



## REQUEST FOR DECISION

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**To:** Regional Planning Committee      **For the Meeting of:** January 20, 2025

**From:** Planning Services      **Date Prepared:** January 10, 2025

**SUBJECT:** Bylaw Compliance & Enforcement Policy Review – Draft Manual and Policy 5.5.1

### RECOMMENDATION:

1. That Regional Planning Committee review and provide direction on changes to draft Bylaw Compliance and Enforcement Policy 5.5.1 and the draft Bylaw Compliance and Enforcement Best Practices Manual.

**DIRECTOR COMMENTS:** Trust Council most recently supported Regional Planning Committee’s (RPC) request for a plain language version of the best practices policy document and approved inclusion of a Local Trust Committee (LTC) Bylaw Compliance and Enforcement policy in the project charter. The plain language document is attached for Regional Planning Committee’s further consideration. Staff have made extensive revisions to Policy 5.5.1 since the RPC last met, focusing on incorporating the recommendations of the Ombudspersons office, and are recommending that RPC also review these policy changes at the special meeting.

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### 1. PURPOSE:

To bring back the draft Bylaw Compliance and Enforcement Best Practices Manual for further review (Attachment 1). In addition, since the last meeting staff have continued to work on draft revisions to Trust Council Bylaw Compliance and Enforcement Policy (Policy 5.5.1), specifically to incorporate the recommendations of the Office of the Ombudsperson (Attachments 2 and 3). Staff are recommending that Regional Planning Committee (RPC) also focus on reviewing the revisions to Policy 5.5.1 as it is the foundational policy and the source of much of the content of the Bylaw Compliance and Enforcement Best Practices manual.

### 2. BACKGROUND

In September 2023, Trust Council directed that “the recommendations from the Office of Ombudsperson Report titled: ‘Voluntary Consultation on Bylaw Enforcement Policies and Practices within the Islands Trust’, dated August 2023, be implemented, and that staff develop an associated work plan and project charter and refer to the Regional Planning Committee.” The project charter was subsequently amended by Trust Council to also include development of “a Local Trust Committee Bylaw Compliance and Enforcement Policy Template”.

## Context

The legislated authority for Bylaw Officers to enforce LTC bylaws and to inspect property stems from Section 419 of the *Local Government Act*, via section 24(2) of the *Islands Trust Act*, which permits an LTC, by bylaw, to enforce its bylaws and to authorize staff to enter, at all reasonable times, on any property, to inspect and determine whether regulations are being met. All Local Trust Committees have adopted *Infraction Investigations Bylaws* to authorize enforcement of bylaws and authorize Bylaw Officers to inspect properties at reasonable times. Many LTC Land Use Bylaws also authorize site inspections using the same or similar language.

Trust Council has adopted Policy 5.5.1 (Bylaw Compliance and Enforcement) to provide direction to staff on bylaw enforcement processes, procedures, and communications. Many Local Trust Committees have also adopted specific policies by means of standing resolutions to provide specifics of how LTC bylaws are to be enforced, prioritized, and reviewed within respective local trust areas.

## Regional Planning Committee Resolutions

At the September 2024 meeting, RPC received a report from staff providing recommendations on next steps for bylaw enforcement policies and practices review. RPC adopted the following resolutions:

### **RPC 2024-013**

It was **MOVED** and **SECONDED**, that Regional Planning Committee request staff to amend the Bylaw Compliance and Enforcement Best Practices Manual to create a plain language version. **CARRIED**

### **RPC 2024-014**

It was **MOVED** and **SECONDED**, that Regional Planning Committee request staff to work through the self-assessment checklist of the Ombudsperson Complaints Guide to determine if recommended components are included in the draft Policy 7.1.2, and to identify gaps and opportunities for future work for the Bylaw Enforcement and Compliance Review Project. **CARRIED**

### **RPC 2024-015**

It was **MOVED** and **SECONDED**, that Regional Planning Committee recommend the following changes:

- a) Amend the notification period to two weeks
- b) Policy 5.5.1: That the Manager of Compliance and Enforcement has the discretion to open files and launch an investigation based on the available resources.

**CARRIED**

At the November 8<sup>th</sup> meeting, RPC reviewed the Bylaw Compliance & Enforcement Best Practices & Procedures Manual, with the only resolution being:

### **RPC 2024-027**

It was **MOVED** and **SECONDED**, that Regional Planning Committee request staff to schedule a special business meeting in January for the purpose of discussing the Bylaw Enforcement Best Practices Manual and policies.

## Best Practices Manual

The draft Best Practices Manual is attached (Attachment 1). As no specific direction was provided at the last RPC meeting, no substantial changes have been made to this version. The version discussed at the last meeting included:

1. Acronyms removed
2. Staff-oriented instructions removed
3. Revised for plain language
4. Addition of a section for Appeal of Bylaw Compliance and Enforcement Officers Decisions:
  - a. Appeal of Bylaw Enforcement Officer Decisions - For discretionary decisions of a BEO, appeals may be considered by the Director of Planning Services. In considering appeals of interpretation of regulations, the Director may convene a review panel consisting of the Director and Regional Planning Managers. Such requests must be made in writing, outlining reasons for the appeal such as error of fact, omissions, or new evidence.
  - b. Review of conduct of Bylaw Enforcement Officers – complaints regarding the conduct or behaviour of a BEO shall be reviewed by the Director, Planning Services. Such requests must be made in writing, outlining reasons for the review request. If the complainant is not satisfied with the Director’s response, a formal administrative fairness complaint may be submitted.

As the Manual is intended as a public document that provides a plain language summary of bylaw enforcement policies and procedures, significant portions of the Manual are derived from and summarize policies and procedures established in Trust Council Bylaw Compliance and Enforcement Policy 5.5.1. Consequently, staff are recommending that substantive changes to Policy 5.5.1 be considered by RPC prior to finalizing the Manual.

### Trust Council Bylaw Compliance and Enforcement Policy

Since the last meeting, staff have been undertaking further work on incorporating the recommendations of the Office of the Ombudspersons report into Trust Council Policy 5.5.1. The recommendations of the Office of the Ombudspersons report are tracked in the attached table (Attachment 4), including where these recommendations have been incorporated into Policy 5.5.1. Two versions of the revised policy are also attached, one clean version and a blacklined version comparing the current and revised policies (Attachments 2 and 3 respectively). Substantive revisions to Policy 5.5.1 include:

- Incorporation of ‘Guiding Principles’ into the preamble that reflect the principles of administrative fairness,
- Adding a section in the preamble to clarify of roles and responsibilities,
- Additional and refined definitions,
- Expanding upon procedures for commencing investigations, progressive enforcement, notice and procedures for site inspections, and how investigations are closed,
- Refinement of how staff exercise discretion,
- Inclusion of policies for the Review of Bylaw Compliance and Enforcement Officer Conduct,
- Reference to LTC enforcement policies, and
- Handling of frivolous, vexatious or repetitive complaints.

### Administrative Fairness Complaints

In September, RPC requested staff to work through the self-assessment checklist of the Ombudsperson Complaints Guide and to identify gaps and opportunities for future work for the Bylaw Enforcement and Compliance Review Project. This work had not been started due to lack of staff resources at the time. Since then, staff have reviewed the Office of the Ombudsperson documents and have drafted procedures for review of Bylaw Compliance and Enforcement Office conduct. These have been included in Policy 5.5.1 as a new section 9. Staff consider it to be optimal to include these procedures into Policy

5.5.1 rather than re-writing Policy 7.1.2 (Handling of Administrative Fairness Complaints). As drafted, a person not satisfied with these review procedures may still submit an administrative fairness complaint under Policy 7.1.2 (or pursue recourse through the Office of the Ombudsperson).

### **3. NEXT STEPS**

Staff are requesting the RPC to provide direction on changes to the draft plain language best practices manual and to draft policy 5.5.1.

At a subsequent meeting, staff will bring back the LTC Enforcement Policy template for RPC review and direction.

Staff will submit documents to the Ombudspersons Office for comment upon endorsement from the RPC.

Following endorsement by Trust Council, staff will implement changes by reviewing and updating letter templates, posting the Manual, and implementing training for officers.

### **4. ATTACHMENT(S):**

- 1) Draft Bylaw Compliance and Enforcement Best Practices Manual – plain language edition;**
- 2) Draft TC Policy 5.5.1 - Bylaw Compliance and Enforcement Policy**
- 3) Draft TC Policy 5.5.1 - Bylaw Compliance and Enforcement Policy – Blacklined Version**
- 4) Table Summarizing the Recommendations of the Office of the Ombudsperson report**
- 5) Project Charter v.3**

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**Reviewed By/Date:** Warren Dingman, Manager of Bylaw Compliance and Enforcement

**Reviewed By/Date:** Stefan Cermak, Director Planning Services, January 9, 2025



Islands Trust

# Bylaw Compliance & Enforcement

## Best Practices Manual

December 2024

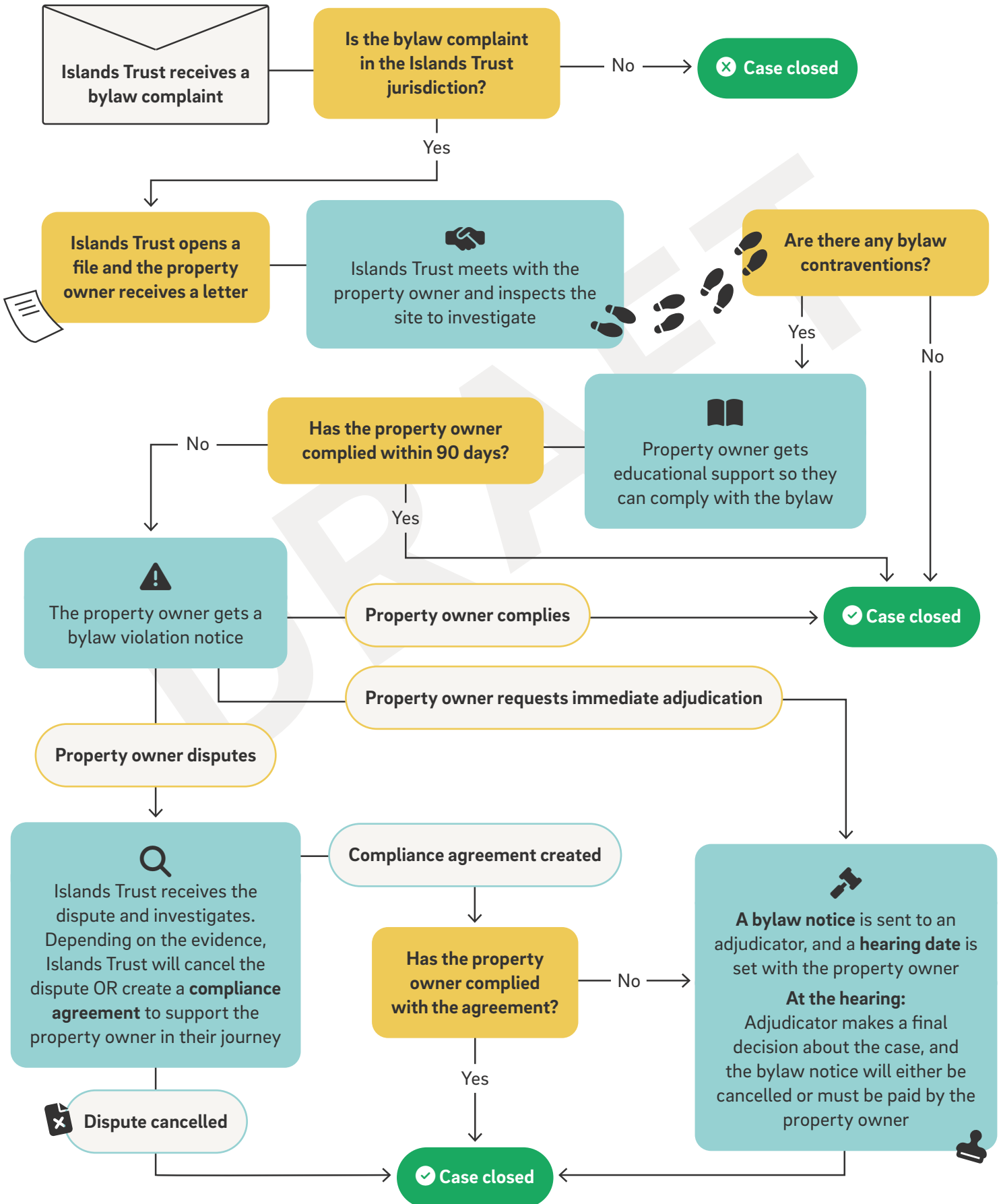
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# Bylaw Enforcement Pathway: Steps to Compliance



Islands Trust



# Definitions

**Adjudicator** means an independent party whom the Province of British Columbia appoints to decide if a Bylaw Violation Notice will be upheld or cancelled.

