

Governance Risk and Best Value Committee

10.00am, Thursday 18 August 2016

Property Conservation – Court Actions and Debt Recovery Activity

Item number	7.5
Report number	
Executive/routine	
Wards	

Executive summary

On 23 June 2016, the Governance Risk and Best Value Committee requested a report on the numbers of live court cases, covering those who have brought actions against the Council and those brought by the Council, in relation to Statutory Notices.

Links

Coalition pledges	P40 , P41
Council outcomes	CO7 , CO19
Single Outcome Agreement	SO4

Property Conservation - Court Actions and Debt Recovery Activity

Recommendations

- 1.1 Committee is requested to note the numbers of live court cases being brought against and by the Council in relation to Statutory Notices.
- 1.2 Committee is asked to note the Programme Momentum Progress Report to the Finance and Resources Committee dated 9 June 2016 in Appendix 1.

Background

- 2.1 At its meeting on 23 June 2016, the Governance Risk and Best Value Committee requested information on the number of live court cases being brought against and by the Council in relation to Statutory Notices.

Main report

- 3.1 On two occasions since June 2015, after considering evidence from both parties, sheriffs have issued decisions in respect of statutory notices. On both occasions, the sheriff found in the Council's favour.
- 3.2 There are currently no live actions in court brought by the Council in relation to Statutory Notices.
- 3.3 There are currently two live cases where action is being brought against the Council in relation to Statutory Notices.

Measures of success

- 4.1 Conclusion of statutory notice recovery process.
- 4.2 Collection of outstanding debt.

Financial impact

- 5.1 The cost of legal work is contained within the contractual arrangements with Morton Fraser. These costs are met from the existing budgetary provision for these costs.

Risk, policy, compliance and governance impact

6.1 This area of work represents a significant financial and reputational risk for the Council.

Equalities impact

7.1 There is no equalities impact arising from this report.

Sustainability impact

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

Consultation and engagement

9.1 Not applicable.

Background reading/external references

Minute from [GRBV](#), 23 June

[Report to City of Edinburgh Council, 12 February 2015, Shared Repairs Services - Development of a New Service.](#)

[Report to City of Edinburgh Council 11 December 2014, Shared Repairs Services - Development of a New Service -](#)

Hugh Dunn

Acting Executive Director of Resources

Contact: Andrew Field, Edinburgh Shared Repairs Service Senior Manager

E-mail: andrew.field@edinburgh.gov.uk | Tel: 0131 529 7354

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	CO19 – Attractive Places and Well Maintained – Edinburgh remains

outcomes	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: Programme Momentum Progress Report to Finance and Resources Committee 9 June 2016

Finance and Resources Committee

10.00am, Thursday 9 June 2016

Property Conservation – Programme Momentum Progress Report and Edinburgh Shared Repairs Service Update

Item number	7.24
Report number	
Executive/routine	
Wards	

Executive summary

This report provides Committee with a progress update for Programme Momentum and the Edinburgh Shared Repairs Service (ESRS).

Links

Coalition pledges	P40 , P41
Council outcomes	CO7 , CO19
Single Outcome Agreement	SO4

Report

Property Conservation – Programme Momentum Progress Report and Edinburgh Shared Repairs Service Update

Recommendations

- 1.1 Committee is requested to:
 - 1.1.1 Note the management information dashboard reports in Appendix 1.
 - 1.1.2 Note the progress of debt recovery work.
 - 1.1.3 Note the progress of the settlement process.
 - 1.1.4 Note the status of the remaining legacy projects.
 - 1.1.5 Note the update on the implementation of ESRS

Background

- 2.1 Programme Momentum has been established as a robust end-to-end process across all workstreams relating to the legacy Statutory Notice issues, including the development of the blueprint for the new enforcement service.
- 2.2 This report gives details of progress to the end of April 2016.

Main report

Management information

- 3.1 Management Information as at 25 April 2016 is attached in Appendix 1.

Delegated Authority – Irrecoverable Sums & Settlements

- 3.2 The provision for impairment and for settlement repayments is £17.9m.
- 3.3 As at 25 April 2016 a total of £11.6m has been approved for write-off against the provision comprising irrecoverable sums of £6.9m, aged debt of £0.5m and a total value of £4.2m for settlements to date.
- 3.4 The provision remains subject to regular review by the Head of Edinburgh Shared Repairs and the Acting Executive Director of Resources.

Billing and Recovery Update

- 3.5 Billing on Deloitte reviewed projects is now complete at a total of £17.6m.

