

# Governance, Risk and Best Value Committee

10.00am, Thursday, 19 June 2014

## Property Conservation – Complaints Resolution – referral report from the Finance and Resources Committee

Item number	7.1
Report number	
Wards	All

### Executive summary

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The Finance and Resources Committee on 5 June 2014 considered a report which assessed the Council's current approach in relation to issues arising from legal statutory notice projects and agreed a more efficient and streamlined cross-Council approach with effective political scrutiny. Governance, Risk and Best Value Committee had requested a report on the complaints resolution process to allow for scrutiny.

### Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Terms of Referral

## Property Conservation – Complaints Resolution

### Terms of referral

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- 1.1 On 5 June 2014 the Finance and Resources Committee considered a report on the Council's current approach to the issues arising from the legal statutory notice projects. It was suggested that a step change was needed to accelerate progress in resolving the outstanding complaints and in recovering the sums due to the Council for statutory repair works.
- 1.2 Given the need to achieve progress without further delay the Chief Executive had authorised the Director of Corporate Governance to take immediate steps to put in place arrangements to address the issues identified.
- 1.3 The Finance and Resources Committee agreed (on a division):
  - 1) To welcome that the report by the Director of Corporate Governance highlighted in such an open and transparent way the concerns which existed in relation to the resolution of complaints and the recovery of debt due to the Council.
  - 2) To note that detailed briefings on this matter had been given to all political groups.
  - 3) To note, with significant concern that there was still outstanding a large burden of complaints and debt, the scale of which appeared to date to have been significantly underestimated.
  - 4) To note the negative effects that this was having on both:
    - 4.1 the finance and reputation of the Council; and
    - 4.2 those citizens of Edinburgh who are affected
  - 5) To note that it was a coalition pledge 41 to "Take firm action to resolve issue surrounding the Council's property services" and agreed the Council should do everything it reasonable can to effect resolution of this matter.
  - 6) To agree the recommendations in the report, as follows:
    - 6.1 To delegate authority (with power to sub-delegate to any Council officer he considers appropriate) to the Chief Executive in relation to statutory repairs to write off sums and to approve and pay any settlement by way of compensation, refund and/or write-off of sums or otherwise, subject to the following limits:

- a. the aggregate amount written off and/or paid should not exceed the amount of the Council's bad debt provision in respect of statutory notice work.
  - b. any write-off of unbilled sums by the Chief Executive should not exceed £100,000 per project.
  - c. any proposed settlement by the Chief Executive should not exceed a value of £100,000 per owner.
  - d. the delegated authority would expire on 31 March 2015 unless earlier renewed by the Finance and Resources Committee.
- 6.2 To delegate authority to the Chief Executive, in consultation with the Convener and Vice-Convener of Finance and Resources to enter into an agreement with Deloitte to extend the remit of their services to cover the review of statutory repairs complaints, and failing agreement, to enter into an agreement with a replacement provider for services in relation to both unbilled projects and complaints.
- 6.3 To repeal the Committee decisions of 31 October 2013 and 3 February 2014.
- 6.4 To agree, in particular:
- a. the proposed levels of delegation with the exception of the establishment of an All Party Oversight Group set out in paragraphs 3.11 – 3.12 of the report.
  - b. formal progress reporting to the Finance and Resources Committee but agreed this should be on a monthly basis.
  - c. but given the importance of this matter substitute the Chief Executive for the Director of Corporate Governance.
- 7) Agrees that the Chief Executive should:
- 7.1 assume overall responsibility for this work and take control of the complaints resolution and debt recovery process which previously sat in the former department of City Development and which presently sits in the Department of Services for Communities;
  - 7.2 ensure that all reasonable resources were made available to enable matters to be progressed with the aim of having proposals made to all complainants by the end of December 2014;
  - 7.3 Ensure that the property conservation teams were co-located in one single location as a matter of urgency;