**Bylaw Notice** means a ticket, with penalty, issued under the *Local Government Bylaw Notice Enforcement Act*.

**Complaints** a report of an alleged contravention made by any person.

**Complainant** a person who has made an official complaint.

**Disputant** means a respondent who has been given a Bylaw Violation Notice, and disputed it.

**Local government** refers to municipalities and regional districts which provide services to local communities. In this document, the local government referred to is Islands Trust.

**Ombudsperson Office** is an independent, impartial office of the provincial legislature that investigates complaints about unfair administrative actions by public authorities. It is meant to uphold transparency and accountability within public institutions by offering a free, accessible service for individuals who feel they have been treated unjustly by public agencies. The office does not have the power to enforce decisions but can recommend corrective actions.

**Respondent** means those responding to allegations of bylaw contraventions.

**Screening Officer** is an Islands Trust staff member appointed to review a disputed Bylaw Violation Notice.

**Vexatious Complaints** are frivolous, repeat or false complaints, or ones made in bad faith, that are meant to harass, annoy, irritate, or are for retaliatory purposes.

# Roles and Responsibilities

Effective bylaw enforcement within Islands Trust requires ongoing communication and cooperation between trustees and staff. While trustees provide the legislative framework and policy direction, staff members carry out these policies through direct enforcement and support roles.

## Trustees

- **Community Representation:** Trustees represent the interests and concerns of their constituents in matters related to bylaws and their enforcement, acting as a liaison between the community and enforcement officers.
- **Policy Development and Approval:** Trustees of Islands Trust are primarily involved in governance aspects, including setting policies that guide bylaw enforcement. They approve bylaws that regulate land use and community planning within the Islands Trust Area.
- **Strategic Oversight:** Trustees oversee the general strategic direction of Islands Trust, ensuring that bylaw enforcement aligns with the broader goals of conservation and sustainable community development.

## Staff

- **Bylaw Compliance and Enforcement Officers:** These are specialized staff responsible for the practical aspects of enforcing the bylaws approved by trustees. Their duties include investigating complaints, gathering evidence, and ensuring compliance through education and regulation.
- **Planning Staff** are not directly involved in enforcement, but play a critical role in interpreting the bylaws and providing recommendations to both the public and enforcement officers. They ensure that the enforcement practices align with the planning objectives set by trustees.
- **Administrative Support:** This includes staff members who assist in the administration of bylaw enforcement, such as processing complaints, maintaining records, and supporting communication between the public, trustees, and enforcement officers.

Are you concerned about something on your property and want to get more information? Your Trustee can be a first point of contact in this conversation, without starting enforcement.

# What is the purpose of the Islands Trust Bylaw Compliance & Enforcement program?

The Islands Trust works to preserve and protect the special environment and qualities of the Trust Area for the benefit of its residents and the province. The Bylaw Compliance and Enforcement program exists to support this goal and ensure public safety. This guide helps residents understand how the Islands Trust ensures people follow local bylaws. The goal is to encourage voluntary compliance with bylaws through education, mediation, and enforcement when necessary.

The Bylaw Compliance & Enforcement team looks into potential violations of land use rules set by local trust committees. The regulations are found in local trust committees' Land Use Bylaws; in Development Permit Areas within Official Community Plans; and in the Salt Spring Island Soil Deposit and Removal Bylaw. Islands Trust has the legal authority to enforce these rules under laws like the *Islands Trust Act* and the *Local Government Act of BC*.

The Islands Trust has a policy, [Policy 5.5.1 Bylaw Compliance & Enforcement](#), that guides how bylaw investigations are handled. It explains how complaints are processed, prioritized, and resolved, aiming to do so fairly and effectively. Local trust committees adopt bylaws authorizing enforcement and may adopt bylaw enforcement policies specific to their communities.

The Manager of Bylaw Compliance and Enforcement follows best practices based on principles of fairness, as outlined in the report: [BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments", March, 2016](#).

## What initiates a Bylaw Compliance & Enforcement case file?

Like all local governments in British Columbia, Islands Trust uses a complaint-based Bylaw Compliance and Enforcement process. This means that almost all case files result from complaints made by individuals in the community. Anyone can submit a complaint – you don't have to live in the area or be a resident.

As listed in [Trust Council Policy 5.5.1 Section 5.1](#), this system gives priority to those bylaw infractions of greatest concern to island communities:

1. When directed by a local trust committee
2. Health and safety issues
3. Environmental impacts that could cause irreversible harm if not addressed quickly
4. Contraventions of land use bylaws and other bylaws

Once a complaint has been made, Islands Trust cannot decline to open a case file or decline to conduct an investigation because a complainant has changed their mind. Complainants are not victims of the offence and cannot “withdraw” their complaint.

In some cases, a Bylaw Compliance and Enforcement Officer can start an investigation even without a complaint. This happens when:

- Violations may cause health or safety risks
- Violations occur near water bodies
- Violations happen in development permit areas
- Violations are found during the building permit process
- Another agency refers a case involving land use issues
- Unlawful uses are advertised
- A local trust committee requests an investigation

## How can complaints be sent to the Islands Trust?

Anyone who wants to make a complaint can:

- Fill out the Bylaw Compliance & Enforcement Complaint form on the Islands Trust website: <https://islandstrust.bc.ca/mapping-resources/report-a-concern/>
- Send an email to [bylawenforcement@islandstrust.bc.ca](mailto:bylawenforcement@islandstrust.bc.ca)
- Mail or drop off a letter to any Islands Trust office
- Complete a complaint form at any Islands Trust office

Complaints must be in writing, but staff can help by writing down the information for anyone who needs assistance.

### Confidentiality

Anyone making a complaint must provide their or her name to the Islands Trust. Anonymous complaints are not accepted. The Islands Trust will try to keep the complainant’s information confidential, but confidentiality cannot be guaranteed during legal proceedings or if a Freedom of Information request is made.

Islands Trust also receives referrals from other agencies (like regional districts) when they get a complaint that falls under Islands Trust’s responsibility.

# What is not a complaint?

Sometimes, people reach out to Islands Trust with questions about the Land Use Bylaw or Official Community Plan, not to report illegal activity. They may be planning something on their property and want to know if it is allowed. In these cases, a case file is not opened.

If a complaint or person is labeled “vexatious”, Islands Trust will send a written notice explaining any limits on communication, why those limits are in place, and when they might be reconsidered. These limits don’t stop necessary contact with staff on other unrelated matters.

Questions regarding bylaw infractions can be sent to [bylawenforcement@islandstrust.bc.ca](mailto:bylawenforcement@islandstrust.bc.ca)

# When are Bylaw Compliance and Enforcement case files closed?

Case files are closed if:

- If no contravention exists
- On direction of a local trust committee
- As directed by Trust Council or local trust committee policies
- If the Director of Planning Services concurs with the Bylaw Compliance and Enforcement Manager that the contravention is minor and does not suit the public interest to enforce
- If compliance has been achieved

# How is compliance achieved?

Ideally, bylaw compliance is voluntary, and primarily sought through a combination of education, mediation, and enforcement techniques. If voluntary compliance does not occur, the Bylaw Compliance and Enforcement Officer may proceed with a bylaw compliance and enforcement process.

## Bylaw Compliance and Enforcement Process

The compliance and enforcement process at Islands Trust has several steps. Staff work with people involved (Respondents) and encourage them to follow the rules before deciding if there is a bylaw violation. The process starts with discussions and education about the bylaws. If necessary, it moves to a verbal warning, then a written warning, and penalties are only applied if the person still does not comply.

All written complaints sent to the Bylaw Compliance & Enforcement office are acknowledged and recorded, whether they lead to an investigation or not.

First, staff review the complaint to see if it falls under the local trust area's bylaws. If no violation is found, the complainant will be asked to provide more information, or informed that no violation exists.

Some complaints are more urgent than others are, so not all will receive the same level of attention. Complaints are prioritized based on the following:

1. Direction from a Local Trust Committee
2. Health and safety concerns
3. Environmental damage that could cause lasting harm
4. Violations of land use and other bylaws

If a complaint falls outside of Islands Trust's authority, it may be referred to another agency. The goal is to handle referrals quickly, with a "no wrong door" approach, meaning everyone is here to help, no matter which agency is involved.

If there is a possible violation, a new case file is opened.

### A New File Has Been Opened

After a new file is opened, both the Complainant and the person involved (Respondent) will be notified in writing. The Respondent will receive a Notice Letter with the contact details of the Bylaw Compliance and Enforcement Officer (the Officer) and will be asked to get in touch. The Officer will also follow up with the Complainant to confirm details and ask more questions.

The Officer will then investigate the extent of the apparent or potential violation and what may be required to achieve compliance with the bylaw. These are the steps the Officer takes when investigating:

1. The Officer will review all relevant compliance and enforcement policies that have been adopted by the local trust committees or Trust Council.

2. Typically, the Officer will conduct a site inspection of the property to meet with the Respondent, and gain an awareness and visual understanding of the property and the neighbourhood.
3. The Officer will take photos of the property and any possible violations, and gather details about what has been built or what is happening on the property that might have led to a complaint by asking questions and investigating. Bylaw Officers have the legal right to inspect, and local trust committees set policies on how much notice must be given to the Respondent before an inspection. The Officer is there to gather information only, not to make a decision, and Respondents will receive a written response regarding the case.
4. Based on evidence collected and a review of the relevant bylaws, the Bylaw Compliance and Enforcement Officer will determine if there is, or has been, a contravention. If there is no contravention to the local trust committee bylaws then the Respondent and the Complainant will be notified and the case file will be closed. If a contravention exists, the Respondent will be asked to cease the activity, land use, or construction immediately.
5. If an administrative application such as a land use variance application has been submitted by the Respondent and there is a reasonable likelihood of success, the Bylaw Compliance and Enforcement Officer will refrain from enforcement during the application process.
6. The Officer may issue a Bylaw Violation Warning Notice or a Bylaw Violation Notice in local trust areas where a Bylaw Enforcement Notification bylaw has been adopted by the local trust committee. This Notice clearly explains what the violation is, and the timeline for compliance. The Officer is available to provide more information to the Respondent so they can achieve compliance without penalties.
7. Voluntary compliance is always the goal. The Officer will attempt to support the Respondent to achieve voluntary compliance with educational resources, and negotiations. Compliance must be achieved within 90 days if possible.

The Officer may consult with the Manager of Bylaw Compliance and Enforcement, Islands Trust planners, and the Director of Planning Services or seek legal advice when necessary.

Bylaw Compliance and Enforcement Officers are committed to a professional and respectful approach. Here is what they do:

- Interact with the public in a respectful and non-confrontational way
- Work within their authority; while they cannot issue stop work orders or tell property owners what they can do, they can request a pause on work while they review the regulations and investigate.
- Take time to carefully review all evidence before making a determination. They do not make on-the-spot decisions to ensure fairness and avoid any perception of bias.

## Communications with Complainants

When a Complainant completes an [online complaint form](#), they receive an automatic response, which thanks them for their complaint and advises them that they will be contacted shortly with an update.

Once the complaint has been received and reviewed by the Manager, Complainants are advised if a new bylaw file is opened. If a file already exists for the property and contravention, they will be advised that their information has been added to the file. Contact information for the investigating Bylaw Compliance and Enforcement Officer is shared.

If the Complainant has provided an email address, they will be notified of a new file being opened by email. If they have only provided a mailing address, they will be notified by mail.

Complainants can request information about an open bylaw enforcement file at any time. They will be updated by the Bylaw Compliance and Enforcement Officer if:

- a. A file is put on hold, along with the reason for this action
- b. A Local Trust Committee makes a decision regarding the file
- c. A file has moved to litigation at which time the identity of the complainant may become public information
- d. A file is closed

## Communications with Respondents

When a file is opened, a **notice letter** will be sent to the Respondent.

Once a Bylaw Compliance and Enforcement Officer has confirmed that a contravention of a bylaw has occurred or is occurring, the Officer will send a **determination letter** to the Respondent. The letter must be clear and easy to read and must include:

- A **reason** the letter is being sent that outline the problem, using a statement of what has been observed
- An **explanation** of how the bylaw has been contravened by quoting the bylaw and the sections that are being violated, and the definitions of words from the bylaw
- Outline of the **solutions** available to comply with the bylaw
- Explanation of the possible **consequences** of not complying
- A reasonable **deadline** that has been negotiated with the Respondent for taking next step or fully complying

## Communications with Trustees

A local trust committee or any individual local trustee will not be involved in any aspect of the investigation of a complaint or the preparation of any Bylaw Compliance and Enforcement report. Upon opening a case file, local trustees are advised of the general nature of the complaint, the name of the street (not the complete address), and the case file number. The local trust committee will only be kept informed about the status of an investigation if they request updates. Local trust committees may request Bylaw Compliance and Enforcement staff to report on specific issues. The reports will be presented to the local trust committee at a subsequent meeting.