- 3.6 To 25 April 2016, £11.4m has been received in payment from individual owners. A further £1.4m has been secured in payment plans and inhibitions. Total recovery rate in debt collected and secured debt is £12.8m (73%). The current level of Deloitte Project Joule debt written off but secured through inhibitions is £0.2m (1%).
- 3.7 The balance of debt of £4.6m (26%) is being actively pursued, predominantly through Morton Fraser, and is at various stages of recovery.

Debt Recovery – Morton Fraser

- 3.8 Under the extended contracted arrangements, instructions continue to be sent to Morton Fraser for statutory notice debt recovery. Since 1 April 2015, 660 instructions have been issued to Morton Fraser with a total value of £6.7m for debt collection.
- 3.9 From April 2015 to 25 April 2016 the overall sums recovered or in payment plans secured by Morton Fraser total £2.2m (33%) over 267 customers (40.5%).
- 3.10 The costs of Morton Fraser to date in return for the £2.2m recovery is £128k. As at 25 April 2016 the percentage solicitor's fees against sums recovered is 5.7%. The solicitor's fee to debt recovery ratio is £17 recovered for every £1 spent. These figures will vary from month to month.
- 3.11 Monthly review meetings are now established between the Council and Morton Fraser with performance measures, standards and reporting in place.
- 3.12 All Project Joule Statutory Notice debt related instructions are now with Morton Fraser to progress recovery action.

Debt Recovery - Suspended Debt

- 3.13 Suspended debt relates to historic Property Conservation projects which have been billed and where a customer or legal representative has raised a dispute leading to the invoice being put on hold.
- 3.14 Between January 2015 and April 2016 the suspended debt has reduced from £6.4m to £0.8m.
- 3.15 Of the remaining £0.8m suspended debt, 2 projects carry a combined value of £0.5m debt outstanding (63%). The settlement of both projects is currently being progressed.
- 3.16 The remaining suspended debt of £0.3m (37%) relates primarily to old legacy invoices which are at various stages of investigation and recovery.

Complaint Resolution & Settlements

- 3.17 All 407 customers who raised specific concerns relating to 155 Statutory Notice projects and had their cases reviewed by Deloitte have been issued with settlement letters. 1,731 additional owners were identified as being affected by the 155 projects. All of these owners have also been issued with settlement

letters which brings this part of the settlement process to an end. The work remaining in this area relates to back end administrative activity.

Police Scotland

- 3.18 A meeting was held with Police Scotland to discuss their review of project files in respect of their 2011 investigation into the then Property Conservation Service. The police confirmed at this meeting that following their review of project files they had sufficient information for submission of a report to the Procurator Fiscal.

Projects – Legacy

- 3.19 The Thomson Bethune contract completed in December 2015. The remaining projects have been handed over to ESRS for completion. The schedule for this is as follows:-

- 3 projects are due to be re-programmed for completion during spring/summer 2016.
- There are 15 projects still in the defect period to be signed off by ESRS.
- 1 project is currently requiring intervention as leaks are still present after defects works have been completed.

- 3.20 1 consultant run defect project handed over to CEC late in 2015 is still to be completed.

New Service Update - Implementation Progress

Customer Contact: 2 new cases

- 3.21 Customer contact staff are currently offering advice and guidance on two potential cases at present. One case is likely to be progressed by owners privately.

Facilitation: 3 cases

- 3.22 This area of the service is used when a customer has approached the service for assistance with defects on a property but for reasons of financial or reputational risk the service cannot assist at an enforcement level. The service can however assist the property owner in other ways for example corresponding with other owners at the property or contacting other Council departments to help progress matters.

- 3.23 There are three cases in facilitation at present.

The Intervention Service: 6 cases

- 3.24 The intervention service is made up of the activity undertaken following the identification of an essential repair and prior to taking a decision to enforce the repair, where the objective is to support owners to take responsibility for progressing the repair privately. Included in this area of work is diagnosis of the defect reported, tailored communication to owners, site visit and in some cases a stair meeting.

- 3.25 Case officers currently have six cases with correspondence on-going with the lead owner and other owners engaging at each of these properties.
Successful Intervention: 3 cases
- 3.26 The phased Implementation service has successfully intervened in an additional case this month and closed the case. A follow up will be undertaken to check work has been undertaken privately after three months has passed.
Panel Cases Rejected for enforcement: 1 case
- 3.27 The ESRS Panel has rejected one case after it was considered that the financial and reputational risk was too high for the Council to accept.
The Enforcement Service: 5 projects
- 3.28 The Enforcement service is activated when all intervention services have failed to provide a platform for owners to procure the works privately. Upon internal Panel approval the project will be allocated to the surveying department for progression through the standard operating procedures. The procedures include carrying out a full survey, preparation of cost estimates, preparation of risk registers, issue of the Statutory Notice, tender preparation including design and specification, tender approvals and award and contract administration on site.
- 3.29 Five projects have been approved by the ESRS Panel to progress to the enforcement process. Two additional cases have been approved for enforcement this month. Three are at survey stage, one is at notice stage where the S24 has been issued and one is on site.