- 7.4 Ensure that this matter was appropriately reflected in the Council risk register; and
- 7.5 Keep the Convener and the Vice-Convener of Finance and Resources updated on progress every two weeks from June 2014.
- 8) To agree that authority was given to the Chief Executive in consultation with the Convener and Vice Convener of the Finance and Resources Committee to conclude and enter into an agreement with Deloitte or an alternative provider on the basis set out in paragraph 3.14 of the report by the Director of Corporate Governance.
- 9) To instruct the Chief Executive to report back to the Finance and Resources Committee by:
- 9.1 The end of September 2014, setting out how the various complaints are categorised and, in relation to debt recovery, and aged debt analysis and a breakdown by value; and
- 9.2 By the end of December 2014, setting out what (if any) complaints remain unresolved.
- 10) To instruct the Chief Executive to reconsider the Council's debt policy in relation to this matter and to consider de minimus write offs, early payment discounts and so on.
- 11) To agree that, in relation to the new enforcement service presently being worked on by the Department of Services for Communities, the project board should:
- 11.1 review progress of the design;
- 11.2 assume responsibility for producing a service blueprint cost model and implementation plan for Council approval; and
- 11.3 once approved, pass back to the relevant service area for final implementation.

## For Decision/Action

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- 2.1 The Governance, Risk and Best Value Committee is asked to scrutinise the report.

## Background reading / external references

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Finance and Resources Committee 5 June 2014.

**Carol Campbell**

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## Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Finance and Resources Committee

10.00am, Thursday, 5 June 2014

## Property Conservation – Complaints Resolution

Item number

Report number

Executive/routine

Wards

All

### Executive summary

The report assesses the council's current approach in relation to issues arising from legacy statutory notice projects and makes recommendations for a more efficient and streamlined cross-Council approach with effective political scrutiny.

## Property Conservation – Complaints Resolution

### Recommendations

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- 1.1 To delegate authority (with power to sub-delegate to any Council officer he considers appropriate) to the Director of Corporate Governance in relation to statutory repairs to write off sums and to approve and pay any settlement by way of compensation, refund and/or write-off of sums or otherwise, subject to the following limits:
  - a. the aggregate amount written off and/or paid shall not exceed the amount of the Council's bad debt provision in respect of statutory notice work;
  - b. any write-off of unbilled sums by the Director of Corporate Governance shall not exceed £100,000 per project;
  - c. any proposed settlement by the Director of Corporate Governance shall not exceed a value of £100,000 per owner; and
  - d. the delegated authority shall expire on 31 March 2015 unless earlier renewed by the Finance and Resources Committee.
- 1.2 To delegate authority to the Director of Corporate Governance, in consultation with the Convener and Vice-Convener of Finance and Resources to enter into an agreement with Deloitte to extend the remit of their services to cover review of statutory repairs complaints, and failing agreement, to enter into an agreement with a replacement provider for services in relation to both unbilled projects and complaints.
- 1.3 To agree the enhanced governance arrangements set out in paragraphs 3.11 – 3.13 of this report.
- 1.4 To repeal the Committee decisions of 31 October 2013 and 3 February 2014.

### Background

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- 2.1 On 21 March 2011, the Property Conservation service was realigned from the directorate of City Development to Services for Communities.
- 2.2 On 29 October 2011, Council approved proposals by the Director of Services for Communities to address the significant number of retrospective complaints regarding the former Property Conservation service. These included the creation of a specialist resolution team to investigate complaints, and a panel of senior staff, chaired by the Head of Housing and Regeneration, to consider outcomes

- (Resolution Panel). Where complainants remained dissatisfied, the process included a right to an appeal to the Director of Services for Communities.
- 2.3 The resolution process for retrospective complaints was closed with effect from 1 December 2012. Any new complaints have been dealt with by the service area through the Council's normal complaints process.
  - 2.4 On 31 May 2013, the Director of Services for Communities reported to the Property Sub-Committee with recommendations on a proposed pilot scheme for the resolution of complex property conservation complaints which had been deferred by the Resolution Panel. This would involve an external legal practice, Maclay Murray and Spens LLP (MMS). Following Committee approval of this approach, MMS met with an initial batch of complainants during the second half of 2013.
  - 2.5 On 3 February 2014, the Finance and Resources Committee delegated authority to the Director of Corporate Governance in relation to the pilot scheme for deferred complaints. Since becoming involved at that time, the Director of Corporate Governance has undertaken a review of the process for deferred complaints to assess the efficacy and on 7 May 2014 advised Committee that a further report outlining recommendations to streamline, accelerate and improve the process would be brought to the June Committee meeting.
  - 2.6 In parallel with his review of the pilot process for deferred complaints, the Director of Corporate Governance has reviewed the Council's current approach to dealing with the issues arising from legacy statutory notice projects, and the associated risks and challenges. The conclusions and recommendations are set out below.