While local trustees can't be involved in any investigations, they are able to file a bylaw violation complaint just as any member of the public.

## Communications with Potential Property Buyers and Real Estate Agents

Potential property buyers, Real Estate Agents, or the public can contact the Islands Trust Bylaw Compliance & Enforcement office to ask if there are any Bylaw Compliance & Enforcement issues associated with a specific property. Staff can share limited information regarding whether an open bylaw file exists for the subject property.

Islands Trust does not provide information about previous complaints or investigations. That information would require a [Freedom of Information request, which can be made here](#).

## When Compliance is not achieved

If bylaw compliance isn't achieved, the Bylaw Compliance and Enforcement Officer will take the appropriate next steps which could include issuing a Bylaw Violation Notice, sending a Notice of Debt letter, sending a demand letter via lawyers, or recommending legal action to the local trust committee.

If legal action is necessary, the Manager of Bylaw Compliance and Enforcement will present a staff report to the local trust committee and Executive Committee, who then decide whether or not legal proceedings should occur.

## Appealing Decisions Made by a Bylaw Compliance and Enforcement Officer

For discretionary decisions of a Bylaw Compliance and Enforcement Officer, appeals may be considered by the Director, Planning Services. In considering appeals of interpretation of regulations, the Director may convene a review panel consisting of the Director and Regional Planning Managers. Such requests must be made in writing, outlining reasons for the appeal such as error of fact, omissions, or new evidence.

## Reviewing the Conduct of Bylaw Compliance and Enforcement Officers

Respondents can request a review of the conduct of a Bylaw Compliance and Enforcement Officer by submitting a request in writing to the Director of Planning Services. If the Respondent is not satisfied with the Director's response, a formal [administrative fairness complaint](#) may be submitted.

### WHAT IS BIAS?

Bias in decision making is generally understood as a pre-existing leaning or predisposition toward one side or another or a particular result.

Bias can creep into complaint resolution and investigations when decision makers rely on their personal belief systems, prior knowledge of a person, or personal relationship with a party or service user, rather than focusing exclusively on the information and evidence related to the complaint. It is important that staff who are handling complaints be aware of any personal biases that may be affecting how they respond to concerns from service users.

*From the Ombudsperson Complaints Handling Guide*

## Public access to records

As Bylaw Compliance & Enforcement files contain confidential information and pertain to law enforcement, a member of the public is required to submit a Freedom of Information and Protection of Privacy [request](#) in order to obtain any information from a file.

Freedom of Information requests are an important mechanism of transparency that ensures public access to Islands Trust records. Islands Trust staff will assist members of the public to refine their request and procure relevant documents to their request.

## Bylaw Enforcement Notices and Dispute Adjudication System

### Overview of the Local Government Bylaw Notice Enforcement Act

In October 2003, the Province of British Columbia enacted legislation providing an alternative approach for processing and resolving minor bylaw contraventions: the [Local Government Bylaw Notice Enforcement Act](#). The Act also provides direction, with the [Bylaw Notice Enforcement Regulation](#). Under the Act, local governments may establish a Bylaw Enforcement Notice and

Dispute Adjudication system, which replaces the provincial court as the venue for resolving disputes of bylaw contraventions.

This legislation aims to create a straightforward, affordable system to enforce bylaw violations. It features a simple ticket process for enforcement and a way for an independent adjudicator to handle ticket disputes.

## Implementation Bylaw

Section 3 of the *Act* allows local governments to issue notices with penalties for bylaw violations. To do this, they must first pass a bylaw that establishes a Bylaw Enforcement Notice and Dispute Adjudication (BEN) system. This bylaw will:

- Designate the bylaw contraventions that may be dealt with by a bylaw notice
- Establish the amount of the administrative penalty for each contravention
- Set the period within which a recipient may pay the administrative penalty or dispute a bylaw notice/request a review
- Establish a bylaw notice dispute adjudication system to resolve bylaw notice disputes

### **EXAMPLE:**

The Galiano Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 228, 2011.

This bylaw lists the administrative penalties that apply to bylaw contraventions in the Galiano Local Trust Area, as well as policies for disputing Bylaw Violation Notices, Screening Officers, and other features of the adjudication process described below in detail.

## Implementation

When establishing a Bylaw Enforcement Notification Bylaw, local governments, including Islands Trust, should consider the following:

- **Appointment of a Screening Officer:** Define their powers, duties, and functions.
- **Compliance Agreements:** Allow the Screening Officer to enter into agreements and reduce penalties if warranted.
- **Adjudication Process:** Set a fee for filing adjudication requests and establish grounds for canceling penalty notices.
- **Response Periods:** Determine timelines for responses to Screening Officer decisions.

## Record Management

Islands Trust administers and preserves all records related to the Bylaw Enforcement Notification system in compliance with provincial legislation. These records include:

- Bylaw Violation Notices and Warning Notices.
- Records of paid administrative penalties.
- Adjudicator decisions and documents related to collection efforts for unpaid penalties

### **Islands Trust Areas that have adopted a Bylaw Enforcement Notification Bylaw:**

Ballenas-Winchelsea Island Local Trust Area — Bylaw 34 (adopted 2019)

Denman Island Local Trust Area — Bylaw 232 (adopted 2019)

Gabriola Island Local Trust Area — Bylaw 263 (adopted 2012)

Galiano Island Local Trust Area — Bylaw 228 (adopted 2012)

Gambier Island Local Trust Area — Bylaw 116 (adopted 2013)

Hornby Island Local Trust Area — Bylaw 159 (adopted 2020)

Mayne Island Local Trust Area — Bylaw 156 (adopted 2016)

North Pender Island Local Trust Area — Bylaw 188 (adopted 2011)

Salt Spring Island Local Trust Area — Bylaw 446 (adopted 2012)

South Pender Island Local Trust Area (adopted 2019)

Thetis Island Local Trust Area — Bylaw 90 (adopted 2011)

### **Islands Trust Areas that have not adopted a Bylaw Enforcement Notification Bylaw:**

Lasqueti Island Local Trust Area

Saturna Island Local Trust Area

## Bylaw Violation Notices

### Warning Notices

Warning notices serve as an informal tool following an investigation by a Bylaw Compliance and Enforcement Officer. They should:

- Be issued with a compliance deadline of no less than 45 days.
- Precede formal Bylaw Violation Notices, accompanied by a determination letter with a 90-day compliance deadline.

## Bylaw Violation Notices

A violation notice is a formal enforcement tool. This type of notice assigns an administrative penalty, the amount of the penalty is listed in the Bylaw Enforcement Notification bylaw of the Local Trust Area.

In local trust areas where Bylaw Enforcement Notification bylaw have been adopted, a Bylaw Violation Notice may be issued after any of the following:

- A verbal warning
- A demand letter
- A warning notice
- Exceptional circumstances as outlined by the Bylaw Compliance and Enforcement Manager

Notices must include the respondent's name, contravention details, penalty amounts, and dispute options.

The penalty notice may be delivered by personal delivery or by mailing it to the person responsible for the contravention. If mailed, the local government may presume that the person received it on the seventh day after mailing. In the event that the intended recipient claims not to have received the notice, the Bylaw Compliance and Enforcement Officer must verify the address and reissue a copy of the Bylaw Violation Notice.

The penalty notice informs the respondent of the bylaw contravention, the penalty for the contravention; and how to pay the penalty or dispute the notice.

A Bylaw Violation Notice must contain the:

- Name of the Respondent
- Specific bylaw contravention alleged to have occurred and the location
- Amount of the penalty
- Amount of a discount for early payment
- Amount of a surcharge for late payment
- Consequences of failing to respond to the notice
- Payment options
- Dispute options

Bylaw Violation Notices must be written within six months of the occurrence of a contravention.

Although the *Local Government Bylaw Notice Enforcement Act* requires that the above information is included on a penalty notice, local governments may organize or supplement this information as they see fit. The penalty notice may also be electronically generated or hand written on a pre-printed form.

The following is considered when issuing a Bylaw Violation Notice:

- Will the notice encourage the person to follow the bylaw? The goal is to get compliance. If the officer believes issuing the notice will help, it may be the right step.
- The notice cannot be issued more than six months after the violation is said to have happened.
- The officer should be able to explain why the notice was considered an effective way to enforce the rules in each case.

Once the Bylaw Violation Notice is received or is presumed to have been received, it becomes legally effective. There are four possible scenarios:

1. The Respondent does not respond: if the Respondent doesn't respond within 28 days, a late fee is added. The total penalty, including the late fee, is due immediately and can be collected by Islands Trust.
2. The Respondent claims that the Bylaw Violation Notice was not received: if, within 21 days, the Respondent claims they did not receive the Bylaw Violation Notice, a copy of the original notice will be reissued and sent to them.
3. The Respondent pays the Bylaw Violation Notice: if the penalty is paid within 14 days of receiving the notice, the notice amount is reduced by 25%. After 14 days, the full penalty amount applies. If paid after 28 days, a 50% late fee is added. Payment can be made by cash, cheque, or money order to Islands Trust, with instructions provided on the Bylaw Violation Notice.
4. The Respondent disputes the Bylaw Violation Notice.

## Dispute Process for Bylaw Violation Notices

The person named (Disputant) in the notice has 14 days to request a dispute. After 14 days, they can only dispute it if the Bylaw Compliance and Enforcement Manager grants an exception. The process starts when the Respondent asks to dispute the notice, and the Bylaw Compliance and Enforcement Manager will then arrange for adjudication. If the due date falls on a weekend or public holiday, it will be extended to the next business day.

The Dispute Adjudication system is used to resolve disputes about whether a bylaw violation occurred as stated in the notice or whether the terms of a compliance agreement were followed. A challenge to the validity of the local government bylaw, or a claim that enforcement of the bylaw infringed on the Charter Rights of the disputant, is not within the jurisdiction of the adjudicator. This must be initiated as a separate matter in the Supreme Court of British Columbia.

Parties involved in the process of disputing a notice include:

1. **The Disputant:** the individual disputing the notice.
2. **The Bylaw Compliance & Enforcement Officer:** the Islands Trust employee authorized to issue the notice.
3. **The Adjudicator:** the independent adjudicator with authority to determine if the notice is dismissed or upheld.
4. **The Screening Officer:** is an employee of Islands Trust designated as a Screening Officer under the relevant Local Trust Committee's Bylaw Enforcement Notification bylaw. Screening Officers provide a first opportunity to respond to a Bylaw Violation Notice dispute in an informal setting. A Screening Officer may conduct the review based on discussion or correspondence with the disputant, and can explain the process and potential consequences of formal dispute adjudication. Each Local Trust Committee that has adopted a Bylaw Enforcement Notification bylaw has also developed a Screening Officer policy in order to provide guidelines during the Bylaw Violation Notice screening process. Screening Officers are required to provide recipients with a fair opportunity to be heard.

More information about detailed information regarding the local government dispute adjudication system can be found in the [Local Government Toolkit for Bylaw Dispute Adjudication](#). The [Local Government Bylaw Notice Enforcement Act](#) and the [Bylaw Notice Enforcement Regulation](#) govern this process.

## 1 Step One in the Dispute Procedure

A recipient of a Bylaw Violation Notice notifies Islands Trust in writing that they are disputing the Bylaw Violation Notice by:

- Completing and submitting the Adjudication Request Form that is on the bottom of the Bylaw Violation Notice. Forms can be delivered or mailed to any of the Islands Trust offices on Salt Spring Island, Gabriola Island or Victoria.
- Online at [disputing a bylaw violation notice](#).
- A letter or email indicating that they wish to dispute the Bylaw Violation Notice can be sent to [bylawenforcement@islandstrust.bc.ca](mailto:bylawenforcement@islandstrust.bc.ca), or mailed to any Islands Trust office:
  - Victoria Office: 200 – 1627 Fort Street, Victoria, BC, V8R 1H8
  - Salt Spring Office: 121 McPhillips Ave, Salt Spring Island, BC V8K 2T6
  - Northern Office: 700 North Road, Gabriola Island, BC, V0R 1X3

## 2 Step Two in the Dispute Procedure

The Screening Officer will review the Bylaw Violation Notice, including possible discussions with the issuing Bylaw Compliance and Enforcement Officer. The Screening Officer will review the dispute request and may:

- **Cancel** the notice; or
- **Confirm** the notice and either:
  - › refer it to an **adjudicator** unless the request for dispute adjudication is withdrawn; or
  - › enter into a **compliance agreement** ↓ with the person.