Measures of success

- 4.1 Conclusion of reviewing statutory notice projects.
- 4.2 Collection of outstanding debt.
- 4.3 Resolution of complaints.
- 4.4 Launch of new replacement service

Financial impact

- 5.1 The associated revenue cost in resolution of the legacy closure programme from April 2013 forecast to March 2016 totals £7.4m. A current assessed need of £1m has been budgeted for 2016/17 towards the closure of the legacy programme.
- 5.2 The financial statements include a provision of £17.9m for impairments and settlement repayments of which £11.6m has been approved as at 25 April 2016.

- 5.3 The adequacy of the impairment and settlement provision remains under regular review by the Head of Edinburgh Shared Repairs Service and the Acting Executive Director of Resources.
- 5.4 The overall 2015/16 available budget for both the legacy and Edinburgh Shared Repairs Service is £3.8m. The current first year forecast expenditure, subject to final account, is £3.2m.
- 5.5 A budget of £1.6m has been set for the ESRS for 2016/17.

Risk, policy, compliance and governance impact

- 6.1 This area of work represents a significant financial and reputational risk for the Council.

Equalities impact

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

Sustainability impact

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

Consultation and engagement

- 9.1 Not applicable.

Background reading/external references

[Report to Finance and Resources Committee, 19 March 2015 -Property Conservation - Programme Momentum Progress Report](#)

[Report to City of Edinburgh Council, 12 February 2015, Shared Repairs Services - Development of a New Service.](#)

[Report to City of Edinburgh Council 11 December 2014, Shared Repairs Services - Development of a New Service -](#)

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Contact: Andrew Field, Head of Edinburgh Shared Repairs Service

E-mail: andrew.field@edinburgh.gov.uk | Tel: 0131 529 7354

Links

Coalition pledges	<p>P40 – Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city’s built heritage</p> <p>P41 – Take firm action to resolve issues surrounding the Council’s Property Services</p>
Council outcomes	<p>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</p>
Single Outcome Agreement	<p>SO4 – Edinburgh’s communities are safer and have improved physical and social fabric</p>
Appendices	<p>Appendix 1: Management Information Dashboards</p>

Edinburgh Shared Repairs Service Dashboard

April 2016

Monthly progress update (for reporting purposes month end is 25 April)



