

# Governance, Risk and Best Value Committee

## Item B1.3 - Property Conservation – Extra Judicial Agreements

### Introduction

---

- 1.1 The Governance, Risk and Best Value Committee of 24 October 2016 considered the report [Property Conservation – scope for shared owners, legislative change, ESRS consultation process with owners and Extra Judicial Agreement Process](#)
- 1.2 An action arising from this meeting was:  
*To note the concerns expressed at the robustness of the extra judicial process and that the Convener with three members of the Governance, Risk and Best Value Committee meet informally with relevant officers to discuss these concerns and a note of the meeting would be reported back to Committee.*
- 1.3 In response, the meeting was arranged for 30 November 2016 and attended by a cross party membership of the Convener and Councillors Keil, Main and Tymkewycz.
- 1.4 Appropriate officers in attendance were: Peter Watton (Head of Property and Facilities Management), Andrew Field (Edinburgh Shared Repairs Service Senior Manager) and Keith Irwin (Acting Principal Solicitor - Commercial Practice).

### Main Points

---

- 2.1 During discussion, the following main points were raised:
  - 2.1.1 Statutory Repairs had recently moved into the remit of the Head of Property and Facilities Management who was keen to bring the issues regarding Legacy works to an end in order to focus on the New Service.
  - 2.1.2 Elected Members were concerned with cases from individual constituents regarding:
    - 1) Complaints Process - The robustness of the complaints process where there is the perception that all stages were scrutinised by a single officer.
    - 2) Reasons for Settlement – Settlements also appeared to be offered for technicalities resulting in cases not going to court.
  - 2.1.3 Officers act in compliance with the Council's Corporate Debt Policy, as agreed by the Corporate Policy and Strategy Committee. Cases were assessed on individual merits, following negotiations between parties

before settlements were offered.

- 2.1.4 The wide spectrum of negotiation available to officers through the Corporate Debt Policy and consideration of individual case history has resulted in owners being offered/taking varying settlement sums.
- 2.1.5 There remains a fundamentally different outlook between certain members of GRBV and other committees on the process in which legacy debt is handled due to the historic sensitivities with the service. Officers have had no instruction to re-examine the current scope so continue to act within their prescribed remit of the Corporate Debt Policy.
- 2.1.6 The Convener stated that the Governance, Risk and Best Value Committee have two options on how they can proceed:
  - 1) Formulate concerns on the policy in place to take back to parent Committee for re-examination.
  - 2) Ensure instructions to officers from the Finance and Resources Committee and the Corporate Policy and Strategy Committee were carried out.
- 2.1.7 A number of Elected Members expressed difficulties in having a full discussion with officers in relation to individual cases. Officers were happy to have these discussions within the context of Council Policy.
- 2.1.8 Settlements were only offered outside court following individual assessment of the case in accordance with the debt policy and taking into account legal considerations.. Concerns were raised by elected members regarding the robustness of the Council's case as this has not yet been challenged in court.
- 2.1.9 It was suggested that many constituents have settled as they do not have the means to challenge the decision in court and that there was a reputational risk to Council both from settling in and out of court. There was a request that the information sent with bills was clarified and in plain English.
- 2.1.10 The common theme of the "general risks of litigation" in reasons for settlement was raised and discussed.
- 2.1.11 The wording within the relevant legislation gave scope for interpretation in places. The Council had sought external legal advice on a number of issues and concluded that it was a reasonable legal approach to consider an individual's debt, the settlement offered, and the history of the case before a commercial view was taken on how to proceed.
- 2.1.12 Bill reductions were discussed and the process followed by Deloitte and the Property Conservation Project Board. The timescale between customers receiving an invoice to court action was clarified and the concerns with the suggestion that all scrutiny was being undertaken by the Shared Repairs Service Senior Manager highlighted.
- 2.1.13 The Deloitte principles were discussed, together with the process by

which these were agreed.

2.1.14 The procedures, governance and ongoing review of the New Service were considered with issue of the new Statutory Notices not being reported to a committee.

## Contact Details

---

### **Laura Millar**

Assistant Committee Clerk

Contact: Laura Millar, Assistant Committee Clerk

E-mail: [laura.millar2@edinburgh.gov.uk](mailto:laura.millar2@edinburgh.gov.uk) | Tel: 0131 529 4319

