

10am, Thursday, 24 October 2013

Development of the Shared Repairs Service

Item number	8.9
Report number	
Wards	All

Links

Coalition pledges	P40, P41
Council outcomes	CO19
Single Outcome Agreement	SOA4

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Development of the Shared Repairs Service

Summary

The former Property Conservation service provided an important means of repairing tenemental homes when owners could not agree on a way forward. Unfortunately, the management of the service, combined with an underestimate of the risks involved led to the collapse of the service in 2011 with significant financial and reputational damage to the Council. The recovery process is well underway but is not yet complete.

The replacement Shared Repairs Service was launched in April of this year and, so far, is performing well. A number of options to enhance the Shared Repairs Service have been explored and three have been identified which are considered to be low or medium risk.

There remains a demand for a replacement enforcement service. However, by its very definition, an enforcement service is stepping in where owners are already in dispute. Coupled with the additional challenges associated with the collapse of the former service (e.g. additional scrutiny and reduction in contractor availability), re-introducing an enforcement service is considered to be a high risk solution and, if contemplated, needs to be well planned.

If Council is minded to re-introduce an enforcement service, three potential delivery models have been identified for further development. The workstreams that will form part of this feasibility work are summarised in this report and the resources required would be the subject of a future report to the relevant committee.

Recommendations

Council is asked to:

1. Note that further work will be undertaken to develop detailed proposals for incremental development of the Shared Repairs Service including the introduction of an Emergency Call Out Charge, a Facilitation Package, and a Trusted Trader scheme and that this will be the subject of a further report to the relevant Committee in January 2014.
2. Determine whether it wishes work on a new enforcement service to be progressed and, if so whether it supports the recommended approach of outsourcing the project management aspect of that service.

3. To note that significant planning and development work needs to be undertaken before any new enforcement service could be delivered and that, subject to point 2 above, a further report will be presented detailing the project management requirements for such planning and development, including resource requirements and estimated timescales. This report, if called for, will be submitted to the appropriate committee in December.

Measures of success

Success will be measured by customer satisfaction with the new service (initial target <30% dissatisfied or very dissatisfied), effective financial recovery (90%), and more generally by a well maintained physical fabric in the city (10% reduction in emergency repair work).

Financial impact

Significant staffing and other resources will be required if Council decides to pursue planning and development of a new enforcement service. This will be the subject of a future report to the relevant committee if required.

Equalities impact

An objective of any expansion of the Shared Repairs Service will be to assist property owners in maintaining their property. This will particularly assist owners who, for a range of reasons, are less able to take this forward themselves. A full Equalities Impact Assessment will be undertaken, if appropriate, on the option(s) identified for further feasibility work.

Sustainability impact

The service in development has a focus of maintaining the built environment of the city.

Consultation and engagement

Extensive consultation was undertaken with residents, businesses and professional trade bodies between 3 September 2012 and 31 October 2012. That consultation has informed the options outlined in this report. Further market research will be undertaken on the option(s) identified for further feasibility work.

Background reading / external references

[Property Conservation Service Re-design Consultation Findings –Report to Property Sub-Committee, 23 November 2012](#)

Development of the Shared Repairs Service

1. Background

- 1.1 The former Property Conservation Service was responsible for managing the statutory notice process whereby the Council could undertake common repairs and recover costs from owners where there was a failure of the owners to agree to undertake the work themselves.
- 1.2 This service fell into disrepute for a number of reasons including:
 - Poor customer care.
 - Lack of financial control.
 - Inappropriate relationships with contractors.
 - Poor management of projects, performance and communications.
- 1.3 This in turn exposed the Council to significant financial and reputational risk. In order to limit this risk, the activity of the service was curtailed in 2011 and the new Shared Repairs Service launched in April 2013.
- 1.4 Prior to the launch of the new service, extensive consultation was undertaken with property owners and a range of property professionals. A workshop was held with the members of the Property Sub Committee in August 2013 to consider the further future development of the service.
- 1.5 Despite the well reported problems with the legacy service, the consultation exercise demonstrated a strong desire from owners for the Council to provide an enforcement service and this is further evidenced by feedback from owners to members and officers. Notwithstanding these desires, the re-introduction of an enforcement service is considered to be high risk at the present time and will do nothing to drive a culture change where owners increasingly take responsibility for the maintenance of their own homes.
- 1.6 This report sets out ways in which the current Shared Repairs Service (SRS) could be enhanced on an incremental basis at relatively low risk. However, given the demand for an enforcement service, and as required by previous Council decisions, it also sets out strategic options for such a service, and outlines the work which would require to be undertaken in order to design and develop such a service. If the Council decides that it is minded to support the development of an enforcement service then a service development project will need to be resourced and the detail of this would be the subject of a further report.