LEGACY PROGRAMME			NEW SERVICE		
A number of legacy workstreams continue to draw to a close with the billing and the settlements processes now complete and historic projects on site reaching completion. Significant volumes of work remain in customer service and debt recovery.			The Phased Implementation of the new service will take place in 2016/17. A Soft Launch of the new service has begun.		
TOP RISKS	MITIGATION	RAG	TOP RISKS	MITIGATION	RAG
1. Debt Recovery	Morton Fraser are leading on Debt Recovery.	Yellow	1. No. of Phased Implementation Cases	Communications to be increased with customers to identify additional cases for Implementation Phase, linked to soft-launch after 1st April. Business plan identifies £3.5m workload of enforcement cases in 16/17 which is unlikely to be achieved. Review this figure six months after launch.	Yellow
2. Bad Debt Provision	The provision will continue to be monitored and reported monthly.	Yellow	2. Tender returns at ITT stage	Twelve PQQs were returned. These will be reviewed with ITT to be issued in May 2016.	Yellow
3. Settlement Process	All Settlement letters have been issued, however there remains a substantial volume of customer queries and returned declarations to be processed.	Green	3. People	All staff that are permanent to the Council will be undergoing review. Following review the Business Plan will be implemented.	Yellow
4. Loss of legacy staff through service reviews	Discussion with relevant Directors to ensure service is maintained.	Yellow	4. Staffing Structure not established for New Service	Senior Management Team in place for Phased Implementation of the New Service. Ongoing review of Business Plan.	Yellow
OVERALL STATUS	COMMENTS	RAG	OVERALL STATUS	COMMENTS	RAG
Case Reviews and Settlements	All complainants and other affected owners have been issued with settlement with an acceptance rate of 58%.	Green	Governance	The Edinburgh Shared Repairs Service and Legacy Programme will be managed overall within the Corporate Property Service in the new Council structure.	Green
Debt Recovery	Debt outstanding is currently £10.4m. Of this debt £7.8m is being pursued through active billing, Morton Fraser recovery or other legal action. The remaining debt is either being pursued for legal action or is suspended debt.	Yellow	Processes	Draft procedure are being tested during Pilot phase. Proposed changes are being tracked, procedures will be updated internally and reissued by the end of June 2016. An internal audit is was carried out by PWC in February 2016.	Yellow
Projects	From the TB projects handed over to ESRS from 1 January : <ul style="list-style-type: none"> • 1 project has construction related issues which has delayed completion • 3 projects due to be re-programmed for completion in spring • 15 projects are in the defect period to be signed off by ESRS 	Yellow	IT	A revised project plan is currently being developed for 2016/17, split into two workstreams, operational and strategic. The operational workstream is responsible for delivering the data cleansing, uniform system redesign, new system functionality and governance / training elements. The strategic workstream involves CGI, and is reliant on CGI delivering new core systems within the council that Shared Repairs will utilise. This includes Customer Relationship Management, new Finance system integration and the decommissioning of the old legacy systems.	Yellow
Customer services	Customer contact across the legacy service shows a steady decline.	Yellow	Procurement	ITT document being prepared. Contractors framework is programmed to be in place by July 2016.	Green
			People	13 Applications were received for the Building Surveyor post following advertisement on My Job Scotland. Two suitable candidates identified. One applicant was interviewed for the vacancy but was not suitable for the post. Recruitment of suitable technical resource will continue to be reviewed.	Red
KEY PLANNED ACTIVITIES			INFORMATION / DECISIONS		
Continuation of debt recovery programme. Continuation of legacy projects. Records Manger started on 4 April 2016 Management of closure programme timeline			Continuation of ESRS pilot activity. underway Recruitment of a surveyor in for ESRS		
			Service review to be undertaken 2016/17 closure programme staffing under continual review		



Settlements & Customer Service

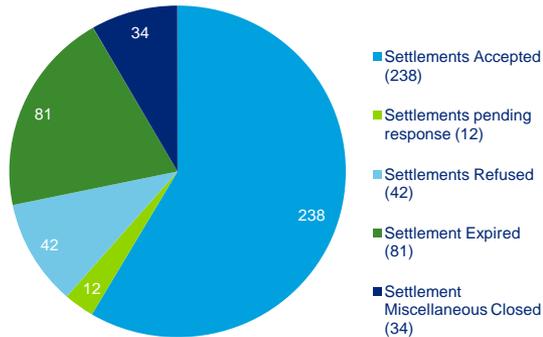
Programme dashboard as at 25 April 2016



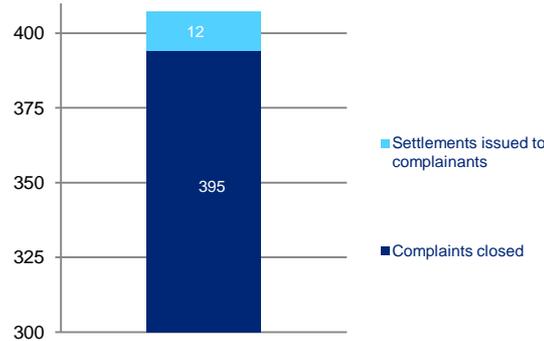
PROGRESS

Settlement letters have now been issued to all complainants and other affected owners. Acceptance rates from complainants are at 58%. A number of queries continue to be received from customers. A project is underway to contact owners who have failed to respond during the original process. The finance team is continuing to process returned declarations.