## 3 Step Three in the Dispute Procedure

The Bylaw Violation Notice has now been cancelled or confirmed by the Screening Officer. If the Bylaw Violation Notice is confirmed, Screening Officer will discuss their decision with the disputant by phone, in person, or in writing, and may offer a Compliance Agreement with the recipient to subsequently reduce or cancel the penalty when the terms of the agreement are fulfilled.

## 4 Step Four in the Dispute Procedure

If the Bylaw Violation Notice has been confirmed, and the disputant wants a formal dispute adjudication, the Screening Officer will request an Issuing Officer Report and create a Screening Officer Report. The dispute process will now move to a Formal Dispute Adjudication, where evidence is presented and the adjudicator decides if an offence did or did not occur.

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A Compliance Agreement includes:

- Acknowledgment of the bylaw violation and acceptance of responsibility
- Remedies or future actions to be taken within a certain timeframe
- A way to verify compliance with the agreement
- Possible penalty reduction or waiver if the terms of the agreement are met
- The duration of the compliance agreement

If a recipient of a Bylaw Violation Notice fulfills all terms of a compliance agreement, their penalty is considered fully paid.

If the Screening Officer believes that the terms have not been fulfilled, they can cancel the compliance agreement and must notify the recipient of that fact by regular mail. The recipient then has 14 days of receiving that notice to either pay the penalty or ask an adjudicator to determine compliance. If neither action is taken within that time, the full penalty plus a late fee is immediately due to Islands Trust.

## Dispute Adjudication

In accordance with local the *Local Government Act*, Islands Trust runs its own Dispute Adjudication Registry by working with the Ministry of Attorney General, which provides adjudicators experienced in local government land use bylaws. Once a Disputant confirms they want a formal hearing, the Manager will coordinate with all parties to set a date. Islands Trust will submit a package to support its case, which usually includes the Bylaw Violation Notice, the request to dispute, and reports from the Issuing and Screening Officers. This package, along with any evidence from the disputant, must be sent to both the disputant and the adjudicator at least one week before the hearing.

### Adjudicators

The Adjudicator must proceed on the basis that the bylaw is legally valid. The Adjudicator has no discretion to reduce or waive the penalty amount. The Adjudicator also has no jurisdiction to deal with challenges to the bylaw or claims of infringements of rights under the Charter of Rights and Freedoms.

An Adjudicator may not be an employee or an elected official of a municipality and may not hear a matter if they are reasonably thought to have a bias or an interest in relation to the outcome of that matter.

### Adjudication Procedures

Section 18 of the *Local Government Bylaw Notice Enforcement Act* provides direction in regards to Adjudication Procedures.

The Adjudicator must provide the parties to the dispute with an opportunity to be heard:

- In person or by an agent
- In writing (including by fax or email)
- By video conference, audio conference, telephone or other electronic means

Section 19 of the *Local Government Bylaw Notice Enforcement Act* states that “Hearings must be open to the public”. Islands Trust provides a space for members of the public to watch adjudication proceedings at the Islands Trust Southern Office, 200–1627 Fort St, Victoria. Members of the public can request this information by contacting Islands Trust: [information@islandstrust.bc.ca](mailto:information@islandstrust.bc.ca).

## Evidence

The technical and legal rules of evidence do not apply and an Adjudicator may accept any evidence they consider credible, trustworthy and relevant to the dispute, including the evidence of any person. The Adjudicator may accept evidence in any manner, such as orally, in writing or electronically.

## Determination

The Adjudicator will determine if:

1. The contravention identified in the Bylaw Violation Notice occurred as alleged, the notice is confirmed, and the penalty set out in the notice is immediately due and payable.
2. The contravention identified in the Bylaw Violation Notice did not occur as alleged, the notice is cancelled.

If the Disputant fails to appear, the Adjudicator must order that the Bylaw Violation Notice be upheld. The penalty is immediately due and payable to the local trust committee. The full amount of the penalty is due, not the reduced amount that would be available to those paying within 14 days of the original bylaw violation notice.

## Notice of Adjudication Outcomes

An Adjudicator resolving a dispute about a Bylaw Violation Notice or a compliance agreement must send their written decision to Islands Trust:

- Within one business day for in-person or telephone hearings.
- Within five business days after receiving the dispute materials for written hearings.

The adjudicator’s decision must be in writing and should include:

- The name of the Disputant
- The facts relating to the penalty notice
- A summary of the Screening Officer’s decision
- The issues raised by the parties

- A summary of the evidence provided by each party in support of each issue
- The Adjudicator's assessment of each issue
- The Adjudicator's final decision

The decision is sent from the Adjudicator to Islands Trust. The disputant will receive the decision of the Adjudicator when Islands Trust receives it.

### Cost

Islands Trust is responsible for the administrative work and costs of the dispute adjudication system. Islands Trust charges an administrative fee of \$25, payable by a disputant who is unsuccessful in a dispute adjudication. The fee is added to the debt only when and if the disputant is unsuccessful. If the disputant is successful, no fee is charged.

### Judicial Review

The determination of an adjudicator is final and conclusive and is not open to review in a court except on a question of law or lack of jurisdiction. If a failed disputant or the Islands Trust believes that the adjudicator exceeded their authority, or made an error at law, disputant person or Islands Trust may seek relief in the Supreme Court of British Columbia under the *Judicial Review Procedure Act*. An application for judicial review must be made within 30 days of the adjudication decision.

# Referenced Documents & Resources

- [BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments", March, 2016](#)  
<https://bcombudsperson.ca/guide/bylaw-enforcement-best-practices-guide-for-local-governments/>
- [Bylaw Compliance & Enforcement Complaint form](#)  
<https://islandstrust.bc.ca/mapping-resources/report-a-concern/>
- [Dispute a bylaw violation notice](#)  
<https://islandstrust.bc.ca/island-planning/general-resources/bylaw-compliance-and-enforcement/dispute-adjudication-form/>
- [Policy 5.5.1 Bylaw Compliance & Enforcement](#)  
<https://islandstrust.bc.ca/document/policy-5-5-1-bylaw-compliance-and-enforcement/>
- [Freedom of Information request](#)  
<https://islandstrust.bc.ca/about-us/accountability/freedom-of-information-requests/>
- [Trust Council Policy 5.5.1 Section 5.1](#)  
<https://islandstrust.bc.ca/document/policy-5-5-1-bylaw-compliance-and-enforcement/>
- Bylaw Violation Notice can be sent to [bylawenforcement@islandstrust.bc.ca](mailto:bylawenforcement@islandstrust.bc.ca), or mailed to any Islands Trust office:
  - Victoria Office: 200 – 1627 Fort Street, Victoria, BC, V8R 1H8
  - Salt Spring Office: 121 McPhillips Ave, Salt Spring Island, BC V8K 2T6
  - Northern Office: 700 North Road, Gabriola Island, BC, V0R 1X3



<b>Policy:</b>	5.5.1
<b>Approved By:</b>	Trust Council
<b>Approval Date:</b>	March 11, 1995
<b>Amendment Date(s):</b>	June 6, 1997; June 6, 1998; June 13, 2003; December 5, 2003; December 10, 2004; June 17, 2005; March 10, 2006; March 13, 2019, December 2, 2021: XXXX, 2025
<b>Policy Holder:</b>	Director of Planning Services

## BYLAW COMPLIANCE AND ENFORCEMENT

### Purpose

The purpose of the bylaw compliance and enforcement program is to support the object of the Islands Trust to preserve and protect the Trust Area and its unique amenities and environment for the benefit of residents of the Trust Area and of the province generally by ensuring compliance with local trust committee bylaws.

### Guiding Principles

The following principles are intended to align with the mandate of the Islands Trust, adhere to the best practices outlined by the BC Office of the Ombudsperson, and ensure procedural fairness in all enforcement actions:

1. **Fairness and Impartiality:** Apply bylaws consistently, ensuring decisions are unbiased and equitable for diverse island communities.
2. **Transparency and Communication:** Provide clear, accessible information about enforcement policies, processes, and outcomes to foster trust and understanding.
3. **Procedural Fairness:** Ensure timely notification of alleged infractions, offer opportunities to be heard, and guarantee unbiased decision-making.
4. **Proportionality and Discretion:** Tailor enforcement actions to the severity and context of the infraction, with a focus on voluntary compliance.
5. **Efficiency:** Prioritize significant violations that impact environmental sustainability or community safety, while streamlining processes for minor cases.
6. **Engagement and Inclusivity:** Collaborate with island communities to ensure enforcement practices reflect local values and consider marginalized populations.
7. **Accountability and Oversight:** Regularly review enforcement activities and maintain oversight to uphold public confidence.
8. **Respect for Privacy:** Safeguard the confidentiality of complainants and individuals involved in enforcement actions, in compliance with privacy laws.
9. **Focus on Education and Compliance:** Emphasize public education and voluntary compliance with bylaws.

### Roles and Responsibilities

**Islands Trust Council** provides overall policy direction, approves budgets, and reviews performance through regular reporting.

**Executive Committee** provides oversight of enforcement across all local trust areas, and approving funding for litigation when requested by local trust committees.

**Local trust committees** (LTC) are authorized to enforce LTC bylaws, ensuring bylaws reflect community values, adopt specific LTC enforcement policies, and provide direction to staff on significant cases and potential litigation.

**Members of the public and complainants** are encouraged to submit accurate complaints in good faith, engage respectfully with staff, and uphold the confidentiality of enforcement processes.

**Bylaw Compliance and Enforcement Officers** (Officers) are responsible for investigating complaints, communicating clearly with respondents, determining if there is a contravention, and applying progressive enforcement actions proportionally, with an emphasis on education and compliance.

**The Manager of Bylaw Compliance and Enforcement** (Manager) is responsible for the overall administration of the bylaw enforcement program, including supervising bylaw compliance and enforcement officers, ensuring adherence to policies and procedures, and providing expertise on complex or sensitive cases. The Manager coordinates with other departments, ensures alignment with legal and regulatory requirements, and reports on enforcement activities to senior management and elected officials.

**Senior Management** ensures staff have the resources and training needed for effective enforcement, facilitates communication among interested and affected parties, oversees adherence to policy, and reviews complaints regarding the conduct of bylaw enforcement officers.

**Planners and Regional Planning Managers** assist in the interpretation of bylaws and ensuring consistency with planning objectives. They support enforcement officers by providing information on the intent and application of bylaws, and contribute to resolving compliance issues by providing compliance options to respondents and local trust committees.

**Legal Counsel** supports local trust committees and staff by providing legal opinions on interpretation, advice on potential litigation, and representation in cases of litigation.

## A. Definitions

1. *Bylaw Notice* means a ticket, with penalty, issued under the *Local Government Bylaw Notice Enforcement Act*.
2. *Frivolous complaint* means a complaint not having any serious purpose or value, often lacking in merit.
3. *Long-form information* means a complaint sworn before a Provincial Court judge by a bylaw compliance and enforcement officer.
4. *Respondent* means those responding to allegations of bylaw contraventions.
5. *Vexatious complaint* means a complaint made solely for retaliatory or in bad faith intended to cause harassment, or otherwise forms part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process.

## B. Policy

### 1. OBJECTIVE

- 1.1 The objective of this policy to achieve bylaw compliance through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily sought through an attempt to achieve voluntary compliance by a commitment to

corrective action as soon as reasonably possible and the cessation of unlawful activity.

## **2. COMMENCING INVESTIGATIONS**

- 2.1 Investigations are commenced on a complaint-basis, with the exceptions provided below.
- 2.2 Complaints must be made in writing by email, through an on-line complaint form or portal, by mail, or delivered in-person.
- 2.3 Anonymous complaints are not accepted.
- 2.4 All written complaints will be acknowledged in writing and recorded.
- 2.5 Where a written complaint has not been received, investigations may be commenced in one or more of the following circumstances:
  - 2.5.1 Bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;
  - 2.5.2 Bylaw contraventions appear to cause health and safety issues;
  - 2.5.3 Bylaw contraventions appear to occur as part of a building permit process or other permitting process administered by a local government or Islands Trust siting and use permit applications;
  - 2.5.4 A referral is received from a permitting agency that identifies alleged bylaw contraventions;
  - 2.5.5 Advertising of unlawful uses; or
  - 2.5.6 local trust committee directs staff to commence an investigation.