2. Main report

Legacy Service

- 2.1 The former Property Conservation Service acted under The City of Edinburgh District Council Order Confirmation Act 1991, a piece of legislation unique to Edinburgh. Under the 1991 Act, the Council “may” serve a statutory notice and “may” enforce the notice. The 1991 Act also allows the Council to recover any expenses reasonably incurred in this process from the owners.
- 2.2 There were no clear objectives of the service: some viewed it as a last resort to be used only when owners had exhausted all other avenues; some viewed it as a reaction to the Ryan’s Bar incident in the summer of 2000; others viewed it as a means of safeguarding our heritage.
- 2.3 On the surface it appeared to be working until relatively recently. In reality there was insufficient management focus, insufficient audit and scrutiny and this, along with a lack of clear objectives, resulted in the well-documented failings in the service.
- 2.4 It is therefore essential that any new service has clearly defined objectives. In relation to an enforcement service those objectives need to be defined modestly and realistically. For example the scope of the work would tend to be defined as the minimum necessary and the service would tend to be reactive rather than actively seeking to serve notices.
- 2.5 The service generated an income in the form of a 15% administration fee charged to owners where the Council managed the repairs. This did not cover the cost of the service which never achieved its budget. The result of the budget deficit was that the service actively sought more work to generate more income. This resulted in excessive caseloads for surveyors and eventual crisis for the service and the Council.
- 2.6 The Council struggles to attract and retain good quality surveyors. A piece of work was commissioned for HR to consider the reasons for this. The findings are that this was likely due in part to the reputational damage to the service and the heavy caseload undertaken by the previous postholders. It also found that, while basic salary levels are comparable with the industry average, the Council cannot provide the same benefits such as company vehicles and annual bonuses.
- 2.7 The job itself also involved dealing with a range of complex customer issues as well as technical ones. By its very definition, the Council was taking on responsibility for repairs where the owners could not agree, therefore the circumstances of their involvement were very difficult and customer expectations varied. Such work tends to be less attractive to most technical staff than would, for example, a major new build project, or work to empty buildings.
- 2.8 The service regularly experienced problems with contractor quality and capacity. The high caseloads led to inappropriate procurement which manifested itself in

inappropriate relationships and behaviour, although Lothian and Borders Police found no evidence of criminal activity within the Property Conservation Service.

- 2.9 Since the legacy service was wound down, a number of regular contractors have ceased trading. Therefore the availability of good quality contractors is likely to be less than it was previously.
- 2.10 In summary, the failure of this service was not solely a result of lack of governance and management focus. This is challenging work at the best of times. It involved the Council stepping in when owners could not agree – it is unsurprising therefore that managing owner expectations was difficult. This was compounded by difficulties regarding staff retention and contractor capacity. If such a service were to be re-introduced then the Council will need to be mindful of the fact that this work will undoubtedly be subject to even more owner scrutiny than before, that the problems of attracting and retaining good staff are worse than before, that there are probably fewer contractors available and that the management charges for project management will need to be greater than the previous 15%. This is therefore a high risk situation.

Current Position

- 2.11 In April 2013, the Shared Repairs Service(SRS) replaced the former Property Conservation Service. Members of the public can contact the SRS for advice on how to progress a repair and how to work with their co-owners to do so. Advice is also provided on how to recover relevant shares of the costs of repairs through the courts, either under the Tenement (Scotland) Act 2004, or under the provisions of their title deeds. The SRS offers web-based and telephone advice as well as a number of leaflets.
- 2.12 The SRS also currently responds to emergencies on a 24/7 basis. For the purposes of the SRS, an emergency is defined as: where there is a risk of falling stones, bricks or slate; a risk of building collapse; where there is a danger to public health; blocked or defective sewage systems; or extreme scenarios where liveability is badly affected (e.g. severe water ingress). Officers from SRS will attend and “make safe” action will be taken either by the officer or by using a framework contractor who is available. Expenses reasonably incurred are recovered from owners under the 1991 Act.
- 2.13 There is currently no charge for any of the advisory services provided by the SRS. Consultation feedback found that 97% of people surveyed would use an advice and information service however only 15% would be willing to pay for this, and that 91% would use the emergency service with 50% willing to pay for this service.
- 2.14 During the consultation which shaped this service, those surveyed were asked for suggestions on the types of information the Council should provide. Responses include:
- a) A database of contact details for home owners.
 - b) A register of recommended contractors.