Complainant Closure Status



Settlements Issued to Complainants



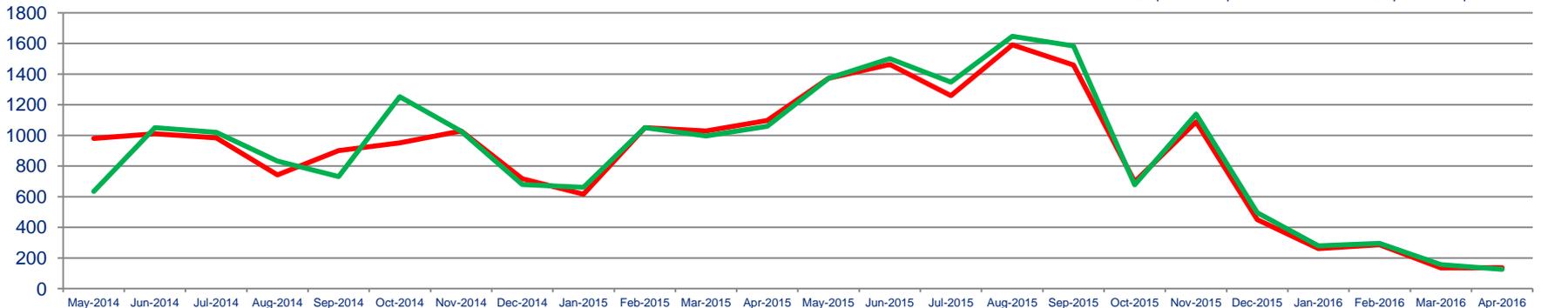
Settlement Value

Total Value of projects reviewed	£12.9m
Total settlements approved under delegated authority	£4.2m
Settlements paid/credited to date	£4.1m

PROGRESS

Customer Services continues to see a downward trend in enquiries, complaints and FOI requests. Response rate for enquiries / complaints achieving 94% closed on time.

Property Conservation Enquiries complaints Raised / Closed





Finance and Debt Recovery Overview

Programme dashboard as at 25 April 2016

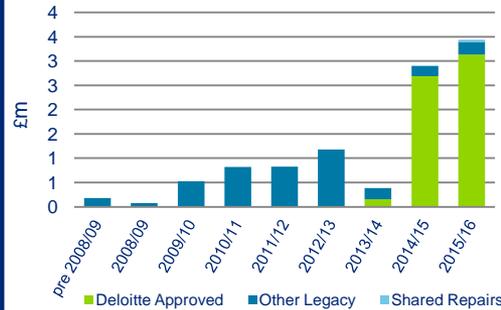


PROGRESS

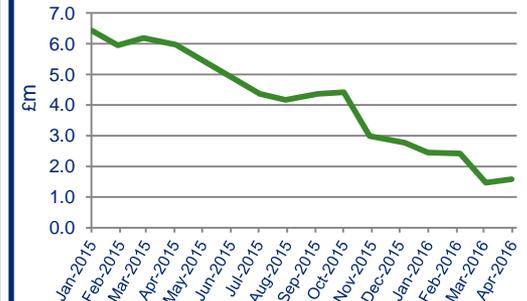
The current level of debt outstanding is £10.2m of which £6m is Deloitte (Project Joule) reviewed debt and £4.2m of Legacy and Shared Repairs debt. A total of £7.8m is being pursued through active billing. Debt of £2.4m is either being prepared for legal action or is suspended debt. Since Jan 2015 suspended debt has reduced from £6.4m to £0.8m as disputes are resolved and settlements processed.

Debt Status	Deloitte Project Joule (Reviewed)	Legacy And Shared Repairs	Total
Total debt being pursued	£5.9m	£1.9m	£7.8m
Total debt scheduled for action	£0.1m	£2.3m	£2.4m
Total Debt	£6.0m	£4.2m	£10.2m
Payment plans and inhibitions agreed within debt total	£1.4m	£0.4m	£1.8m

Aged Debt As At 25 April 2016 By Year



Suspended Invoice Balance Outstanding As At 25th April 2016

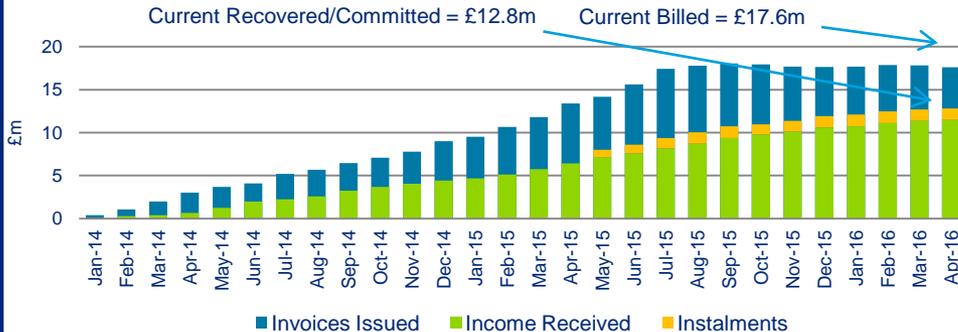


Project Joule Billing and Recovery Progress

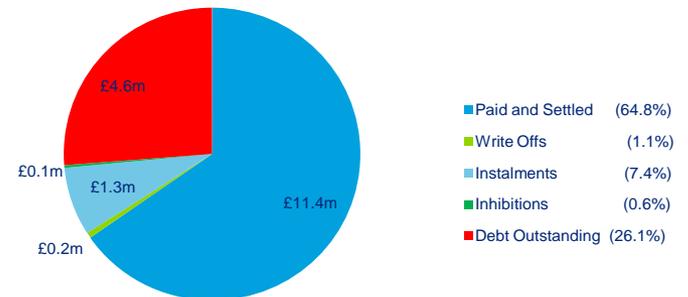
PROGRESS

Billing on Deloitte reviewed (Project Joule) cases is complete and totals £17.6m. £11.4m has been received in settlement and a further £1.4m of secured debt in payment plans and inhibitions giving a total of settled and secured debt of £12.8m. This represents a current collection rate of 73%. The balance of debt of £4.6m is at various stages of recovery.

