

# City of Edinburgh Council submission of 5 October 2022

## PE1812/ZZ: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

With regards to the requested information from the Citizen Participation and Public Petitions Committee regarding the above petition, the City of Edinburgh has the following response to the questions:

### **1) The mechanisms in place for reporting a potential breach of a Tree Preservation Order (TPO), including how such information is recorded and analysed.**

Edinburgh Council's website has been recently updated to give clarity on how to report potential breaches with a specific [webpage](#) on how to report unauthorized work to trees. These are work to trees covered by a TPO but also works to trees in a conservation area which constitute a similar offence. If works are ongoing then the public are asked to e-mail a mailbox which is continually monitored so it can be picked up quickly. For completed works, the public is directed to the planning online enforcement form.

At Edinburgh, the tree application process sits within the Planning Service – all applications and enforcement cases applications are recorded and managed through the Uniform system. Any potential breaches including TPOs are recorded and managed on this system as an enforcement case. All registered enforcement cases are available for public view via the Council's [Planning Portal](#). All tree enforcement cases have a specific suffix: ETREE.

The information reported to the planning authority, and the information collected by the Authority's own investigations are considered against the criteria of

1. the public interest that the Procurator Fiscal is likely to see in taking the case to court and
2. whether the level of evidence that the planning authority can provide to the Procurator Fiscal appears sufficient to prove (a) an offence has been committed and (b) it was an identified person or

persons that committed the offence. The standard of evidence needs to be of that required in a criminal case to prove the case beyond reasonable doubt.

**2) the number of potential breaches of TPOs reported to you between 2012-22, broken down by year.**

There have been 32 formal enforcement cases relating to both TPO trees and trees in a conservation area broken down as follows:

2012: 2  
2013: 0  
2014: 0  
2015: 2  
2016: 7  
2017: 4  
2018: 7  
2019: 3  
2020: 5  
2021: 1  
2022: 1

**3) The number of prosecutions you have undertaken in relation to Tree Preservation Orders (TPO) between 2012 – 2022; broken down by year**

Councils in Scotland, unlike England, do not undertake the prosecution of offences. The council can only report the offence to the Procurator Fiscal.

**4) The number of occasions where a breach of a TPO has not proceeded to prosecution, and the reasons for not pursuing prosecution.**

It is not Councils that undertake prosecutions. Councils may not be given any reasoning from the Procurator Fiscal as to why a case reported to them was not progressed.