- c) A list of professional bodies such as architects, engineers, solicitors, insurance companies etc with experience of common or shared properties.
 - d) An accredited list of factors.
 - e) A database of the types of problems that occur in tenements and potential solutions.
 - f) A recommended “maintenance schedule” for buildings (e.g. roof checks, clearing gutters, brickwork inspections etc.).
 - g) Guidance on setting up Owners Associations and holding stair meetings.
- 2.15 It is not possible for the Council to provide a database of contact details for home owners for Data Protection reasons and the data held by, for example Council Tax records, is protected in a way that means it cannot at present be shared with other service areas. However work is underway to find ways to address these barriers and allow information to be shared within the Council. In addition, landlord details are available at no cost using the Landlord Registration Public Search, or at a small cost using Registers of Scotland. The SRS signposts owners to these searches and provides assistance on using them.
- 2.16 A leaflet is provided dedicated to Checking Your Building. This leaflet includes industry recommendations on the frequency and need for routine checks, how to stay safe (i.e. using professional service when access to the roof is required etc.), and a diagram naming parts of the tenement building to support owners in their understanding of their building and building terminology.
- 2.17 In the first 6 months of operation, the SRS has received 1,434 service requests for advice and 949 service requests for response to an emergency. Of the 949 emergency requests, 49% have resulted in emergency repairs being carried out and the remaining 51% have been found to not meet the criteria for an emergency and have resulted in advice and information being provided for the owner to take action. However, it is also interesting to note that, broken down by month, this has grown from only 41% in April when the new service started to 58% in September, indicating that the advice and information being provided is proving to be effective and the public are becoming more aware of what is a valid emergency and what is not. This is confirmed by the consistent number of visits to the SRS web pages which, with the exception of the first month when almost 7,500 visits were made, receives around 5,000 visits every month.
- 2.18 The service is also currently in discussions with the Contact Centre to agree a customer call back script for checking that the level of advice and information given is enough to allow owners to proceed on their own. This information will be used to identify staff training requirements and to ensure that the web based information covers the areas that people need most help with.
- 2.19 In summary, the new service, although still in its infancy, is performing well and customer service is at the forefront of the services available. There is still much to learn however, not least to understand the seasonal trends and the increase in demand for the service that will inevitably come with the winter months.
- 2.20 As well as the new service, there is still a considerable amount of work ongoing as part of the closure of the former Property Conservation service. This includes

complaints resolution, financial recovery and pipeline projects that need to feed in to the design of any new service. The customer demand for an enforcement service therefore needs to be balanced against the need to complete the legacy work and ensure that all of the lessons learned are incorporated into any new service design.

Incremental Service Enhancements

- 2.21 While the existing SRS is performing well, there remains a risk to the Council of continuing with this service using the current model as there is no budget to cover the costs beyond the current financial year. Therefore a number of incremental options to enhance the service whilst also generating income have been considered.

Existing Service (Advice and Information and Emergency Response)

- 2.22 The existing service will cost the Council £530,000 in the financial year 2013/14 and this pressure is currently funded from other approved budgets. From 2014/15 this is expected to rise to £830,000 as a result of the full transfer of system administration costs currently split between the Shared Repairs Service and Property Conservation and increased demand.
- 2.23 This service, in its current model, can never achieve self-financing status. However the introduction of an emergency call out charge would provide an opportunity to generate some income to partially cover the costs of the emergency service and to contribute towards the cost of administration of the advice and information service. Work is ongoing to calculate a suitable charge.
- 2.24 The overall risk to the Council is low as there is no direct involvement in inspecting or being involved in the works.

Trusted Trader

- 2.25 The remaining owners concerns as outlined in paragraph 2.14 could be addressed by the introduction of a Trusted Trader scheme whereby the public can access, from the Council website, a list of traders across a wide range of services, who have been vetted by Trading Standards.
- 2.26 The scheme would be expected to be fully self financing as traders are charged an application fee which covers the cost of vetting, administering and promoting the scheme. However, depending on uptake of the scheme, the initial set up costs may not be fully recovered until year two of the scheme. Part of the fee would also be used to contribute towards the administration of the free advice and information service.
- 2.27 After mitigating action has been taken as outlined in Appendix 1, the overall risk to the Council is low as there is no direct involvement in the works and this scheme is operating effectively in other Scottish local authorities.

Facilitation

- 2.28 The SRS already provides some aspects of this by attending occasional stair meetings and helping owners with paperwork. However this involves a lot of officer time and currently does not incur a fee for owners using this service.

- 2.29 A dedicated facilitation service including attending stair meetings, providing templates, completing work specifications, and providing tailored advice prior to a contractor being appointed to carry out the work would enhance the existing service.
- 2.30 The service would be expected to be fully self financing as a specified package would be designed with a standard fee attached to cover direct costs of the service as well as a contribution towards the administration of the free advice and information service.
- 2.31 The overall risk to the Council is low as there is no direct involvement in inspection or being involved in the works.

Factoring

- 2.32 Other cities, notably Glasgow, rely heavily on the use of factoring. However, a recent report published by the Glasgow Factoring Commission has concluded that Glasgow continues to face the same issues as Edinburgh in relation to common repairs.
- 2.33 A factoring service could, in theory, be self financing as owners would pay either the Council or a private factor for the service. However, experience based on the former Edinburgh Stair Partnership model suggests that this may not be achievable and there would be significant set up costs. If outsourced, additional staff would be required to commission the service and manage the contract, resulting in a higher charge being passed on to owners and a consequent reduction in likely uptake of the service.
- 2.34 This option is considered high risk as: evidence from the Glasgow Factoring Commission confirms that factoring does not address the issues this report is seeking to address; there is little interest from owners in using factors; and there is little interest in the industry for taking on tenements where title deeds do not insist on the use of a factor. Therefore it is not recommended that this option is pursued.

