to enforce the Legislation.

3.4 Members are advised that the following are the Penalty Charge Notice amounts prescribed under the EPB Regulations:

Table 1 - Penalty Charge Notices

Breach	PCN amount
Marketing a dwelling for sale or rent without an EPC	£200 per complaint
Marketing a non-domestic property for sale or rent without an EPC	12.5% per net annual value, between £500 - £5,000
Not having a valid Display Energy Certificate or Advisory Report available	£1000
Display Energy Certificate not displayed correctly	£500
Air-conditioning system not inspected and energy assessment report carried out	£300

#### Procedures

3.5 Building Control Officers undertake specific EPB related inspections and checks on the following undernoted areas to measure the level compliance across the District.

#### Commercial Media

3.6 Visits to estate agents offices, or checking their web pages to check compliance in providing EPC information on all commercial media. Page 11 of Appendix 1 details the procedure that is followed in carrying out enforcement duties. The Agent is either compliant and this is recorded, or if non-compliance is identified then subsequent enforcement action is commenced.

The Estate Agent will be required to:

- comply with the legislation by including the energy performance indicator on the literature for the properties which you are marketing,

	<p>or</p> <ul style="list-style-type: none"> <li>Remove the properties from the market.</li> </ul> <p>Failure to comply with this requirement within 14 days will result in the issue of a Penalty Charge Notice (to the amount as detailed in Table 1 – see 3.4).</p> <p><u>On Construction Energy Performance Certificates</u></p>
3.7	<p>5 days prior to the completion of a building, Building Control requests a copy of the EPC and check that it is also registered on Landmark (System for recording and checking all EPC's etc. which is available to view by the Public). If documentation is satisfactory, the Building Control completion certificate can be issued. Where an EPC is not provided within 5 days of completion, or is invalid, then the enforcement procedures set out on page 16 of Appendix 1 are followed.</p> <p>Failure to comply within 21 days will result in the issue of a Penalty Charge Notice (to the amount as detailed in Table 1)</p> <p><u>Energy Performance Certificates – Sale or Rent</u></p>
3.8	<p>To assess the compliance of properties for sale within the District, visits are carried out on estate agent premises and their company websites, including identifying sales and rentals from private landlords on local media such as newspapers and websites including acting on complaints.</p> <p>It should be noted that the responsible person (i.e. an estate agent or individual) selling/letting a property must have a valid EPC in place for each applicable property prior to placing that property on the market.</p> <p>The information in the form of a valid Energy Performance Certificate must be made available to any prospective buyer/ tenant and give a valid Energy Performance Certificate and Recommendation Report to the actual buyer/ tenant.</p> <p>Where non-compliance has been identified then a request by the Council must be complied with within 21 days as detailed on page 23 of Appendix 1. Failure to comply with this request may lead to a Penalty Charge Notice (to the amount as detailed in Table 1).</p> <p><u>Display of Energy Performance Certificates.</u></p>
3.9	<p>Officers visit buildings that meet the following criteria to ensure that an Energy Performance Certificate (EPC) is on display:</p> <ul style="list-style-type: none"> <li>Useful floor area greater than 500m<sup>2</sup></li> <li>Frequently visited by members of the public</li> </ul>

	<ul style="list-style-type: none"> <li>• It currently has a valid EPC.</li> </ul> <p>Where non-compliance is identified, enforcement procedures detailed on page 30 of Appendix 1 are followed and the responsible person occupying the building has 14 days to display that Energy Performance Certificate. An officer will visit the site to confirm compliance.</p> <p>Failure to comply with this Regulation may lead to a Penalty Charge Notice (to the amount as detailed in Table 1).</p> <p><u>Display Energy Certificate (DEC)</u></p> <p>3.10 Officers visit buildings that meet the following criteria:-</p> <ul style="list-style-type: none"> <li>• Occupied by a public authority that provide a service</li> <li>• Frequently visited by members of the public</li> <li>• Useful floor area greater than 250m<sup>2</sup>.</li> </ul> <p>The building must have on display their Display Energy Certificate (DEC). The certificate should be displayed in a prominent place and checked in terms of its correct display and validity.</p> <p>Enforcement procedures as detailed on page 37 of Appendix 1 are followed where non-compliance is identified and failure to comply with this Regulation after 14 days may lead to a Penalty Charge Notice (to the amount as detailed in Table 1). An officer will visit the site to confirm compliance.</p> <p><u>Air Conditioning Reports</u></p> <p>3.11 Premises that are identified as having an air conditioning system are visited and assessed to determine if an Air Conditioning Inspection Report is required. The following 3 key factors determine if an ACIR is required:</p> <ul style="list-style-type: none"> <li>• 12Kw output</li> <li>• Used for comfort cooling for occupants benefit</li> <li>• Refrigerant gas used.</li> </ul> <p>In meeting these factors the system must have a valid Air-Conditioning Inspection Report which is to be completed by an approved energy assessor at regular intervals not exceeding 5 years.</p> <p>Where non-compliance is identified as detailed on page 39 of Appendix 1, the building owner/occupier must confirm within 28 days that a valid Air-Conditioning Inspection Report been produced and the report is available for inspection.</p> <p>Failure to comply with this request may lead to a Penalty Charge Notice (to the amount as detailed in Table 1).</p>
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3.12	<p><u>Review</u></p> <p>General Provisions in Part 4 the Enforcement Policy outline the following action that can be taken by a person who received a Penalty Charge Notice:</p> <ol style="list-style-type: none"> <li>1. Within 28 days of receipt of a PCN, request the Council to review that notice; and</li> <li>2. Where the PCN is upheld by the Council, the recipient may appeal to the County Court</li> </ol> <p>These review procedures, criteria and further general provisions are detailed within Appendix 1 in Part 4 General Provision page 8 of Appendix 1 and at the conclusion of each EPB Regulations inspections and checks.</p>
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: Within current resources
	Human: Within current resources
	Risk Management: The Council may be audited by the Department of Finance to assess compliance of the Regulations within the District
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/a
	Rural Needs Implications: N/a
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That Members note the content of the Report and agree to the adoption of the Procedural Document for the enforcement of Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (as amended)
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix 1 - Energy Performance of Buildings Enforcement Procedure, Flowcharts, Sample Letters and Penalty Charge Notice.
6.2	Appendix 2 – Sample of Energy Performance Certificate
6.3	Appendix 3 - Sample Display Energy Certificate and Advisory Report
6.4	Appendix 4 – Sample of Air-conditioning Inspection Report