## Main report

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### **The current status of complaints**

- 3.1 Appendix 1 sets out a flow chart based on the information currently available from the service area, showing the number of complaints and projects at each stage of the process. Appendix 2 sets out a graph showing the number of complaints by stage. Appendix 3 sets out the complaints which are being dealt with by MMS by stage.

### **The pilot process for complex complaints resolution**

- 3.2 As set out in the report to Committee dated 7 May 2014, the Director of Corporate Governance has considered the efficacy of the pilot process. The initial evidence of the pilot suggests as follows:-
  - 3.2.1 The process focuses on information obtained from the complainant at the MMS meeting, so that the resultant recommendation often does not deal with the detail of the complainant's previous written complaint(s) to the

Council. In some cases the complainants' feedback has been that the recommendation does not accurately reflect the issues raised by them, nor does it fully respond to their complaint.

3.2.2 The evidence suggests that the resolution process adopted in the pilot will take many months to complete. The process often does not get to the heart of the complaint in the first instance. The process has in some cases become open ended. For example in some cases the initial meeting has led to a surveyor being instructed to assess aspects of the original works. In more complex cases it is clear that the initial meeting with MMS will be insufficient to resolve all the issues raised and is just the start of extended engagement with MMS.

3.2.3 It is clear from the initial evidence that the pilot process is not helping to achieve a timely resolution of complaints and that a different approach is needed.

### **Legacy statutory notice projects – risks and challenges**

3.3 In parallel with his review of the pilot process for resolution of deferred complaints, the Director of Corporate Governance has reviewed the Council's current approach to dealing with the issues arising from legacy statutory notice projects, and the associated risks and challenges.

3.4 The main challenges are considered to be as follows:-

3.4.1 There is a significant lack of resources within Property Conservation to address the issues arising from legacy statutory notice projects. There are very few current staff with all the necessary knowledge and expertise to deal with technical surveying matters in relation to complaints or the ongoing billing process. The Property Conservation service is still working on a number of incomplete projects and carrying out remedial works on historic projects. In addition the team is involved in preparing for the new statutory repairs service. This has led to resource pressure in dealing with legacy issues.

3.4.2 There is a fragmented approach to dealing with complaints, with a number of different processes within Services for Communities as well as the MMS pilot process for complex cases. In addition there is a separate process, involving Deloitte, in reviewing projects prior to billing. This fragmentation has given rise to a lack of consistency and synergy.

3.4.3 There has been a considerable lapse of time since the complex cases were deferred by the resolution panel in 2011/12. The pilot scheme for deferred cases has been unsuccessful for the reasons outlined above and a new approach is needed to address decisively the key issues within an appropriate timescale.

3.4.4 There has been a confidential briefing to elected members outlining issues experienced in relation to debt recovery.

## **Conclusion**

3.5 It is clear that a step change is needed to accelerate progress in resolving the outstanding complaints and in recovering the sums due to the Council for statutory repair works. In particular:

3.5.1 There needs to be a single concerted approach to complaints resolution, billing of projects and recovery of outstanding debt, with joined up working across the Council.

3.5.2 There is a requirement for improved project management and oversight of the legacy issues.

3.5.3 There needs to be a significant increase in dedicated resource with the right skills and experience.

3.5.4 The external resource and expertise of Deloitte or a similar provider will continue to be critical. This should deal with both assessment of complaints and review of unbilled cases to ensure a cohesive and consistent approach and a systematic analysis of issues, using similar methodology to that adopted for unbilled work to review work already billed which is the subject of a complaint.