Inspection Service

- 2.35 An inspection service could either be reactive or proactive, with different risks and costs associated with each.
- 2.36 A reactive inspection service would respond to requests from owners for an inspection of their building either in response to a need for a repair or as part of a routine maintenance regime. If an owner requests an inspection, the Council can recover the costs of carrying out that inspection. Therefore, a reactive service does have the potential to become self financing, though the cost of plant hire would be considerable, and the resultant fees would be high.
- 2.37 A proactive inspection programme could be provided either by recruiting a dedicated team of surveyors to carry out a rolling inspection programme or by procuring an external surveying organisation for this purpose. If the Council proactively carry out an inspection on a property, there is no legislation available to allow the cost to be recovered. Initial calculations suggest that this would

require a minimum budget of £1.1m pa whether the programme was carried out internally or externally. With no evidence that owners would act on any findings of a proactive inspection, this could be considered an inefficient use of public funds, particularly during such difficult budget times.

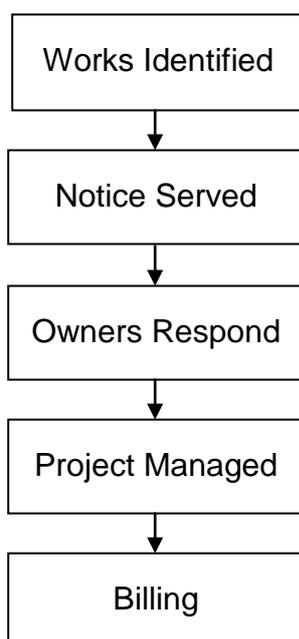
- 2.38 Both reactive and proactive inspection programmes would be considered high risk as the Council may incur liabilities in the event that a survey is carried out improperly or negligently. It is not recommended that the Council expose itself to this risk.

Summary

- 2.39 In summary, there are options available to enhance the existing service without the need for enforcement and with very low risk to the Council. The introduction of an emergency call out charge would provide a small income for a service which currently has no budget provision beyond the current financial year; the Trusted Trader scheme would provide a central point of reference for owners to find contractors (amongst other professional services) with the security of knowing that they have been vetted and signed up to the Trusted Trader terms and conditions; and a facilitation package would assist owners to organise stair meetings, set up owners associations and routine maintenance checks, and to agree an approach for getting works carried out. Detailed proposals including charging structures can be reported to the relevant committee by January 2014.
- 2.40 Council led Factoring and Inspection Services do not address the issues raised by owners through the consultation process, and with no grounds to enforce either, would require a significant culture change in the city in order to be successful. Therefore, it is recommended that these two options are not pursued further at this stage.

Developing an Enforcement Service

- 2.41 Council has asked that options for an enforcement service are reported to this meeting of the Council. The basic process of such a service can be demonstrated in the following diagram:



2.42 There are three strategic options for an enforcement service:

- Carry out all stages of the process in-house.
- Outsource the Project Management stage of the process.
- Outsource all stages of the process.

In-house Model

2.43 This presents a high risk to the Council as illustrated by the collapse of the legacy service.

2.44 The cost of providing this service is, as yet, unknown as market testing would be required to understand the demand for the service. However, in order to establish a self-financing service, a charging structure would need to be developed and the current 15% “administration fee” is likely to increase as this did not generate sufficient income to cover the costs of running the former service. The new service is likely to cost more than the former service due to the need for better management controls and quality assurance checks.

2.45 This option essentially re-instates the old service model which has been proven not to work, and at a greater cost than the old service model. It involves the Council taking full responsibility for the whole process and therefore is considered high risk and is not recommended.

Outsource Project Management Model

2.46 To outsource the project management stage of the process would transfer a significant portion of the risk to a third party. However the project management work to be commissioned would need to be carefully scoped.

2.47 It is likely that this type of service would be delivered via a consultancy framework whereby the consultant would fully manage the repairs including appointing a contractor. The serving of notices and billing of owners would remain an in-house service.

2.48 Since the closure of the legacy service, a number of contractors have ceased trading and the use of consultants was considered one of the main reasons for the failure of the service. Therefore market testing would be required in order to ascertain the potential supply of contractors and consultants willing and able to work with the Council on a replacement enforcement service. It is thought that there may be limited appetite in the industry to take on this type of work.

2.49 The cost to the Council would be staffing costs for surveyors to carry out initial surveys and serve the notice, quality assurance officers to monitor the performance of the consultants, and financial officers for reconciling accounts and billing owners. These costs are recoverable and a management fee would be added to the consultant’s fees. However, this inevitably increases the cost to owners.

2.50 This option is the preferred delivery model if Council is minded to take forward further feasibility and market testing of an enforcement service.

Fully out-sourced model

- 2.51 This model would involve outsourcing the entire 5 stage process to an external organisation.
- 2.52 Further market testing of this model can be carried out if Council is minded to pursue this option. However, it is unlikely that any external organisation would be willing to take on the risks associated with this model given the financial and other risks which are now apparent. Therefore the only model that could feasibly work would be an arms length company.
- 2.53 Setting up an arms length company would also require a significant, as yet unknown, initial investment. It would also require a significant revenue budget allocation until it could become self financing to cover the costs of contractors, staff, overheads etc prior to recovery of these costs from owners. Past experience shows that this type of model rarely provides the benefits expected in relation to transference of risk and the Council would still ultimately be carrying the significant risks involved.
- 2.54 For these reasons, this model is not recommended.