Cumulative Analysis of Deloitte approved stat repair debt



Deloitte Project Joule Debt from January 2014 to April 2016





Morton Fraser Progress

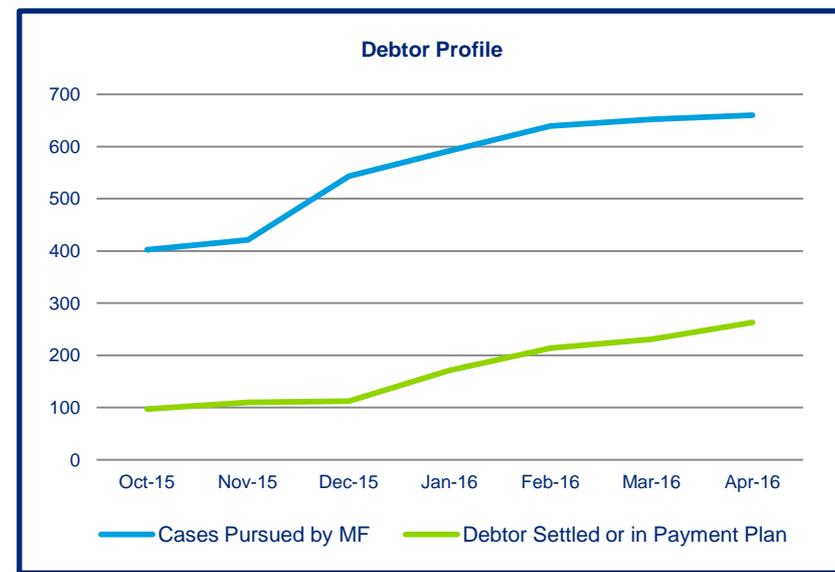
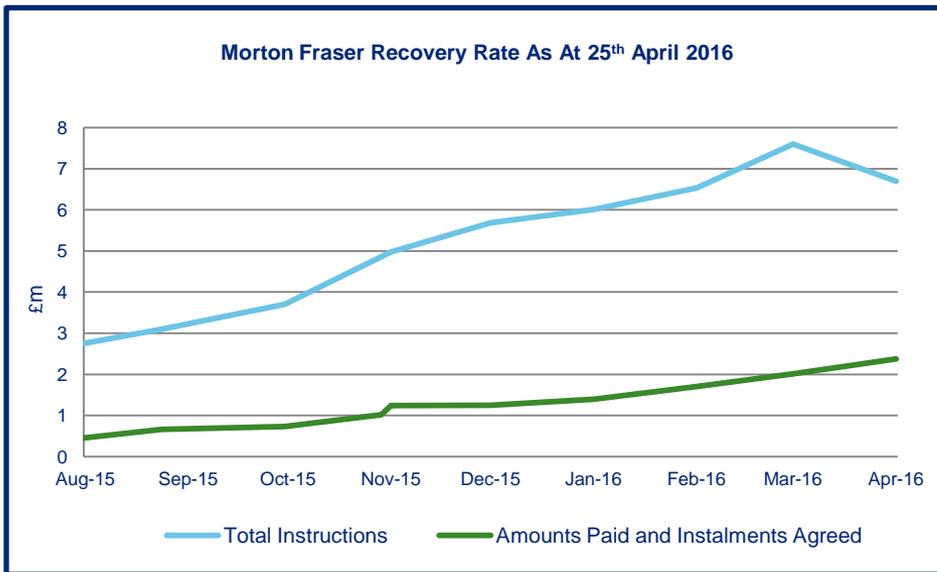
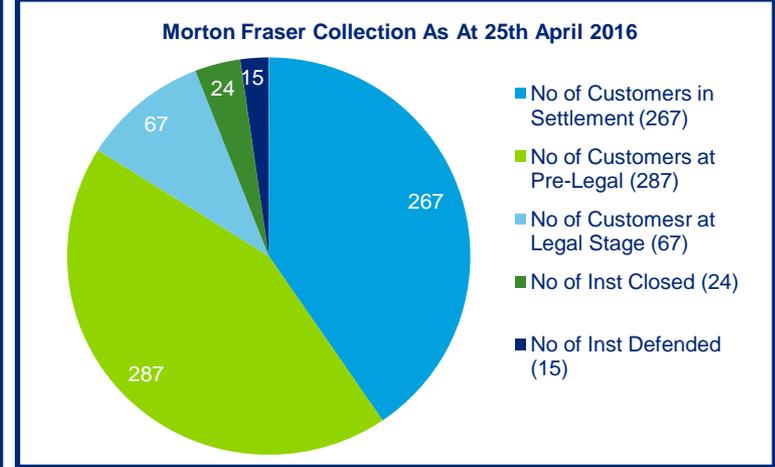
Programme dashboard as at 25 April 2016