3.5.5 The MMS pilot should be wound down.

## **Next steps**

3.6 Given the need to achieve progress without further delay the Chief Executive has authorised the Director of Corporate Governance to take immediate steps to put in place arrangements to address the issues identified.

3.7 A dedicated project board with the sponsorship of the Chief Executive has been created to deal with legacy property conservation issues, bringing in a Senior Responsible Officer with the appropriate external expertise and seniority and appointing a suitable senior project manager.

3.8 The project board will have cross-council representation from property conservation, finance, legal, communications and the corporate programmes office and will be attended by Deloitte as external advisers. The project board will meet twice weekly and it is proposed that they have delegated authority for all complaints resolution, billing of projects and recovery of outstanding debt matters, removing the current internal divide between directorates.

3.9 There will be a single co-located Council team with external expertise and advice from Deloitte and with increased resource, bringing together the right balance of technical and administrative staff, to deal with all legacy statutory repairs issues,

3.10 It is proposed that the new project board will also consider and report on lessons learned to date in relation to the former Property Conservation service to help

inform the re-design of the new enforcement service. In order to ensure a co-ordinated approach, it is proposed that the project board will assume control of the re-design and preparation for implementation for the new enforcement service, with responsibility for implementation then passing to the relevant service area. Work on the new enforcement service will be temporarily suspended to allow the new board to assess the present position and a further report in relation to the design of the new enforcement service will be brought to Committee in August.

- 3.11 Recognising the importance of effective arrangements for political scrutiny of the resolution of legacy statutory repairs issues, it is proposed that an All Party Oversight Group (APOG) be set up, consisting of group leaders, the Convener and Vice-Convener of the Finance and Resources Committee and the relevant spokesperson for each group. The Vice-Convener of the Finance and Resources Committee will chair the group.
- 3.12 The remit of the APOG shall be to oversee:
  - a. all outstanding matters in relation to the Council's legacy Property Conservation service including the resolution of complaints, invoicing of unbilled work and recovery of debt; and
  - b. the re-design and preparation for implementation of the Council's new repairs enforcement service.
- 3.13 In addition, there would be a quarterly report on progress to the Finance and Resources Committee.
- 3.14 Negotiations are underway with Deloitte in relation to the terms of their engagement and in light of the pressing need to move forward with the resolution of outstanding issues it is proposed that authority be given to the Director of Corporate Governance, in consultation with the Convener and Vice-Convener of Finance and Resources Committee to conclude and enter into an agreement with Deloitte or an alternative provider.

## **Measures of success**

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- 4.1 The measure of success will be the successful resolution of long-standing complaints.

## **Financial impact**

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- 5.1 The costs associated with decisions made under these arrangements will be closely monitored against the relevant bad debt provision.

## Risk, policy, compliance and governance impact

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- 6.1 Failure to address appropriately the retrospective complaints from householders regarding the former Property Conservation service carries significant financial and reputational risk for the Council. The resolution procedures agreed by Council and Committee are intended to mitigate these risks.

## Equalities impact

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- 7.1 There is no equalities impact arising from this report.

## Sustainability impact

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- 8.1 There is no adverse environmental impact arising from this report.

## Consultation and engagement

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- 9.1 Not applicable.

## Background reading/external references

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[Report on complaints Resolution Phase 2 \(B Agenda\) to the Property Sub-Committee on 31 May 2013.](#)

[Report on Property Conservation resolution of financial issues \(B agenda\) to the Finance and Resources Committee on 31 October 2013.](#)

[Report on Property Conservation Resolution of Financial Issues – Update \(B Agenda\) to the Finance and Resources Committee on 3 February 2014.](#)

[Report on Property Conservation - Complaints Resolution to the Finance and Resources Committee dated 20 March 2014.](#)

### **Alastair Maclean**

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## Links

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<b>Coalition pledges</b>	<a href="#"><u>P40 ,P41</u></a>
<b>Council outcomes</b>	<a href="#"><u>CO7, CO19</u></a>
<b>Single Outcome</b>	<a href="#"><u>SO4</u></a>