Service Development

- 2.55 For both the incremental enhancements to the SRS and also the enforcement service, more service design and project planning is required. The incremental enhancements will require a dedicated member of staff for up to 6 months to design the processes and templates, implement them and monitor initial performance. All costs of actually providing the service can be met by appropriate fees for using them. It is expected that a report, on a new enforcement service, if called for, detailing the project management requirements for such planning and development, including resource requirements and estimated timescale will be reported to the relevant committee in December 2013. Detailed proposals for the incremental development of the Shared Repairs Service will be reported to the relevant committee in January 2014.
- 2.56 For the enforcement service, feasibility, design and planning are very significant pieces of work. Key workstreams would include;
- Market Testing: understanding current contractor and consultant appetite for working with the Council and whether this fits in with the objectives of an enforcement service.
 - Financial Model: ensuring the Council can recover the costs of the service in full.
 - Service Design: including setting clear objectives and ensuring IT can support the chosen delivery model.
 - Staffing: working with HR and external agencies to attract and retain staff and achieve the correct balance of technical knowledge and customer service skills.

- Risk Analysis: risk analysis of processes and systems independent from the service design workstream to ensure all risks are identified and appropriate controls are in place, for example, segregation of duties, financial reconciliation, audit trails, political scrutiny etc.
 - Communications Strategy: ensuring key stakeholders are kept informed of progress and involved in the design process where applicable.
 - Procurement: contracts/frameworks to be reviewed to meet the needs of a new service and reduce the risk to the Council.
 - Pilot: an appropriate pilot programme to be identified to test the new service to ensure it is fit for purpose before it is rolled out across the city.
- 2.57 To undertake this development work, significant resources including a dedicated Project Team and budget would be required in order to produce a detailed proposal. As a first step it is recommended that, if the Council is minded to pursue development of such a service, a further report be presented in December setting out the detailed project plan, resource requirements and timescales etc.

Other Considerations

- 2.58 In the longer term, consideration should be given to introducing new legislation. The report recently published by the Glasgow Factoring Commission, and a draft proposed members bill submitted by David Stewart MSP for the Highlands and Islands confirms that the issues facing Edinburgh are not unique.
- 2.59 New legislation would allow Edinburgh, alongside other Scottish Authorities, to design up to date legislation that covers the real issues being faced in trying to find a balance between contributing to the upkeep of the fabric of their buildings and ensuring owners take responsibility for maintaining shared/exterior parts of their buildings.
- 2.60 Further work is also required on a charging structure and billing process to look at the pros and cons of payments by instalments for owners.
- 2.61 The Housing (Scotland) Act 2006 C6 S42 gives local authorities the power to require the owner of a house to prepare a maintenance plan that will secure the maintenance of a house to a reasonable standard. These orders can be served on one property or, in the case of a tenement, all the properties responsible for parts owned in common. Feedback from other Local Authorities who have used these powers suggests that it is very labour intensive and administrative, with a great reliance on the fact that factors have to be appointed as part of the maintenance plan. While this option would not be a suitable alternative to statutory notices, it may be useful to assist in encouraging owners to take responsibility for their own properties and may be a useful supplement to an enforcement service.
- 2.62 Glasgow City Council also provide financial assistance for owners who are willing to carry out the work but do not have the funds to do so. Rather than hold up the entire repair in certain circumstances, GCC will fund the “missing share”

and the owner(s) will set up a repayment plan to pay it back with interest. If a repayment plan cannot be agreed on or if the owner cannot be traced, a Repayment Order is placed on the property so that the debt is paid off when the property is sold. While this allows repairs to be carried out swiftly, it relies heavily on the use of factors to take forward the repairs and is effectively a continuation of the former high risk practice of the council funding repairs up front then seeking to recover from owners. This may be a useful tool where the Council has a property interest in the stair, and mixed tenure repairs could provide an opportunity to pilot it.

- 2.63 There is a perception that landlords can be a barrier to arranging common repairs however all landlords are now required to be registered and the public can access this register to find landlord contact details at no cost. The SRS regularly signposts members of the public to this website. Landlords are encouraged to contribute to common repairs. Furthermore, the new [Housing Bill](#) is expected to announce that third parties will soon be able to report landlords to the Private Rented Housing Panel so the Council would have this option if landlords are not participating in common repairs.

3. Recommendations

Council is asked to:

1. Note that further work will be undertaken to develop detailed proposals for incremental development of the Shared Repairs Service including the introduction of an Emergency Call Out Charge, a Facilitation Package, and a Trusted Trader scheme and that this will be the subject of a further report to the relevant Committee in January 2014.
2. Determine whether it wishes work on a new enforcement service to be progressed and, if so whether it supports the recommended approach of outsourcing the project management aspect of that service.
3. To note that significant planning and development work needs to be undertaken before any new enforcement service could be delivered and that, subject to point 2 above, a further report will be presented detailing the project management requirements for such planning and development, including resource requirements and estimated timescales. This report, if called for, will be submitted to the appropriate committee in December.