## **3. INVESTIGATION AND PROGRESSIVE ENFORCEMENT**

- 3.1 After receiving a complaint, it will be reviewed to determine whether or not it potentially falls within the local trust committee's jurisdiction.
- 3.2 A complaint that does not fall within the jurisdiction of a local trust committee may be referred to another agency with jurisdiction or the complainant may be directed to the agency with jurisdiction.
- 3.3 If the Manager determines that there is no potential violation, the complainant will be informed and given the opportunity to provide more information.
- 3.4 If the Manager determines that there is a potential violation, a file is opened, and the Respondent will receive a Notice Letter, providing a summary of the issue, contact details of the assigned officer, and encouraging the respondent to contact the officer. The complainant will be notified that a file has been opened.
- 3.5 The Officer will investigate the potential violation, including:
  - 3.5.1 Reviewing all relevant bylaws, policies, and procedures.
  - 3.5.2 Arranging a site inspection. Site inspections will be conducted in accordance with the policies in Section 4 below.
  - 3.5.3 Hearing from the Respondent and potentially from the complainant.
  - 3.5.4 Reviewing evidence gathered from a site inspection and relevant bylaws.
  - 3.5.5 Reviewing all relevant infraction and legal history.
  - 3.5.6 Consulting with the Manager, planners, and Regional Planning Manager.
  - 3.5.7 Seeking legal advice where required.
- 3.6 The Officer should consider each person's unique circumstances when determining the appropriate and fair investigative approach and enforcement actions, this includes:
  - 3.6.1 Conducting investigations with an understanding of the specific context and circumstances of the individual or property owner involved.

- 3.6.2 Respecting cultural differences, provide accommodations for individuals with disabilities, and ensure accessibility for those facing language barriers during the investigative process.
- 3.6.3 Ensuring investigations are proportionate to the nature of the complaint and violation, considering factors such as the person's ability to comply, any hardships they may face, and their willingness to cooperate.
- 3.6.4 Exercising discretion when determining the scope and approach to an investigation, providing flexibility such as extended timelines or alternative solutions when warranted by an individual's circumstances.
- 3.6.5 Ensuring investigations will be free from bias or discrimination based on race, gender, age, disability, socio-economic status, or other protected characteristics.
- 3.7 Based on the outcome of the investigation, the officer will make a determination if there is a contravention.
- 3.8 Respondents will be notified in writing of the determination of an investigation. A Determination letter will include:
  - 3.8.1 The purpose of the letter, referencing any relevant investigations or prior communications.
  - 3.8.2 The Respondent's name, address, and the property address involved.
  - 3.8.3 Specific bylaw regulation(s) violated and summarize supporting evidence, including facts and documentation.
  - 3.8.4 Outline actions to achieve voluntary compliance, along with reasonable deadlines and monitoring processes.
  - 3.8.5 Potential consequences of non-compliance and information on the Respondent's rights to respond or dispute the determination.
  - 3.8.6 The Officer's contact details and any resources to assist with compliance.
  - 3.8.7 Copies of supporting evidence.
- 3.9 A Respondent may request that a determination of a contravention be reviewed by the Manager.
- 3.10 Complainants may request a review of a file by the Manager where the investigation has determined that there is no contravention.
- 3.11 If either a Respondent or complainant is not satisfied with the review of a determination by the Manager, a written complaint may be submitted to the Director of Planning Services. The Director may make a determination singly or in consultation with the relevant Regional Planning Manager and planner.
- 3.12 Voluntary compliance may involve a Respondent requesting time to comply; or requesting that enforcement be paused, subject to local trust committee policies, while proceeding with an application that would have a reasonable likelihood of success in legalizing the contravention.
- 3.13 Where a local trust committee has adopted a Bylaw Enforcement Notification Bylaw, and voluntarily compliance is not forthcoming within a reasonable time, or there is an immediate threat to health or safety or the natural environment, or an LTC has adopted a relevant enforcement policy, an officer may issue a Bylaw Warning Notice or a Bylaw Violation Notice.
- 3.14 Where Bylaw Enforcement Notices have proven ineffective in achieving compliance, or where a local trust committee has not adopted a Bylaw Enforcement Notification Bylaw, or where a contravention is considered sufficiently egregious, an officer may recommend that a local trust committee undertake legal action to achieve compliance.
- 3.15 Complainants can request information about an open bylaw enforcement file at any time. The Complainant will be updated by the Bylaw Compliance and Enforcement Officer if:
  - 3.15.1 The file is put on hold, along with the reason for this action.
  - 3.15.2 The local trust committee has made a decision regarding the file.

- 3.15.3 The file has moved to litigation at which time the identity of the Complainant may become public information.
- 3.15.4 The file is closed.

#### 4. SITE INSPECTIONS

- 4.1 **Entry with Notice:** When entry onto private property is required to investigate a bylaw complaint, officers will provide prior written notice to the property owner or occupier, except in cases where doing so would compromise the investigation. Notice will include the purpose of the visit, applicable authority under provincial legislation, bylaws and policies, and proposed timing.

Entry will occur only during reasonable hours, with efforts to minimize disruption and ensure respect for the property and its occupants. Investigations will focus exclusively on the specific alleged bylaw contraventions outlined in the complaint unless other observations pose an immediate risk to public health, safety, or the environment. Officers should answer reasonable questions related to the purpose of the visit and the bylaw complaint investigation process.

- 4.2 **Entry without Notice:** In exceptional circumstances, where prior notice is not feasible or where immediate entry is required to address urgent concerns about health, safety, or the environment, officers may enter property as authorized under the *Local Government Act*. Officers will document the justification for entry without notice, specifying the urgency and applicable legal authority, and will notify the property owner or occupier as soon as practicable following the visit.
- 4.3 **Legal Compliance and Fairness:** Property entries will comply with the *Charter of Rights and Freedoms*, applicable provincial legislation, and local trust committee bylaws and policies. To ensure fairness, investigations will be limited to the specific subject matter of the complaint except where the officer observes issues that pose a risk to health, safety or the environment.
- 4.4 **Documentation:** Bylaw enforcement officers will maintain records of all property entries, including notice provided (or reasons for its omission), observations made, and actions taken.
- 4.5 **Reasonableness and Accountability:** Property entry practices will aim to balance enforcement needs with respect for individual privacy and property rights. Officers will act reasonably and proportionately, prioritizing voluntary compliance and education wherever possible.

#### 5. CLOSING INVESTIGATIONS

- 5.1 Bylaw investigation files will be closed in the following circumstances:
  - 5.1.1 It is determined that no contravention exists;
  - 5.1.2 Compliance has been achieved;
  - 5.1.3 On direction of a local trust committee; or
  - 5.1.4 If the Director of Planning Services concurs with the Manager that the contravention is of a minor nature, impacts are minimal, or it is not in the public interest to enforce.
  - 5.1.5 Complainants may request that the closing of a file be reviewed by

another Bylaw Enforcement Officer or the Manager.

- 5.2 Respondents, complainants and the local trust committee will be notified in writing when a file has been closed and the reason for closing the file.
- 5.3 Bylaw investigation files will not be reopened once closed. If a similar complaint is made a new investigation will be commenced.

## **6. DISCRETION AND PRIORITY OF INVESTIGATION**

- 6.1 As bylaw enforcement resources are limited, investigations will be prioritized as follows:
  - 6.1.1 By specific direction of a local trust committee;
  - 6.1.2 Health and safety concerns;
  - 6.1.3 Adverse environmental impact that could result in irreversible damage if not prevented in a timely fashion; and
  - 6.1.4 Contraventions of land use bylaws and other bylaws.

## **7. VOLUNTARY COMPLIANCE AND MEDIATION**

- 7.1 Efforts to gain compliance should be conducted using the principles and techniques employed in mediation.
- 7.2 Persons alleged to have committed contraventions and complainants may be invited by staff to participate in a process designed to:
  - 7.2.1 Provide full information and exchange of information;
  - 7.2.2 Confirm facts;
  - 7.2.3 Explore opportunities for compliance;
  - 7.2.4 Negotiate a timeline for compliance;
  - 7.2.5 Reach compliance solutions.

## **8. CONDUCT OF BYLAW COMPLIANCE AND ENFORCEMENT OFFICERS**

- 8.1 Bylaw Compliance and Enforcement Officers, staff, and managers will develop, maintain, and apply skills such as control of non-verbal communications, active listening, and building rapport to compliment the required skills, education, and behavioral competencies listed in job profiles and within the Oath of Employment.

## **9. REVIEWING THE CONDUCT OF BYLAW COMPLIANCE AND ENFORCEMENT OFFICERS**

- 9.1 A person concerned about the conduct of a Bylaw Compliance and Enforcement Officer, who is unable to resolve the concern with the officer or informally with the Manager, may submit a written complaint to the Manager.
- 9.2 If the person is not satisfied with the response of the Manager, or the complaint involves the Manager, a review may be requested by submitting a request in writing to the Director of Planning Services.
- 9.3 Complaints may be submitted by email or mail, setting out the issue or concern, providing any evidence, and any remedies requested. Complaints will be recorded, and confidentiality and privacy protected.

- 9.4 Written complaints will be acknowledged with 10 business days, and acknowledgements will include information about who will be reviewing the complaint, contact information, a summary of the review process, and an estimated timeline.
- 9.5 Complaints will receive a preliminary assessment, the reviewing staff person will contact the complainant to obtain any additional information, and seek early resolution where possible.
- 9.6 Assessment of complaints will be guided by principles of administrative fairness, and be conducted in a fair, timely and impartial manner.
- 9.7 Investigation of complaints should: define the issue or concern, gather evidence, maintain confidentiality, notify all affected persons, hear from all relevant persons, adhere to a timeline, and include an assessment of any risks. All steps in the investigation shall be documented, including all evidence gathered and considered.
- 9.8 The staff member conducting the investigation shall provide a written summary of the issues raised by the complainant, how the investigation was conducted, the evidence considered, analysis in the context of standards and policies, the conclusion, reasons for the conclusion, and any actions taken or proposed to be taken.
- 9.9 The complainant should be given an opportunity to comment on preliminary conclusions, and be given any information about appeal of the conclusions.
- 9.10 The written summary and conclusions shall be provided to the complainant, affected staff member(s), and shall be filed.
- 9.11 Resolution of complaints may include:
- 9.11.1 A more detailed explanation of the officer's actions;
  - 9.11.2 Reconsideration of a decision, cancellation of a penalty, or closing of a file;
  - 9.11.3 Recommended changes to policies and procedures;
  - 9.11.4 Acknowledgement of an error and an apology; and
  - 9.11.5 A conclusion that the officer's conduct was proper.
- 9.12 If the Respondent is not satisfied with the Director's response, a formal administrative fairness complaint may be submitted.
- 9.13 The Director may determine that a person who makes repeated, unfounded and vexatious complaints about the conduct of an officer or Manager be notified that no further submissions will be accepted from them on the subject of a specific investigation, and will be directed to other avenues, including but not limited to, the Office of the Ombudsperson.

## **10. BYLAW ENFORCEMENT NOTICES AND DISPUTE ADJUDICATION**

- 10.1 Local trust committees wishing to establish a Bylaw Enforcement Notice and Dispute Adjudication system must adopt a Bylaw Enforcement Notification (BEN) Bylaw which:
- 10.1.1 Designates the bylaw contraventions that may be dealt with by a bylaw notice;
  - 10.1.2 Establishes the amount of the administrative penalty for each contravention;
  - 10.1.3 Sets the period within which a recipient may pay the administrative penalty or dispute a bylaw notice/request a review; and

10.1.4 Establishes a bylaw notice dispute adjudication system.

## **11. LEGAL ACTION**

- 11.1 If unlawful activity does not cease or if compliance is not achieved, a Bylaw Compliance and Enforcement Officer may make recommendations to the local trust committee, including taking civil action or closing the investigation without compliance.
- 11.2 Immediate legal action may be recommended to local trust committees if impacts of unlawful activity pose serious risk to persons or the environment.
- 11.3 *Offence Act* prosecutions may be recommended to the local trust committees under the following conditions:
  - 11.3.1 Offence Act prosecutions are to be used only for serious land use permit contraventions;
  - 11.3.2 A long-form information may be sworn only after approval by a local trust committee;
  - 11.3.3 Executive Committee has approved legal funding for the prosecution; and
  - 11.3.4 The long-form information has been reviewed and prepared by legal counsel.