**Agreement****Appendices**

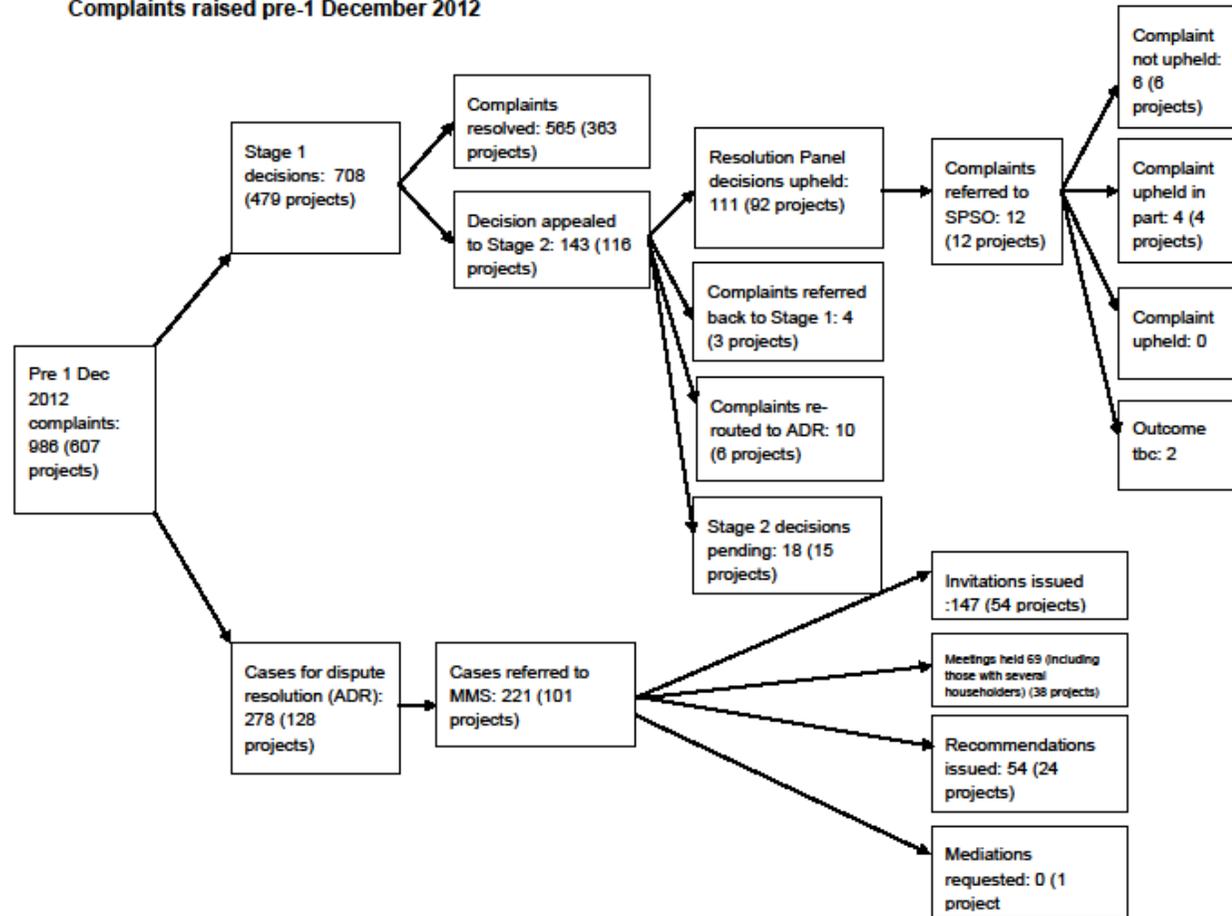
Appendix 1 – Complaints raised pre-December 2012