Mark Turley

Director of Services for Communities

Links

Coalition pledges	P40 - Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city's built heritage P41 -Take firm action to resolve issues surrounding the Council's property services
Council outcomes	CO19 - Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm
Single Outcome Agreement	SO4 - Edinburgh's communities are safer and have improved physical and social fabric
Appendices	Appendix 1 – Options Appraisal

Options Appraisal

Within the report, each option includes an overall risk assessment. This Options Appraisal provides more detail on the risks identified for each option and potential mitigating action.

Information, Advice and Assistance

The existing service was shaped based on the consultation exercise carried out in the summer of 2012.

Advantages

- a) The Council does not get involved in carrying out any works, arranging the works, managing the works, or guaranteeing any aspect of the works therefore the Council's exposure to risk is minimised.
- b) The Council can suggest that owners take a particular course of action or offer a number of choices. Suitable disclaimers can be made in order to minimise liability for the Council.
- c) This allows the Council to contribute to the upkeep of the fabric of the city without taking over full responsibility for it.

Introducing an Emergency Call Out Charge

Currently, the service responds to emergencies and recovers a fee from works but no call out fee. This is not sustainable as recovery does not cover the cost of the service.

Work is ongoing to design the most appropriate charging structure. Once complete, it is recommended that this is reported back to the relevant committee for final approval.

There will also be circumstances where staff are called out by the emergency services to attend an incident. An example would be a major fire, and it is not felt appropriate to charge in these circumstances.

Advantages

- a) The SRS would be meeting the Council's statutory duty to respond to dangerous buildings that pose a danger to public health or safety.
- b) The Council can use the powers under the 1991 Act to intervene in cases of emergency and therefore can ensure that the fabric of the city does not become a risk to public health or safety.
- c) By introducing an emergency call out charge, the service can cover the costs associated with providing this service and can move towards becoming self-financing.

Appendix 1

- d) If owners are going to be charged for using the emergency service, they may be more likely to address issues before they become an emergency and take longer term action where recurring issues arise.

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
If there is charge associated with reporting an emergency, owners may leave it to other owners to make the call thus increasing the risk of danger to public health or safety.	Reputation/ H&S	Ensure the charging structure covers cost without being unreasonable.	Low

Trusted Trader

A number of Local Authorities across Scotland have set up a “Trusted Trader” scheme, managed by Trading Standards. Dundee City Council have been operating their scheme for 9 years with great success and have around 160 traders registered for their scheme. A number of other Local Authorities have also now joined this scheme and agree with the benefits.

In order to be a “Trusted Trader”, traders from any profession can submit an application and pay an annual membership fee. The annual membership fee is £195+VAT and this has, in other Local Authorities, fully covered the cost of managing the scheme including marketing and advertising. Customers are asked for feedback about the contractor and this is uploaded to the website.

Advantages

- a) The Council does not get involved in carrying out the works, arranging the works, managing the works, or guaranteeing any aspect of the works. Therefore the Council’s exposure to risk is minimised.
- b) The Council continues to play some role in the upkeep of the fabric of the city by assisting owners to undertake works themselves.
- c) Experience from other Local Authorities is that this scheme is self financing with very little administrative work required to maintain and minimal dedicated resource to carry out the initial application checks.
- d) A Trusted Trader scheme also has the potential to assist with addressing issues faced by Trading Standards in terms of disreputable traders and would also allow better contract/performance management for Council contractors.

Appendix 1

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
The Council may be seen to be recommending a contractor, which could lead to claims against the Council or negative publicity about the scheme.	Legal	Include an appropriate disclaimer and ensure customer feedback is followed up.	Low
There is a risk of challenge by unsuccessful applicants to the scheme.	Legal	Ensure refusals are based on clear evidence that can be used to repel any such challenge.	Low/Medium
Risk of challenge if negative feedback is uploaded.	Legal	Ensure the trader is given a period of time to review feedback before it is published, and if necessary time to resolve any issues.	Low

Facilitation

The service already provides some aspects of a facilitation service on an ad hoc basis however staff resources within the team are not currently sufficient to offer this service. The proposal would be to recruit additional Project Officers with mediation, facilitation and negotiation skills as well as technical knowledge to arrange and chair meetings of owners, assist with paperwork including providing templates, and to signpost to other services such as formal mediation or Trusted Traders. All decisions would be taken by the owners themselves, and any contracts entered into would be between the owners and contractors.

Work is ongoing to develop an appropriate charging structure for this service. Once complete, it is recommended that this is reported back to the relevant committee for final approval. There will be some financial risk around recovery of fees for this service.

Advantages

- a) The Council does not get involved in carrying out the works, arranging the works, managing the works, or guaranteeing any aspect of the works. Therefore the Council's exposure to risk is minimised.
- b) This approach allows the Council to facilitate works that contribute to the upkeep of the fabric of the city.

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- c) This approach provides a significant level of support for owners, to help them arrange the works themselves for the immediate repair and future maintenance, without taking on any of the risk.