PROGRESS

Under the extended contracted arrangements, Morton Fraser took on responsibility for statutory notice debt recovery in April 2015. To date, 660 instructions have been issued to Morton Fraser with a total value of £6.7m for debt collection. Over the 10 month period from April 2015 to date the overall sums settled or in payment plans total £2.2m over 267 customers. 287 cases are at pre legal stage, 67 at legal stage with 24 cases closed and 15 being defended.

Morton Fraser Debt Recovery Cases pursued by the Council	January	February	March	April
Total debt recovery cases pursued by Morton Fraser	592	639	651	660
Total value of instructions issued	£6.0m	£6.5m	£6.7m	£6.7m
Total debtors settled or in payment plan	171	214	231	267
Total sum recovered or in payment plan	£1.4m	£1.7m	£1.9m	£2.2m
Total sum recovered in payment plan as % of debt recovery	23%	26%	28%	33%





Provision for Impairment and Settlements

Programme dashboard as at 25 April 2016

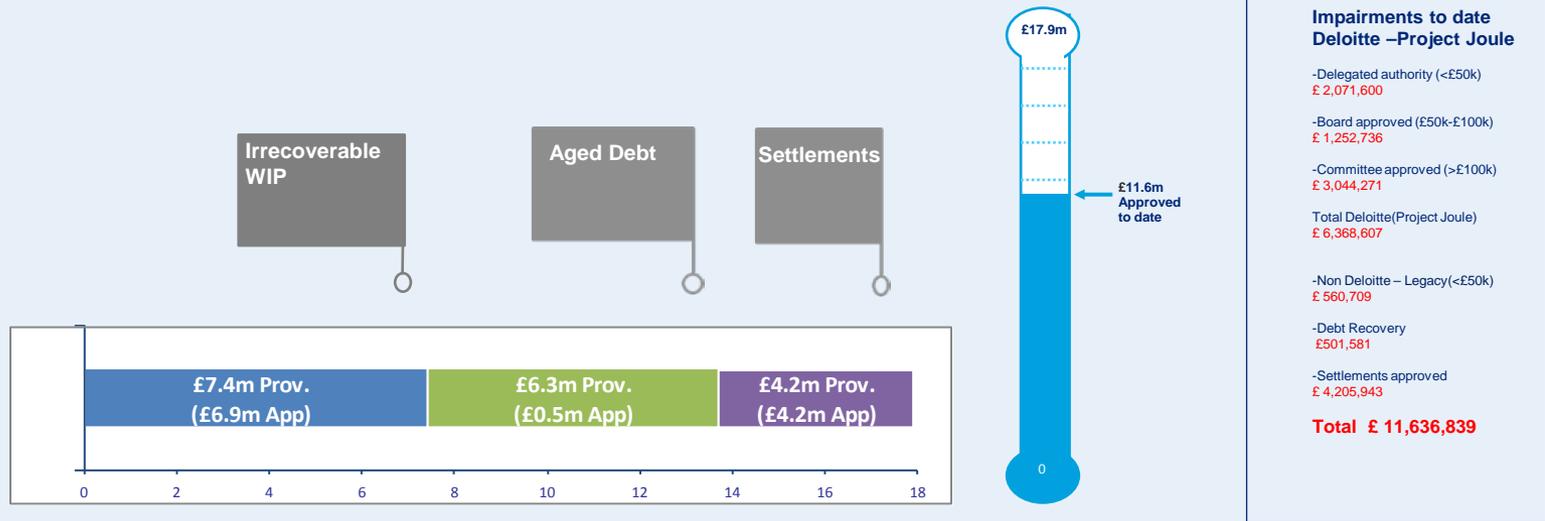


PROGRESS

The provision recommended for impairment and settlement repayments is £17.9m. The basis of the provisions are as follows:

- **Irrecoverable WIP (£7.4m)** – This is based on the actual final sum of £6.4m for the Deloitte (Project Joule) Review outcomes on Irrecoverable Work-In Progress. In addition £1.0m has been made, based on Irrecoverable WIP for Non-Deloitte old legacy work for remedial projects, old unbilled Emergency Work and door closed entry systems.
- **Aged Debt (£6.3m)** – An overall collection rate of 44% is required to ensure adequacy of provision. Current recovery rate is 65%.
- **Settlements (£4.2m)** – Work on settlements is nearing completion with an expected write off sum of £4.2m.

