

POLICY ON INVASIVE NON-NATIVE SPECIES AND HARMFUL NATIVE PLANTS

1.0 EXECUTIVE SUMMARY

- 1.1 This report sets out the Council's responsibilities in regard to invasive non-native species and harmful native plants, and asks members to recommend to the Council the adoption of the policy attached to this report at Appendix One.
- 1.2 The key pieces of legislation which set out the Council's responsibilities both as a landowner and as a Roads Authority are:
- The Weeds Act 1959;
 - The Wildlife and Natural Environment Scotland Act 2011(which amends the Wildlife and Countryside Act 1981); and
 - The Roads Scotland Act 1984.
- 1.2 The policy document formalises what is existing working practice into a clear and coherent framework which will provide clarity for officers, members and our residents.

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2.0 INTRODUCTION

- 2.1 The Council does not currently have a formal policy in relation to invasive non-native species (INNS) and harmful native plants. The new policy document seeks to formalise existing working practice into a clear policy framework which will provide clarity for officers, members and our residents on the Council's obligations in respect of INNS and harmful native plants.
- 2.2 This policy specifically relates to plants and the obligations of the Council both as a roads authority and as a landowner, as opposed to animals. The Council's obligations in relation to animals are covered by Environmental Health.

3.0 RECOMMENDATIONS

- 3.1 Members of the EDI committee are asked to recommend the policy attached at Appendix One to the Council for approval

4.0 DETAIL

4.1 Invasive non-native species

- 4.1.1 Non-native species are plants and animals which have been introduced to the native environment by humans. Most non-native plants do not cause problems and many are beneficial but a small number can displace natural biodiversity, cause damage to buildings or infrastructure or pose risks to human health.
- 4.1.2 The most relevant legislative provisions which specify the Council's responsibilities as a landowner are contained in the amendment to subsection 2 of Section 14 of the Wildlife and Countryside Act provided by the Wildlife and Natural Environment (Scotland) Act 2011:
- (2) Subject to the provisions of the Part, any person who plants or otherwise causes to grow, any plant in the wild at a place out with its native range is guilty of an offence.
- 4.1.3 Unless subject to a specific Control Order specified by Scottish Ministers, there

is no duty for landowners, including the Council, to eradicate existing INNS that may be present through no fault of the landowner.

- 4.1.4 There is also a national Code of Practice which was introduced following the update to the legislation in 2011. Responsibility for management lies with the landowner; responsibility for investigating alleged breaches lies with Police Scotland; responsibility for INNS advice lies with Scottish Natural Heritage, Scottish Environmental Protection Agency, Forestry Commission and Marine Scotland.
- 4.1.5 The Council has no specific duties or responsibilities in advising, controlling or enforcing the INNS legislation or the national Code of Practice on private land, however, as a land owner the Council is obliged to ensure the management of its own land, and its wider activities, comply.

4.2 Harmful native plants (also known as injurious weeds)

- 4.2.1 Injurious weeds are native species which have been deemed to cause a problem to farming productivity. The most relevant piece of legislation which specifies the Council's responsibility as a landowner are contained within the 1959 Weeds Act. Subsection 2 of Section 1 of the Act identifies specific weeds:

- spear thistle;
- creeping or field thistle;
- curled dock;
- broad-leaved dock;
- ragwort

- 4.2.2 As with INNS, the Council's responsibilities extend only to its role as a landowner and manager of its own land or land under its control.
- 4.2.3 It is not an offence for a landowner to have injurious weeds growing on their land, but they are required to prevent said weeds from spreading. If Scottish Ministers are satisfied that a landowner is not complying with their responsibilities then they can, as specified at Subsection 1 of section 1 of the Act, require necessary action to be taken by the serving of a Notice to do so.

4.3 Responsibilities as a Roads Authority

- 4.3.1 As a Roads Authority the Council is responsible for areas of land up to two metres from the edge of the carriageway, and as such, the legislative provisions detailed as 4.1 and 4.2 apply.
- 4.3.2 The Council can also, by virtue of the powers conferred upon it by Part VIII (Interference and Damage) of the Roads (Scotland) Act 1984, take reasonable measures to prevent obstruction of view, general obstruction and roadside dangers. This can include serving notice on a landowner requiring them to remove obstructions etc. The Council can also take action to remove obstructions itself and to recover any costs incurred in doing so.

4.4 Communication

- 4.4.1 Subject to members approving the appended policy, the Council will provide a Plain English webpage on its website with information on the policy position and the Council's responsibilities. This webpage will include contact details for partner agencies.
- 4.4.2 The procedure for addressing public queries via the Council's contact centre will also be updated to reflect the formalised policy position as part of the second phase of the Creating a Culture of Customer Care project which is currently ongoing and is subject to a separate report to this committee
- 4.4.3 Members are also asked to give consideration to a potential future development session/member seminar on this matter which may aid members in addressing any public queries.

5.0 CONCLUSION

- 5.1 The Council, as a landowner and as a Roads Authority, has certain statutory requirements to control invasive non-native plants and harmful native weeds. As a landowner the Council's responsibilities extend to management but not eradication, and the appended policy sets out the proposed management arrangements and a scale of priorities. As a Roads Authority the Council is responsible, in a landowning capacity, for roadside verges (up to two metres from the edge of the carriageway) and is also empowered to prevent interference or damage to roads. The policy sets out standards which could be adopted to allow the Council to meet its statutory requirements.

6.0 IMPLICATIONS

- 6.1 Policy – this will formalise the position and provide a clear framework for officers, members and our residents
- 6.2 Financial – the council's statutory obligations will be met and financed via existing operational budgets
- 6.3 Legal – the council will comply with its legal requirements
- 6.4 HR – none known
- 6.5 Equalities – none known
- 6.6 Risk – none known
- 6.7 Customer Service – the policy and associated communications will provide clear guidance for our customers

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APPENDICES

Appendix 1: Policy on invasive non-native species and harmful native plants