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
Risk that contractors do not want to take on large projects without the Council guarantee previously provided by statutory notices.	Reputation/ Financial	Encourage owners to set up a joint bank account/maintenance funds to deposit funds into on a regular basis.	Low

Factoring

New build properties in Edinburgh have provision within title deeds for a factor to be appointed. In other cities this provision extends across all tenemental properties. Glasgow is often cited as an example of a city with a healthy factoring sector. In June 2012 The Glasgow Factoring Commission was initiated and tasked with developing recommendations to improve property management in the city. Their Draft Consultative Report was published on 8 August 2013 and confirms that Glasgow faces similar issues in reaching agreement with owners and people being unwilling/unable to pay their share as a result of “a breakdown in the culture of shared responsibility”.

There are some factoring services in Edinburgh and a factor can be appointed by a majority in a stair. However, this provision is little used and there is little appetite within the industry to take on factoring without 100% agreement of owners in the stair.

Consultation feedback also found that owners were concerned about the loss of control associated with using a factor, the lack of clarity around scope of service and costs.

The Council could consider providing an internal factoring service however the same risks would apply in terms of recovering costs. The former Edinburgh Stair Partnership provided aspects of a factoring service, but the service was phased out as the cost of providing it was far greater than the income generated by it. Consultation feedback found that there is a lack of trust in the Council to provide this type of service. There would also be significant set up costs.

Advantages

- a) This approach allows the Council to facilitate works that contribute to the upkeep of the fabric of the city.

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- b) If the Council provides an internal service, there is an opportunity for it to be self financing as owners' fees could be calculated to cover the cost of the service, however the full extent of the risk sits with the Council.
- c) An external service would require additional contract management staff but would transfer the risk to a third party.

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
No mechanism to enforce the use of factoring services	Legal/ Financial	Pursue new legislation	High
An internal factoring service would create a perception that the Council is taking responsibility for repairs to privately owned properties	Legal/ Financial	Clear terms and conditions within contracts	Medium
Factoring services already exist in the private sector	Reputation	Commission an external service.	High

Inspection

Consultation feedback found that, although there is a high demand for this type of service (91%), only 26% would be prepared to pay for this service. This is compounded by the fact that the Council has no mechanism for recovering costs if the inspection is not requested by an owner.

Advantages

- a) The Council does not get involved in carrying out the works, arranging the works, managing the works, or guaranteeing any aspect of the works. Therefore the Council's exposure to risk is reduced.
- b) The Council can suggest that owners take a particular course of action or offer a number of choices. Suitable disclaimers can be made in order to minimise liability for the Council.
- c) The Council continues to play some role in the upkeep of the fabric of the city.

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
People who would use this type of service are likely to already do so using the	Reputation/ Financial	Further market testing could be carried out at a cost.	Medium

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<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
private sector. There is a risk that this would not be viewed as an efficient use of public funds.			
There is no evidence that owners would act on proactive inspection advice therefore there is a risk that this would not be viewed as an efficient use of public funds.	Reputation	Further market testing could be carried out at a cost.	Medium
The Council exposes itself to a degree of professional risk in the event that a survey is carried out improperly or negligently, particularly given that Council inspections would be carried out at ground level.	Legal./ Financial	Purchase/hire hoists or heli-cams. This would add significant cost to the service which would only be recoverable as part of a reactive service.	High
This may create an expectation that Council will be responsible if a property falls into disrepair	Legal	Clear communication	Medium

Given the introduction in recent years of the requirement for property sellers to provide a home report, there is an opportunity to request that any surveys identifying exterior/shared elements to be urgently in need of repair (level 3) are reported to the Council. However, the value of these surveys is unknown as they would be carried out by a number of different surveyors with varying levels of experience; the Council would have no control over what the survey includes; the survey is for a specific purpose and is being paid for by their client; it is unlikely that the conveyancing solicitors would be willing to take on the risks outlined above.

Enforcement Service

The consultation found that there remains a demand for an enforcement service, however, for the Council to intervene where it has no statutory duty to do so inevitably exposes it to risk. If Council is minded to re-introduce an enforcement service and take on the risks associated with doing so, a number of changes to the former service would have to be made.

Under the former Property Conservation Service, the option for the Council to address repairs was arguably considered the easiest, cheapest and quickest option for owners. Therefore, in order to prevent the previous problems recurring, the following changes are recommended:

- Enforcing a Statutory Notice would mean that full control of project managing the works would be handed over from the owner to either the Council or a Consultant depending on the chosen delivery model.
- A more realistic charging structure would need to apply. This might also have to take into account the salaries of those working in SRS, and so may be higher than initially thought. Initial recommendations are for this charging structure to include a fixed price for minor projects, a percentage fee, as now, for medium sized projects, and a combination of fixed fees and percentage for larger projects. The percentage fee would also be reviewed and possibly revised to ensure it can cover the costs of the service.
- The charging structure would also include a call out fee chargeable at the time when an owner makes a request for a visit. This visit may or may not result in a Statutory Notice being served or enforced depending on the findings on site.
- Owners would need a reasonable amount of time to carry out the work themselves. The former 28 days did not allow for consultation with co-owners and appointment of contractors, and did not specify exactly what needed to be done within the 28 day period. Initial suggestions are that 6 months would be a more realistic timeframe.
- A formal procurement process would be required for each project, be it to procure a contractor to carry out the works managed by the Council, or to procure a consultant to manage the works (in this case the consultant would procure a contractor themselves). This will inevitably delay site start dates.
- The Notices themselves should be revised to clearly state that:
 - A defect has been identified.
 - The responsibility to repair the defect lies with the owners.
 - The Shared Repairs Service can provide advice and assistance for owners to take forward the repairs together (and details of the services available e.g. Trusted Trader, Facilitation Packages etc).