Provision for Impairment and Settlements





ESRS Pilot Phase and Emergency Service Dashboard

Programme dashboard as at 25 April 2016

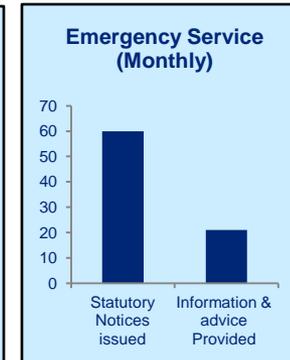
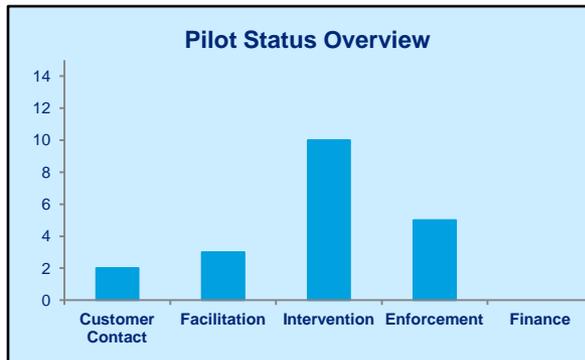


OVERVIEW OF PROGRESS

We have now launched the new service in its implementation phase. A soft launch of the new service began on 1 April 2016. We expect an increase in requests for service as a result of this and will update the Board monthly on progress. The customer contact area of the service has adopted a change in script to customers calling for assistance with repairs to their properties.

The Pilot Phase currently consists of fifteen open cases with successful intervention achieved on four projects. The ESRS Panel has rejected one case after it was considered that the financial and reputational risk was too high for the Council to accept.

CASE WORKLOAD PROGRESS		NO.
Customer Contact:	• Customer Services Enquiry	
	• Collating Information from Lead Owner	2
Facilitation:	• Advice and Information	3
	• Council Correspondence	
Intervention:	• Case Officer	
	• Communication 1 issued	
	• Communication 2 issued	3
	• Panel Report pending	2
	• Panel Cases Rejected for Enforcement	1
Enforcement:	• Closed with successful intervention	4
	• Site Survey / S24 Notice / S26 Notice	4
	• Procurement	
	• Projects on site	1
Finance:	• Final Account issued	
	• Invoices issued to owners	



EMERGENCY SERVICE

ESRS Property Officers have responded to 81 requests for service in this period. The majority of requests were drainage and sewage issues. Eighteen of the requests reported dangerous building defects however only five of these resulted in make safe actions being taken. The number of requests this month is slightly less than the same period received last year.

PROJECTS WORKLOAD	MAJOR	MINOR	ESTIMATED VALUE
1. Major Stonework / Roof (Procurement)	1		£364k (CEC)
2. Roof Works		1	Under £30k (Owner Quote)
3. Roof Works		1	Under £40k (Owner Quote)
TOTAL	1	2	£434K

FACILITATION WORKLOAD (TYPE OF PROJECT)	MAJOR	MINOR	ESTIMATED VALUE
1. Major Stonework / Roof	1		£1m
2. Railway Wall	1		£1m
3. Mural		1	< £100k
TOTAL	2	-	£2.1m

EMERGENCY SERVICE	Feb 16	Mar 16	Apr 16	Trend
No of requests for advice/ info only.	451	265	211	↓
No. of service requests	104	90	81	↓
No of emergency repair inspections resulting in statutory notices issued	64	61	60	↓
No. of Emergency service requests where information/ advice was provided	40	29	21	↓
Value of invoices issued to owners for emergency repairs (cumulative)	£800,732	£847,259	£869,314	↑
Value of income received from owners for emergency repairs (cumulative)	£707,736	£732,192	£753,175	↑
No of visits to SRS webpage (Google Analytics)	5322	3920	4274	↑
Solicitors Enquiries Received	653	648	600	↓
Solicitors Enquiries Completed	653	558	540	↓