## **12. LOCAL TRUST COMMITTEE ENFORCEMENT POLICIES**

- 12.1 Local trust committees may adopt discretionary enforcement policies or procedures applying within a Local Trust Area. LTC policies should be consistent with Trust Council Policy and the legislated authority of the LTC. In adopting an enforcement policy, an LTC should consider the following:
  - 12.1.1 Prioritizing or deferring enforcement based on scarce resources, the impacts of certain types of contraventions, and community priorities;
  - 12.1.2 Establishing procedures and timing for property inspections;
  - 12.1.3 Enforcement of types of contraventions without complaint;
  - 12.1.4 The length of time for Respondents to comply, timing for issuing of Bylaw Warning Notices, and timing for issuance of Bylaw Violation Notices;
  - 12.1.5 Discretion in closing files, including the nature and urgency of the complaint or alleged contravention, the circumstances of the respondent, and the impact of the contravention on the complainant and community;
  - 12.1.6 Regular reporting to the LTC on open files; and
  - 12.1.7 Communications between trustees and the Manager.

## **13. BYLAW NOTICE DEBT**

- 13.1 Debts incurred as the result of default on bylaw notices are payable to Trust Council and they may be cancelled if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur that contraventions on the subject property no longer exist, and/or it is not in the interest of Islands Trust to pursue the debt.

## **14. CONFIDENTIALITY**

- 14.1 Information in regards to a complainant is kept confidential. However, confidentiality cannot be guaranteed should litigation proceed or where a request for information is

received under the *Freedom of Information and Protection of Privacy Act*.

## **15. FRIVOLOUS, REPEAT, OR VEXATIOUS COMPLAINTS**

- 15.1 Persons may be declared vexatious complainants if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur that the person has made complaints which meet the definition for a vexatious complaint. In such an instance, the complainant will be notified that no further submissions will be accepted from them on the subject of the complaints, however this does not prevent the complainant from making complaints on different matters.
- 15.2 The Manager may refuse to open a file for a complaint considered to be frivolous, repeat, or one made by a declared vexatious complainant.

## **16. LOCAL TRUST COMMITTEES, TRUST COUNCIL, AND TRUSTEES**

- 16.2 The local trust committee will be notified when a bylaw investigation file is opened, the notification will include the type of contravention and the street name where it is alleged to be occurring, but the name and address of the complainant and alleged violator will not be included in the notification.
- 16.3 Local trust committees will be notified when a bylaw investigation file has been closed.
- 16.4 Trustees may make a written complaint alleging a bylaw contravention.
- 16.5 Local trust committees and trustees will not be involved in the investigation of a complaint, the preparation of bylaw enforcement reports, the issuance of Bylaw Notices, or in the adjudication process.
- 16.6 Local trust committees should adopt enforcement policies to prioritize compliance and enforcement, to direct proactive enforcement, and to establish specific procedures.
- 16.7 Local trust committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.
- 16.8 Trust Council will be informed of the volume and type of bylaw enforcement files bi-annually.

## **17. BEST PRACTICES MANUAL**

- 17.2 The Manager of Bylaw Compliance and Enforcement will maintain a public best practices manual that outlines practices, processes and procedures in accordance with the administrative fairness principles outlined in the BC Ombudsperson's report "[Bylaw Enforcement: Best Practices Guide for Local Governments](#)", March, 2016 or in subsequent updated versions of the same reference material.

### **C. Legislated References**

15. [Islands Trust Act](#)

16. [Local Government Act](#)

17. [Offence Act](#)

**D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures**

- Local Trust Committee Bylaw Compliance and Enforcement Policy Template ([attached](#))
- [BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments", March, 2016](#)
- [Best Practices Manual](#)
- [BC Local Government Bylaws>Bylaw Enforcement](#)
- Local Trust Committee Compliance and Enforcement Policy Template

DRAFT



<b>Policy:</b>	5.5.1
<b>Approved By:</b>	Trust Council
<b>Approval Date:</b>	March 11, 1995
<b>Amendment Date(s):</b>	June 6, 1997; June 6, 1998; June 13, 2003; December 5, 2003; December 10, 2004; June 17, 2005; March 10, 2006; March 13, 2019, December 2, 2021: <del>XXXX</del> , 2025
<b>Policy Holder:</b>	Director of <del>Local</del> Planning Services

## BYLAW COMPLIANCE AND ENFORCEMENT

### Purpose

The purpose of the bylaw compliance and enforcement program is to support the object of the Islands Trust to preserve and protect the Trust Area and its unique amenities and environment for the benefit of residents of the Trust Area and of the province generally by ensuring compliance with local trust ~~Committees' Bylaws.~~ committee bylaws.

### Guiding Principles

The following principles are intended to align with the mandate of the Islands Trust, adhere to the best practices outlined by the BC Office of the Ombudsperson, and ensure procedural fairness in all enforcement actions:

1. **Fairness and Impartiality:** Apply bylaws consistently, ensuring decisions are unbiased and equitable for diverse island communities.
2. **Transparency and Communication:** Provide clear, accessible information about enforcement policies, processes, and outcomes to foster trust and understanding.
3. **Procedural Fairness:** Ensure timely notification of alleged infractions, offer opportunities to be heard, and guarantee unbiased decision-making.
4. **Proportionality and Discretion:** Tailor enforcement actions to the severity and context of the infraction, with a focus on voluntary compliance.
5. **Efficiency:** Prioritize significant violations that impact environmental sustainability or community safety, while streamlining processes for minor cases.
6. **Engagement and Inclusivity:** Collaborate with island communities to ensure enforcement practices reflect local values and consider marginalized populations.
7. **Accountability and Oversight:** Regularly review enforcement activities and maintain oversight to uphold public confidence.
8. **Respect for Privacy:** Safeguard the confidentiality of complainants and individuals involved in enforcement actions, in compliance with privacy laws.
9. **Focus on Education and Compliance:** Emphasize public education and voluntary compliance with bylaws.

### Roles and Responsibilities

Islands Trust Council provides overall policy direction, approves budgets, and reviews performance through regular reporting.

Executive Committee provides oversight of enforcement across all local trust areas, and approving funding for litigation when requested by local trust committees.

Local trust committees (LTC) are authorized to enforce LTC bylaws, ensuring bylaws reflect community values, adopt specific LTC enforcement policies, and provide direction to staff on significant cases and potential litigation.

Members of the public and complainants are encouraged to submit accurate complaints in good faith, engage respectfully with staff, and uphold the confidentiality of enforcement processes.

Bylaw Compliance and Enforcement Officers (Officers) are responsible for investigating complaints, communicating clearly with respondents, determining if there is a contravention, and applying progressive enforcement actions proportionally, with an emphasis on education and compliance.

The Manager of Bylaw Compliance and Enforcement (Manager) is responsible for the overall administration of the bylaw enforcement program, including supervising bylaw compliance and enforcement officers, ensuring adherence to policies and procedures, and providing expertise on complex or sensitive cases. The Manager coordinates with other departments, ensures alignment with legal and regulatory requirements, and reports on enforcement activities to senior management and elected officials.

Senior Management ensures staff have the resources and training needed for effective enforcement, facilitates communication among interested and affected parties, oversees adherence to policy, and reviews complaints regarding the conduct of bylaw enforcement officers.

Planners and Regional Planning Managers assist in the interpretation of bylaws and ensuring consistency with planning objectives. They support enforcement officers by providing information on the intent and application of bylaws, and contribute to resolving compliance issues by providing compliance options to respondents and local trust committees.

Legal Counsel supports local trust committees and staff by providing legal opinions on interpretation, advice on potential litigation, and representation in cases of litigation.

## A. Definitions

1. "Bylaw Notice means a ticket, with penalty, issued under the Local Government Bylaw Notice Enforcement Act.
2. F frivolous complaint means a complaint not having any serious purpose or value, often lacking in merit.
- 1.3. Long-form information" means a complaint sworn before a Provincial Court judge by a bylaw compliance and enforcement officer.
4. Respondent means those responding to allegations of bylaw contraventions.
5. Vexatious complaint means a complaint made solely for retaliatory or in bad faith intended to cause harassment, or otherwise forms part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process.

## B. Policy

### ~~1. COMPLIANCE~~

#### ~~1.1 Compliance is sought~~

##### ~~1. OBJECTIVE~~

- 1.1 The objective of this policy to achieve bylaw compliance through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily

sought through an attempt to achieve voluntary compliance. ~~Voluntary compliance is indicated~~ by a commitment to corrective action as soon as reasonably possible and the cessation of unlawful activity.

## ~~2-15~~ ~~2.~~ ~~BEST PRACTICES MANUAL~~

~~2.1~~ The Bylaw Compliance and Enforcement Manager will maintain a best practices operating manual in accordance with the administrative fairness principles outlined in the BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments" March, 2016.

## ~~5-2.~~ ~~3.~~ ~~COMMENCING INVESTIGATIONS~~

### ~~3.1~~ ~~Bylaw~~

~~2.1~~ Investigations are commenced on a complaint-basis, with the exceptions provided below.

~~2.2~~ Complaints must be made in writing by email, through an on-line complaint form or portal, by mail, or delivered in-person.

~~2.3~~ Anonymous complaints are not accepted.

~~2.4~~ All written complaints will be acknowledged in writing and recorded.

~~5-12.5~~ Where a written complaint has not been received, investigations may be commenced ~~and an investigation file opened~~ in one or more of the following circumstances:

~~3.1.1~~ in response to written complaints of an alleged contravention made by any person;

~~5-1.22.5.1~~ ~~3.1.2~~ Bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;

~~5-1.32.5.2~~ ~~3.1.3~~ Bylaw contraventions appear to cause health and safety issues;

~~5-1.42.5.3~~ ~~3.1.4~~ Bylaw contraventions appear to occur as part of a building permit process or other permitting process administered by a local government or the Islands Trust siting and use permit applications;

~~5-1.52.5.4~~ ~~3.1.5~~ A referral is received from a permitting agency that identifies alleged ~~land use~~ bylaw contraventions ~~associated with the permit request~~;

~~5-1.62.5.5~~ ~~3.1.6~~ advertisements exist for apparently Advertising of unlawful uses; or

~~5-1.72.5.6~~ ~~3.1.7~~ a local trust committee directs staff to commence an investigation.

## ~~3.~~ ~~4.~~ ~~INVESTIGATION AND PROGRESSIVE ENFORCEMENT~~

~~3.1~~ After receiving a complaint, it will be reviewed to determine whether or not it potentially falls within the local trust committee's jurisdiction.

~~3.2~~ A complaint that does not fall within the jurisdiction of a local trust committee may be referred to another agency with jurisdiction or the complainant may be directed to the agency with jurisdiction.

~~3.3~~ If the Manager determines that there is no potential violation, the complainant will be informed and given the opportunity to provide more information.

~~3.4~~ If the Manager determines that there is a potential violation, a file is opened, and the Respondent will receive a Notice Letter, providing a summary of the issue, contact details of the assigned officer, and encouraging the respondent to contact the officer. The complainant will be notified that a file has been opened.

~~3.5~~ The Officer will investigate the potential violation, including:

- 3.5.1 Reviewing all relevant bylaws, policies, and procedures.
- 3.5.2 Arranging a site inspection. Site inspections will be conducted in accordance with the policies in Section 4 below.
- 3.5.3 Hearing from the Respondent and potentially from the complainant.
- 3.5.4 Reviewing evidence gathered from a site inspection and relevant bylaws.
- 3.5.5 Reviewing all relevant infraction and legal history.
- 3.5.6 Consulting with the Manager, planners, and Regional Planning Manager.
- 3.5.7 Seeking legal advice where required.
- 3.6 The Officer should consider each person's unique circumstances when determining the appropriate and fair investigative approach and enforcement actions, this includes:
  - 3.6.1 Conducting investigations with an understanding of the specific context and circumstances of the individual or property owner involved.
  - 3.6.2 Respecting cultural differences, provide accommodations for individuals with disabilities, and ensure accessibility for those facing language barriers during the investigative process.
  - 3.6.3 Ensuring investigations are proportionate to the nature of the complaint and violation, considering factors such as the person's ability to comply, any hardships they may face, and their willingness to cooperate.
  - 3.6.4 Exercising discretion when determining the scope and approach to an investigation, providing flexibility such as extended timelines or alternative solutions when warranted by an individual's circumstances.
  - 3.6.5 Ensuring investigations will be free from bias or discrimination based on race, gender, age, disability, socio-economic status, or other protected characteristics.
- 3.7 Based on the outcome of the investigation, the officer will make a determination if there is a contravention.
- 3.8 Respondents will be notified in writing of the determination of an investigation. A Determination letter will include:
  - 3.8.1 The purpose of the letter, referencing any relevant investigations or prior communications.
  - 3.8.2 The Respondent's name, address, and the property address involved.
  - 3.8.3 Specific bylaw regulation(s) violated and summarize supporting evidence, including facts and documentation.
  - 3.8.4 Outline actions to achieve voluntary compliance, along with reasonable deadlines and monitoring processes.
  - 3.8.5 Potential consequences of non-compliance and information on the Respondent's rights to respond or dispute the determination.
  - 3.8.6 The Officer's contact details and any resources to assist with compliance.
  - 3.8.7 Copies of supporting evidence.
- 3.9 A Respondent may request that a determination of a contravention be reviewed by the Manager.
- 3.10 Complainants may request a review of a file by the Manager where the investigation has determined that there is no contravention.
- 3.11 If either a Respondent or complainant is not satisfied with the review of a determination by the Manager, a written complaint may be submitted to the Director of Planning Services. The Director may make a determination singly or in consultation with the relevant Regional Planning Manager and planner.
- 3.12 Voluntary compliance may involve a Respondent requesting time to comply; or requesting that enforcement be paused, subject to local trust committee policies, while proceeding with an application that would have a reasonable likelihood of success in legalizing the contravention.
- 3.13 Where a local trust committee has adopted a Bylaw Enforcement Notification Bylaw, and

voluntarily compliance is not forthcoming within a reasonable time, or there is an immediate threat to health or safety or the natural environment, or an LTC has adopted a relevant enforcement policy, an officer may issue a Bylaw Warning Notice or a Bylaw Violation Notice.