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- Owners have 6 months from the date of the notice to show efforts to reach agreement with neighbours have failed.
 - If the Council has to step in after the 6 months has expired, competitive rates will be charged for managing the project, a full competitive tendering exercise will be carried out to appoint a contractor/consultant (which may take up to 9 months), and the project will be scheduled around Officers' caseload at that time.
- It is normal in this industry for a surveyor to be managing 6 to 8 projects at any one time, with an absolute maximum of 12 projects for experienced officers during crossover of projects closing and new projects beginning. The surveyors in Property Conservation were typically managing around 20 projects at a time, and in some cases up to 60 projects. Any new project management service would require a dedicated team and projects could only be scheduled based on their caseload.
- An internal project management service would require recruitment of suitably qualified/experienced project managers and a suitable charging structure would be applied to cover the costs of the service. Attracting and retaining surveying staff is a challenge for the Council as there are bonuses and benefits available in the private sector that the Council can not offer.
- The Council may want to consider allocating a capital budget for the purchase of cherry pickers or helicams to allow more detailed scoping of works to be carried out, or annual hire costs. This cost could be shared across other services such as EBS, Roads, Property Care etc who may also benefit from this type of equipment.
- An external service would transfer some of the risk from the Council if there are organisations willing to take on this role. While this would also reduce the cost to the Council, recruitment of 2 or 3 Contract Managers within the Council would be required. Their remit would be to provide a quality assurance role and to check compliance with the agreed terms and conditions of the contract including but not limited to an agreed programme of communication with owners, standard and quality of work, and completion of the project on time and within budget.
- SRS does not yet have suitable ICT systems in place to enable a project management service to be offered, either internally or externally. This will impact on the recovery of costs. A scoping exercise is underway to implement an improved ICT system for the service however it is anticipated that this will take a minimum of 9-12 months.
- Project Management would only be offered in cases where a Statutory Notice is served to ensure the financial risk to the Council is minimised and to encourage owners to take responsibility for their own properties.

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Advantages

- a) The Council can use their powers under the 1991 Act to ensure the fabric of the city is maintained.
- b) Owners have a Statutory Notice system as a back up to encourage their co-owners to participate in shared repairs. This, along with the enhanced SRS service, could be enough for owners to arrange works themselves without relying on the notice being enforced.

<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
The Council would be stepping in where owners cannot agree	Reputation/ Legal	Clear communication and management of expectations with owners.	High
Lack of confidence in the Council	Reputation	Implement incremental enhancements to show commitment to assisting owners	High
Difficulties with staff attraction and retention	Reputation/ Legal/ Financial	Revisit job descriptions	High
Shortage of suitable contractors	Reputation/ Legal/ Financial	Carry out market testing to improve understanding	High
Concerns about quality of consultants	Reputation/ Legal/ Financial	Carry out market testing to improve understanding	High
Lack of clear objectives of the service	Reputation/ Legal/ Financial	Review what the service is expected to achieve	Medium
Creep in scope and cost	Reputation/ Legal/ Financial	Provide equipment to allow detailed initial scoping of works Write limitations of scope into service design	High

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<u>Risk</u>	<u>Type of Risk</u>	<u>Mitigation</u>	<u>Risk Assessment</u>
Directly contradicts the objectives of the SRS and the Scheme of Assistance to encourage owners to take responsibility for their properties	Reputation/ Legal/ Financial	Focus on incremental enhancements to SRS and review success	High
No suitable ICT in place to prevent the same problems recurring	Reputation/ Legal/ Financial	Scope ICT requirements	High
By taking on an entire project, the Council will be funding the share of owners who would be able to fund the work themselves, not just those who cannot raise the funds	Financial	Payment by instalments Consider other ways to financially assist owners who cannot raise the funds and are holding up work as a result	High
Difficulty in setting fees to self fund a service with no understanding of demand	Financial	Market testing may help Postpone any further work on an enforcement service until performance data from the enhanced SRS is more informative. Consider piloting aspects of other options	High

In summary, an enforcement service exposes the Council to a significant risk within a complex and as yet, not fully understood, economic environment. In fact, it goes above and beyond the needs identified in the consultation, as referred to in paragraph 2.14 of the report. Difficulties faced by owners are:

- Lack of understanding of their responsibilities – this is addressed through the web and telephone based advice and information service.

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- Lack of technical knowledge – this can be addressed through the provision of a facilitation service.
- Concerns about reputable contractors – this can be addressed through the Trusted Trader scheme.
- Financial concerns – the advice and information service, as well as potentially the Trusted Trader scheme can signpost owners to organisations that can help them raise the funds.
- Owner disagreement – the advice and information service, backed up by the facilitation service can assist and signpost owners to mediation services if necessary.