Appendix 2 – Pre 1 December 2012 complaints dealt with by resolution panel

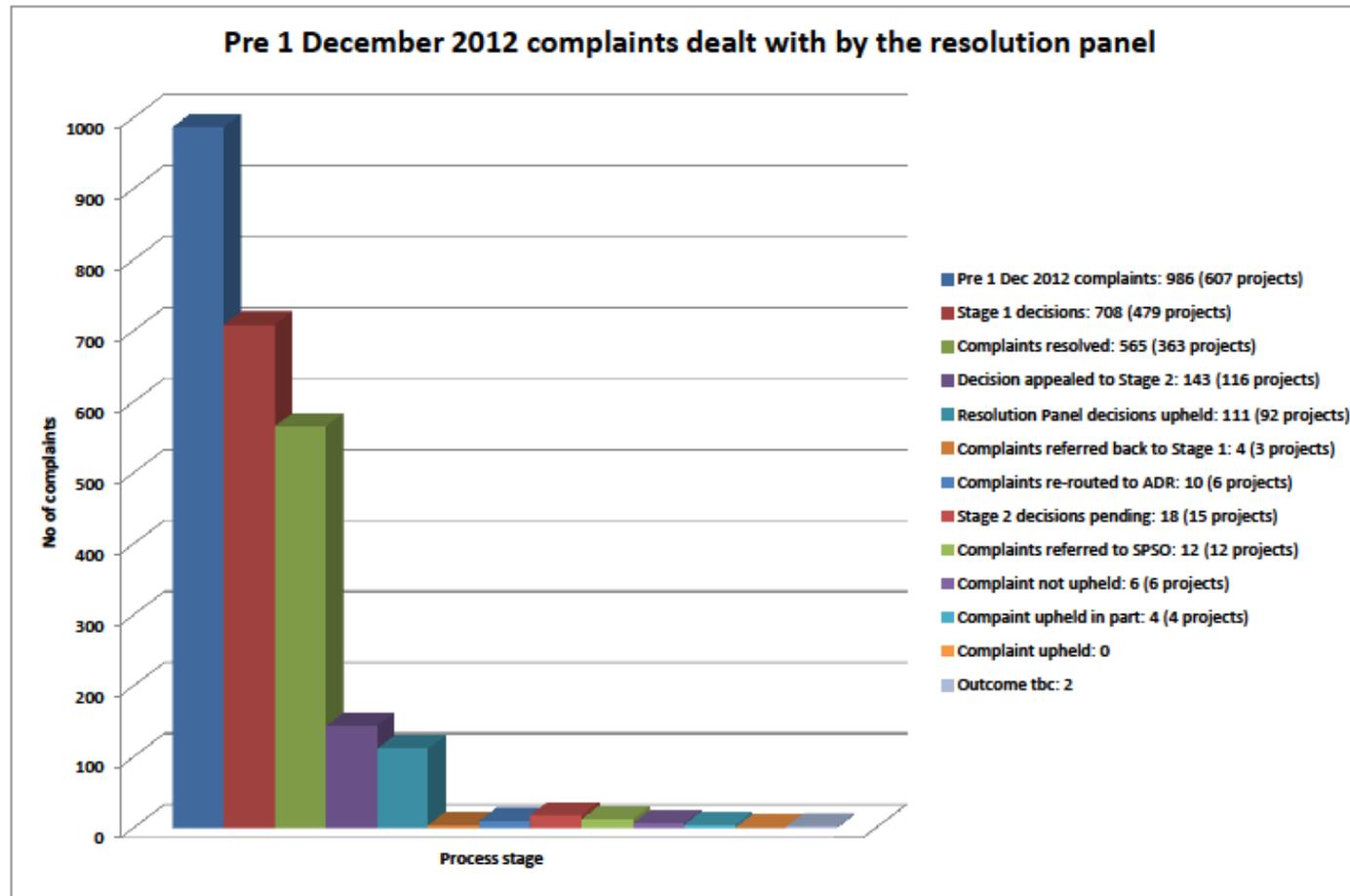
Appendix 3 – Pre 1 December 2012 complaints referred to Maclay Murray Spens LLP (MMS)

# Appendix 1

## Complaints raised pre-1 December 2012



Appendix 2



Appendix 3