- 3.14 Where Bylaw Enforcement Notices have proven ineffective in achieving compliance, or where a local trust committee has not adopted a Bylaw Enforcement Notification Bylaw, or where a contravention is considered sufficiently egregious, an officer may recommend that a local trust committee undertake legal action to achieve compliance.
- 3.15 Complainants can request information about an open bylaw enforcement file at any time. The Complainant will be updated by the Bylaw Compliance and Enforcement Officer if:
- 3.15.1 The file is put on hold, along with the reason for this action.
  - 3.15.2 The local trust committee has made a decision regarding the file.
  - 3.15.3 The file has moved to litigation at which time the identity of the Complainant may become public information.
  - 3.15.4 The file is closed.

#### 4. SITE INSPECTIONS

- 4.1 **Entry with Notice:** When entry onto private property is required to investigate a bylaw complaint, officers will provide prior written notice to the property owner or occupier, except in cases where doing so would compromise the investigation. Notice will include the purpose of the visit, applicable authority under provincial legislation, bylaws and policies, and proposed timing.

Entry will occur only during reasonable hours, with efforts to minimize disruption and ensure respect for the property and its occupants. Investigations will focus exclusively on the specific alleged bylaw contraventions outlined in the complaint unless other observations pose an immediate risk to public health, safety, or the environment. Officers should answer reasonable questions related to the purpose of the visit and the bylaw complaint investigation process.

- 4.2 **Entry without Notice:** In exceptional circumstances, where prior notice is not feasible or where immediate entry is required to address urgent concerns about health, safety, or the environment, officers may enter property as authorized under the *Local Government Act*. Officers will document the justification for entry without notice, specifying the urgency and applicable legal authority, and will notify the property owner or occupier as soon as practicable following the visit.
- 4.3 **Legal Compliance and Fairness:** Property entries will comply with the *Charter of Rights and Freedoms*, applicable provincial legislation, and local trust committee bylaws and policies. To ensure fairness, investigations will be limited to the specific subject matter of the complaint except where the officer observes issues that pose a risk to health, safety or the environment.
- 4.4 **Documentation:** Bylaw enforcement officers will maintain records of all property entries, including notice provided (or reasons for its omission), observations made, and actions taken.
- 4.5 **Reasonableness and Accountability:** Property entry practices will aim to balance enforcement needs with respect for individual privacy and property rights. Officers will act reasonably and proportionately, prioritizing voluntary compliance and education

wherever possible.

## **6.5. CLOSING INVESTIGATIONS**

6.15.1 4.1—Bylaw investigation files ~~can~~will be closed in ~~one or more of~~ the following circumstances:

6.1.15.1.1 4.1.1—~~if it is determined that~~ no contravention ~~existed~~exists;

6.1.25.1.2 4.1.2—if Compliance has been achieved;

6.1.35.1.3 4.1.3—On direction of a local trust committee; or

6.1.45.1.4 4.1.4—If the Director of ~~Local~~ Planning Services concurs with the ~~Bylaw Compliance and Enforcement~~ Manager that the contravention is of a minor ~~character and does not suit~~nature, impacts are minimal, or it is not in the public interest to enforce.

5.1.5 5.—Complainants may request that the closing of a file be reviewed by another Bylaw Enforcement Officer or the Manager.

5.2 Respondents, complainants and the local trust committee will be notified in writing when a file has been closed and the reason for closing the file.

5.3 Bylaw investigation files will not be reopened once closed. If a similar complaint is made a new investigation will be commenced.

## **7.6. DISCRETION AND PRIORITY OF INVESTIGATION**

5.1—The workload for

7.16.1 7.16.1 As bylaw enforcement resources are limited, investigations will be prioritized as follows:

7.1.16.1.1 5.1.1—By specific direction of a local trust committee;

7.1.26.1.2 5.1.2—Health and safety ~~issues;~~concerns;

7.1.36.1.3 5.1.3—Adverse environmental impact that could result in irreversible damage if not prevented in a timely fashion; and

7.1.46.1.4 5.1.4—Contraventions of land use bylaws and other bylaws.

## **8.7. 6. VOLUNTARY COMPLIANCE AND MEDIATION**

8.17.1 6.1—~~Bylaw investigation~~ Efforts to gain compliance should be conducted using the principles and techniques employed in mediation.

8.27.2 6.2—Persons alleged to have committed contraventions and complainants may be invited by staff to participate in a process designed to:

8.2.17.2.1 6.2.1—Provide full information and exchange of information;

8.2.27.2.2 6.2.2—Confirm facts;

8.2.37.2.3 6.2.3—Explore opportunities for compliance;

8.2.47.2.4 6.2.4—Negotiate a timeline for compliance;

8.2.57.2.5 6.2.5—~~reach a~~Reach compliance ~~solutions~~solutions.

## **8. 7. CONDUCT OF BYLAW COMPLIANCE AND ENFORCEMENT OFFICERS**

8.1 Bylaw Compliance and Enforcement Officers, staff, and managers will develop, maintain, and apply skills such as control of non-verbal communications, active listening, and building rapport to compliment the required skills, education, and behavioral competencies listed in job profiles and within the Oath of Employment.

## **9. REVIEWING THE CONDUCT OF BYLAW COMPLIANCE AND ENFORCEMENT OFFICERS**

- 9.1 A person concerned about the conduct of a Bylaw Compliance and Enforcement Officer, who is unable to resolve the concern with the officer or informally with the Manager, may submit a written complaint to the Manager.
- 9.2 If the person is not satisfied with the response of the Manager, or the complaint involves the Manager, a review may be requested by submitting a request in writing to the Director of Planning Services.
- 9.3 Complaints may be submitted by email or mail, setting out the issue or concern, providing any evidence, and any remedies requested. Complaints will be recorded, and confidentiality and privacy protected.
- 9.4 Written complaints will be acknowledged with 10 business days, and acknowledgements will include information about who will be reviewing the complaint, contact information, a summary of the review process, and an estimated timeline.
- 9.5 Complaints will receive a preliminary assessment, the reviewing staff person will contact the complainant to obtain any additional information, and seek early resolution where possible.
- 9.6 Assessment of complaints will be guided by principles of administrative fairness, and be conducted in a fair, timely and impartial manner.
- 9.7 Investigation of complaints should: define the issue or concern, gather evidence, maintain confidentiality, notify all affected persons, hear from all relevant persons, adhere to a timeline, and include an assessment of any risks. All steps in the investigation shall be documented, including all evidence gathered and considered.
- 9.8 The staff member conducting the investigation shall provide a written summary of the issues raised by the complainant, how the investigation was conducted, the evidence considered, analysis in the context of standards and policies, the conclusion, reasons for the conclusion, and any actions taken or proposed to be taken.
- 9.9 The complainant should be given an opportunity to comment on preliminary conclusions, and be given any information about appeal of the conclusions.
- 9.10 The written summary and conclusions shall be provided to the complainant, affected staff member(s), and shall be filed.
- 9.11 Resolution of complaints may include:
- 9.11.1 A more detailed explanation of the officer's actions;
  - 9.11.2 Reconsideration of a decision, cancellation of a penalty, or closing of a file;
  - 9.11.3 Recommended changes to policies and procedures;
  - 9.11.4 Acknowledgement of an error and an apology; and
  - 9.11.5 A conclusion that the officer's conduct was proper.
- 9.12 If the Respondent is not satisfied with the Director's response, a formal administrative fairness complaint may be submitted.
- 9.13 The Director may determine that a person who makes repeated, unfounded and

vexatious complaints about the conduct of an officer or Manager be notified that no further submissions will be accepted from them on the subject of a specific investigation, and will be directed to other avenues, including but not limited to, the Office of the Ombudsperson.

## 10. BYLAW ENFORCEMENT NOTICES AND DISPUTE ADJUDICATION

- 10.1 Local trust committees wishing to establish a Bylaw Enforcement Notice and Dispute Adjudication system must adopt a Bylaw Enforcement Notification (BEN) Bylaw which:
- 10.1.1 Designates the bylaw contraventions that may be dealt with by a bylaw notice;
  - 10.1.2 Establishes the amount of the administrative penalty for each contravention;
  - 10.1.3 Sets the period within which a recipient may pay the administrative penalty or dispute a bylaw notice/request a review; and
  - 10.1.4 Establishes a bylaw notice dispute adjudication system.

## 9.11. LEGAL ACTION

7.1 If unlawful activity does not cease or if compliance is not achieved, a Bylaw Compliance and Enforcement Officer may ÷

7.1.1 ~~issue a bylaw violation notice; or~~

9.311.1 7.1.2 make recommendations to the local trust committee ~~on how to proceed,~~ including taking civil action or closing the investigation without compliance.

9.411.2 7.2 Immediate legal action may be recommended to local trust committees ~~or bylaw violation notices issued~~ if impacts of unlawful activity riskpose serious harmrisk to persons or the environment.

9.511.3 7.3 *Offence Act* prosecutions may be recommended to the local trust committees under the following conditions:

9.5.111.3.1 7.3.1 Offence Act prosecutions are to be used only for serious land use permit contraventions;

9.5.211.3.2 7.3.2 A long-form information may be sworn only after approval by a local trust committee; ~~and~~

9.5.311.3.3 7.3.3 Executive Committee has approved legal funding for the prosecution; and

9.5.411.3.4 7.3.4 The long-form information has been reviewed and prepared by legal counsel.

## 12. 8. LOCAL TRUST COMMITTEE ENFORCEMENT POLICIES

12.1 Local trust committees may adopt discretionary enforcement policies or procedures applying within a Local Trust Area. LTC policies should be consistent with Trust Council Policy and the legislated authority of the LTC. In adopting an enforcement policy, an LTC should consider the following:

12.1.1 Prioritizing or deferring enforcement based on scarce resources, the impacts of certain types of contraventions, and community priorities;

12.1.2 Establishing procedures and timing for property inspections;

12.1.3 Enforcement of types of contraventions without complaint;

12.1.4 The length of time for Respondents to comply, timing for issuing of Bylaw Warning Notices, and timing for issuance of Bylaw Violation Notices;

12.1.5 Discretion in closing files, including the nature and urgency of the complaint or alleged contravention, the circumstances of the respondent, and the impact of the contravention on the complainant and community;

12.1.6 Regular reporting to the LTC on open files; and

12.1.7 Communications between trustees and the Manager.

#### **10.13. BYLAW NOTICE DEBT**

10.113.1 8.1—Debts incurred as the result of default on bylaw notices are payable to Trust Council and they may be cancelled if the Director of ~~Local~~ Planning Services and the Manager of Bylaw Compliance and Enforcement-Manager concur that contraventions on the subject property no longer exist, and /or it is not in the interest of Islands Trust to pursue the debt.

#### **11.14. 9. CONFIDENTIALITY**

11.114.1 9.1—Information in regards to a complainant is kept confidential. However, confidentiality cannot be guaranteed should litigation proceed against the violator or where a request for information is received under the *Freedom of Information and Protection of Privacy Act*.

#### **15. 10. FRIVOLOUS, REPEAT, OR VEXATIOUS COMPLAINTS**

15..1 Persons may be declared vexatious complainants if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur that the person has made complaints which meet the definition for a vexatious complaint. In such an instance, the complainant will be notified that no further submissions will be accepted from them on the subject of the complaints, however this does not prevent the complainant from making complaints on different matters.

