

## Property Enquiry Certificate Service

---

City of Edinburgh Council  
18 August 2005

### 1 Purpose of report

- 1.1 This report seeks approval of a development policy for the Property Enquiry Certificate service

### 2 Summary

- 2.1 The Property Enquiry Certificate service provides a fast collation and validation of various elements of property information to assist with private property conveyancing activities. The Local Government in Scotland Act 2003 provides a new basis for promoting this service and the Council is asked to approve the basis for the service under Section 20 of the Act. Arrangements to supply bulk data are also proposed.

### 3 Main report

- 3.1 Since the late 1980s, the Council and its predecessors have provided a computerised Property Enquiry Certificate service to assist property conveyancing. The integration of computerised systems within the services of the Council has provided a growing opportunity to deliver a service that increasingly meets the requirements of conveyancing solicitors and mortgage lenders. The Council's service is also linked to water and sewerage data held by Scottish Water. A charge is made for the service.
- 3.2 In late 2003, the service was significantly upgraded as part of the Planning and Building Control ICT Project, in partnership with BT. Investment in the service has provided an internet option to request and receive the Certificates online within the same working day or a 24 hour turnaround for paper-based requests. More than half of all requests are now requested, paid for and processed online. The data is provided directly from live databases operated for such services as planning applications, building warrants, statutory repairs notices, and various regulatory functions across the departments of City Development, Environmental and Consumer Services, and Housing. The content of the Certificate is modelled on the information requirements recommended by bodies such as the Council of Mortgage Lenders and the Law Society of Scotland.
- 3.3 The individual components of data are available from a variety of sources and these are used by search agents to construct their own certificates as an alternative service. Such information is, by its nature of being secondary data, potentially less accurate than that provided by the Council. However, most of such property-related data is freely available for personal searching via interactive databases on the Council's website, in public registers open for inspection, or on written request under the terms of the Freedom of Information (Scotland) Act 2002. It is not possible to supply the compiled

and verified data on a property through any means other than the computerised Property Enquiry Certificate.

- 3.4 Other relevant burdens on a property can involve personal data, such as debt information relating to statutory repairs notices. This is restricted under the terms of the Data Protection Act 1998 and is not provided on the Property Enquiry Certificate but as a separate information service on supplementary request.
- 3.5 In recent years, the Council has faced legal challenges from search agents operating competitive services in the private sector. Legal opinion has been taken, and it is recommended that the “Power to advance well-being” under Section 20 of the Local Government in Scotland Act 2003 is a sufficient power to allow the Council to deliver a fast track, indemnified Property Enquiry Certificate service.
- 3.6 Furthermore, it is a requirement of the Act that where a charge is imposed for such a service, the Council must publish its reason for doing so and an explanation of how it arrived at the amount of the charge. It is recommended that the Council instructs that this be undertaken.
- 3.7 The Council must not refuse to provide the same base data to private search companies or it would be in breach of the Competition Act 1998. Discussions with private search companies have identified that they would be willing to enter into arrangements with the Council to receive regular bulk data to assist them in providing their services. Although instant transfer of data is technically not feasible, contractual arrangements could be pursued to supply such data at a charge, to allow the searchers to reasonably compete with the Council. This would not involve any personal data.

## **4 Conclusions**

- 4.1 A service development policy for Property Enquiry Certificates is proposed to ensure compliance with the relevant legislation. It will include two components:
  - (a) a fast track indemnified service for individual property requests, to meet the requirements of the property conveyancing market and justified as a service for the well-being of the area, and
  - (b) a bulk data contractual service to private search agents, to allow fair competition in the provision of property data services,both to be provided at a specified charge.

## **5 Financial Implications**

- 5.1 The service development costs are contained within the existing provisions for the Planning and Building Control ICT Project

## **6 Recommendations**

- 6.1 It is recommended that the Council:
  - (i) approves the provision of a fast track, indemnified Property Enquiry Certificate service under the terms of section 20 of the Local Government in Scotland Act 2003;

(ii) agrees to further discussions with private search agents to enter into contracts to provide bulk property data to facilitate fair competition; and

(iii) instructs that the charge made for this service, the reasons for the charge and an explanation of the amount of the charge be publicised.



**Andrew M Holmes**  
Director of City Development  
8.8.09

---

**Appendices** none

**Contact/tel** David R. Leslie / 529 3948

**Wards affected** City - wide

**Background Papers** none