15.2 The Manager may refuse to open a file for a complaint considered to be frivolous, repeat, or one made by a declared vexatious complainant.

#### **15.16. LOCAL TRUST COMMITTEES, TRUST COUNCIL, AND TRUSTEES**

##### 10.1—Trustees

15.216.2 The local trust committee will be immediately advised notified when a bylaw investigation file is opened indicating, the notification will include the type and area where the of contravention and the street name where it is alleged to occur be occurring, but names the name and addresses address of the complainant and alleged violator will not be communicated included in the notification.

16.3 10.2—Local trust committees will be notified when a bylaw investigation file has been closed.

15.316.4 Trustees may make a written complaint alleging a bylaw contravention.

15.416.5 10.3—Local trust committees and trustees are will not to be involved in the investigation of a complaint or, the preparation of bylaw enforcement reports, the issuance of Bylaw Notices, or in the adjudication process.

15.516.6 10.4—Local trust committees may make bylaws should adopt enforcement

policies to ~~direct~~prioritize compliance and enforcement ~~in regards to,~~ to direct proactive enforcement, and to establish specific ~~issues~~procedures.

~~15.6~~16.7 ~~10.5~~—Local trust committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.

~~15.7~~16.8 ~~10.6~~—Trust Council will be informed of the volume and type of bylaw enforcement files bi- annually.

## 17. BEST PRACTICES MANUAL

17.2 The Manager of Bylaw Compliance and Enforcement will maintain a public best practices manual that outlines practices, processes and procedures in accordance with the administrative fairness principles outlined in the BC Ombudsperson’s report “Bylaw Enforcement: Best Practices Guide for Local Governments”, March, 2016 or in subsequent updated versions of the same reference material.

### **C. Legislated References**

~~3.~~ *Islands Trust Act*

~~3.~~ *Offence Act*

15. *Islands Trust Act*

16. *Local Government Act*

17. *Offence Act*

### **D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures**

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BC Local Government Bylaws>Bylaw Enforcement

- Local Trust Committee Bylaw Compliance and Enforcement Policy Template (attached)
- BC Ombudsperson’s report “Bylaw Enforcement: Best Practices Guide for Local Governments”, March, 2016
- Best Practices Manual
- BC Local Government Bylaws>Bylaw Enforcement
- Local Trust Committee Compliance and Enforcement Policy Template

**SUMMARY OF RECOMMENDATIONS OF THE OFFICE OF THE OMBUDSPERSON VOLUNTARY CONSULTATION ON BYLAW ENFORCEMENT  
POLICIES AND PRACTICES WITHIN THE ISLANDS TRUST**

Issue	Recommendation	Page Reference	Trust Council Policy 5.5.1 Reference	Enforcement Manual Reference
Administrative Fairness	Incorporate administrative fairness principles <ul style="list-style-type: none"> <li>• Provide individuals with notice of decisions related to bylaw enforcement, including:               <ul style="list-style-type: none"> <li>○ Providing notice that a potential bylaw infraction is being investigated</li> <li>○ Providing notice of inspections</li> </ul> </li> <li>• Provide notice of enforcement action.</li> <li>• Provide an opportunity to be heard and participate in the process, and at multiple times within the process when decisions are being made.</li> <li>• Provide understandable and meaningful reasons for the decision(s) made</li> <li>• Transparency: processes used by bylaw enforcement staff should be publicly accessible</li> <li>• Exercise discretion fairly</li> <li>• Manage the expectations: set out and follow timelines</li> </ul>	4	Added as Guiding Principles	
Exercise of Discretion	How staff exercise discretion fairly when making enforcement decisions	5	Added to or expanded in: B.2.5 B.3.8, B.3.10, B.3.12 B.4.4.5	Pg 8 – closing files Pg 13 – Bias and review of conduct

Issue	Recommendation	Page Reference	Trust Council Policy 5.5.1 Reference	Enforcement Manual Reference
			B.5.5.1 B.6.1 B.15	
Bylaw complaints	Purpose of bylaw policy	5	'Purpose' section in Preamble	Pg 6 – "What is the purpose..."
	Guiding Principles	4, 6	Added to preamble	Pg 6 – "practices based on principles of procedural fairness..." <i>To be expanded upon</i>
	Definitions	6	Section 'A'	Pg 4
	Roles and responsibilities	6	Added to preamble	Pg 5
	Confidentiality	7	B.14	Pg 7
	Procedures for handling complaints about bylaw violations:	7	B.2	Pp 6 -
	o How bylaw complaints are received	7	B.2.2	Pg 6 – 7, 9
	o Bylaw complaints will be acknowledged	7	B.2.4	9, 11
	o Bylaw complaint review process	7	B.3	Pg 10
	o Investigations into possible bylaw violations	7	B.3.5	Pg 10
Notice to respondents	Set out the process that should be followed to notify a respondent of the complaint about them and any planned site inspection.	8	B.3.3.4	Pg 11
	The circumstances under which investigation without providing notice (such as immediate threat to life, environment or human health) may	8	B.2.5	Pg 7

Issue	Recommendation	Page Reference	Trust Council Policy 5.5.1 Reference	Enforcement Manual Reference
	occur, the legal authority for acting without notice, and the steps that will be taken to ensure notice is provided at the earliest opportunity.		B.4.2	
Site inspections	Process to be followed to enter a property (both with and without notice) and outline how this process meets any legal requirements, and is reasonable and is consistent with legal and fairness principles.	9	B.4	<i>Pg 10 Notice to inspect to be expanded upon</i>
	Remove section A6 of the Best Practices & Procedures document which states that “[w]hen visiting properties, BCEOs have no obligation to respond to questions directed to them”. Instead, ensure that respondents know the purpose of the visit and answer any reasonable questions related to the visit and the bylaw complaint investigation.	9	B.4.1	<i>To add to Pg 10, #s 2 or 3</i>
Opportunity to be Heard	Provide the opportunity to be heard: the policy should explain when and how a respondent will be provided with an opportunity to be heard and participate in the investigative process.	9	B.3.4 B.3.5.3 B.3.8 B.3.9 B.3.10 B.3.11	Pg 12
Progressive enforcement	Detail the progressive enforcement steps that bylaw enforcement staff will take if a bylaw violation is found through an investigation. In addition, address the discretion (referred to as ‘judgement’ within the Best Practices & Procedures) held by those staff involved in bylaw enforcement. This may include setting out how bylaws will generally be interpreted and what	9	B.3	Pg 12 <i>Pg 10 to be expanded to explain bylaw interpretation further</i>

Issue	Recommendation	Page Reference	Trust Council Policy 5.5.1 Reference	Enforcement Manual Reference
	factors will be considered to determine whether and how to take bylaw enforcement action with respect to a bylaw violation			
Equitable enforcement	Include a requirement that bylaw enforcement staff be equitable in their approach. This means that bylaw enforcement staff should consider each person's unique circumstances when determining the appropriate and fair investigative approach and enforcement actions to take in relation to bylaw complaints.	10	B.3.6	<i>Wording to be added to box on page 10</i>
File closure	State when a complaint will be closed after an investigation is completed and how those impacted by the closure of the file (particularly the person who made the bylaw complaint and the person subject to the bylaw complaint) will be notified of that decision. In addition, within the bounds of any privacy or confidentiality requirements, explain the outcome of the bylaw investigation and the reasons for any decision to enforce or not enforce a bylaw. Information should be included regarding any available review or appeal options. Reasons for the decision to close the file should be provided to the Respondent, along with information on how to appeal decisions made by bylaw enforcement staff.	10	B.3.3.3 B.3.3.8 B.3.3.15 B.5 B.5.2	Pg 11 <i>Reasons to given to the complainant when a file is closed</i>
Letter templates	Some of the forms and template letters being used by bylaw enforcement staff are formal and may be difficult for individuals to understand, Islands Trust should review these while	11	N/A	Pg 11

Issue	Recommendation	Page Reference	Trust Council Policy 5.5.1 Reference	Enforcement Manual Reference
	<p>considering all aspects of administrative fairness and legal requirements.</p> <p><a href="https://bcombudsperson.ca/assets/media/Quick-Tip-Reasons.pdf">https://bcombudsperson.ca/assets/media/Quick-Tip-Reasons.pdf</a></p>			
Complaints related to staff	<p>It is important that the Islands Trust have a general complaints policy which addresses any complaints and concerns related to services provided and decisions made by the Islands Trust generally. We also suggest continuing to use administrative fairness principles as part of how these complaints are analyzed and addressed.</p> <p><a href="https://bcombudsperson.ca/assets/media/Quick-Tips-Model-ComplaintsPolicy.pdf">https://bcombudsperson.ca/assets/media/Quick-Tips-Model-ComplaintsPolicy.pdf</a></p>	11	B.9	Pg 13

# Bylaw Enforcement Review - Charter v3

Regional Planning Committee (RPC)

RPC Endorsement Date: 05-24-2024

**Purpose:** To resolve bylaw enforcement matters efficiently and with minimal conflict by reviewing and amending Islands Trust Bylaw Enforcement policies and procedures to be administratively fair, reasonable and transparent with the aim of restoring public confidence.

**Background:** Islands Trust Council requested that the Office of the Ombudsperson undertake a review of enforcement policies and practices and provide recommendations at the March 2023 Trust Council meeting. In August 2023 the Office of the Ombudsperson’s Consultation and Training Team submitted the ‘Voluntary Consultation on Bylaw Enforcement Policies and Practices within the Islands Trust’ report. At the September 2023 Trust Council meeting directed that the recommendations of the report be implemented, that staff develop a work and project charter and was referred to the Regional Planning Committee.

## Deliverables

- Revisions to Bylaw Compliance and Enforcement Policy 5.5.1
- Revisions to the Handling of Administrative Fairness Complaints Policy 7.1.2
- Revisions to Bylaw and Enforcement Best Practices and Procedures Manual (“the Manual”)
- A public Bylaw Complaints and Enforcement document
- Updates and revisions to Bylaw Enforcement forms, templates and documents
- Training and information for Bylaw Enforcement Officers and other relevant staff
- Communications team work with planning staff to post regular Bylaw Compliance Review project updates to Islands Trust website.
- Development and review of an LTC Bylaw Enforcement Policy
- 

## In Scope

- Review the Report, compile recommendations
- Review current Trust Council policies
- Review the Manual
- Compile and review all LTC bylaw enforcement standing resolutions and policies
- Review selected policies of other relevant local governments
- Report to RPC with proposed revisions for direction
- Provide regular updates and recommended revisions to Trust Council
- Implement changes to policies and practices
- A legal review of draft documents

## Out of Scope

- Amendments to bylaws
- Public consultation
- Referrals to LTCs
- External consultants

## IAP2 Public

### Engagement Level:

- Inform
- Consult
- Involve
- Collaborate

## Workplan Overview

Deliverable/Milestone	Target Date
Draft Project Charter to RPC for review and endorsement	Feb 2024
RFD to Trust Council	Mar 2024

<i>RPC review of preliminary policy revisions</i>	May 2024
<i>Briefing to Trust Council</i>	June 2024
<i>Draft policies and manual to RPC for review and changes</i>	Sept 2024
<i>Referral of draft revisions to Ombudsperson's office for comment</i>	Sept 2024
<i>Briefing to Trust Council</i>	Sept 2024
<i>Final RPC review and referral to Trust Council</i>	Nov 2024
<i>Endorsement by Trust Council</i>	Dec 2024
<i>Implementation</i>	Jan – Mar 2025

<b>Project Team</b>	
<i>Stefan Cermak, DPS</i>	Project Champion
<i>Robert Kojima, RPM</i>	Project Manager
<i>Warren Dingman, Manager C &amp; E</i>	Project Manager
	RPC Planner
<i>David Marlor, DLS</i>	Advisor
<b>Director Approval:</b> <i>Stefan Cermak</i> <b>Date:</b> 05-17-2024	<b>RPC Endorsement:</b> Resolution #: 2024-001 <b>Date:</b> 05-24-2024

<b>Budget</b>		
<b>Budget Sources: N/A – no budget has been assigned</b>		
<b>*legal review included in scope by RPC 02-16-2024</b>		
Fiscal	Item	Est. Staff hours*
2023-24	Project initiation	20
2024-25	- Preliminary analysis and review	40
	- Drafting of policy revisions	50
	- Final policy	20
	- Updates to manuals and templates	40
	- Implementation	40
	- Contingency	40
	<b>Total</b>	<b>250</b>

\*excludes any admin support, attendance at RPC/TC meetings, staff receiving training