

Finance and Resources Committee

10.00am, Thursday, 20 May 2021

Petition for Consideration: Remove all defunct Statutory Repair Notices

Executive/routine Wards Council Commitments	Executive All
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1. Recommendations

- 1.1 That the Finance and Resources Committee:
 - 1.1.1 Notes the terms of the petition 'Remove all defunct Statutory Repair Notices' as set out in Appendix one;
 - 1.1.2 Notes that while the petition is invalid, the report provides background to the introduction of the charge; and,
 - 1.1.3 Agrees that political groups will consider whether the charge should continue as part of the 2022-23 budget setting exercise.

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Chief Executive

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Report

Remove all defunct Statutory Repair Notices

2. Executive Summary

- 2.1 The Council has received a petition relating to the current charge for information on outstanding statutory notices. Whilst the petition is invalid, Committee is recommended to note the background to the charge and consider whether it should continue when setting the Council's budget for 2022-23.

3. Background

- 3.1 On 22 June 2017, the Council approved that the Petitions Committee be discontinued and that petitions would be sent to the responsible executive committees or future locality committees for consideration.
- 3.2 A petition entitled 'Remove all defunct Statutory Repair Notices' has been received and is attached as Appendix 1. While the petition has received the level of signatures required for it to be considered, it is not considered valid for the reasons set out in this report.

4. Main report

The Statutory Charge

- 4.1 On 9 June 2016, the Council took the decision to cancel all Statutory Notices where works had not been carried out but where Notices were still active. Consequently, a comprehensive data cleansing exercise resulted in 11,293 statutory notices being removed from properties across the city. All 'defunct' notices have therefore been removed. This exercise left only live notices on the Property Enquiry Register where debt remains due to the Council.
- 4.2 On 20 February 2020, as part of the budget setting process, the Council introduced a charge to private property owners who request a report from the Council during the property conveyancing process. The report is prepared by the Edinburgh Shared Repairs Service (ESRS) and sent to the requester and includes details of all outstanding debt on individual properties where a statutory notice remains live.

- 4.3 The charge of £50 was first approved by the Council, on 20 February 2020, and reconfirmed on 18 February 2021, as part of the annual Budget setting process, with an income target in 2021/22 of £120,000.
- 4.4 The applied charge reimburses the Council for the cost of provision of Statutory Notice Debt Reports whereby it is entitled to levy a reasonable charge for the provision of this information under Section 20 of the Local Government in Scotland Act 2003.
- 4.5 Where a statutory notice has been enforced, the notice will remain active against the property until the associated charges have been paid by all liable property owners in the tenement. Thereafter, the notice is automatically lifted from the Council's financial systems. Notices which are not active are not disclosed on Statutory Notice Debt Reports. To ensure that property owners and conveyancers are aware of active notices against a property, ESRS produces a weekly register of active statutory notices. This register is available on the ESRS web page, this can be checked prior to commencing the chargeable request form. This process seeks to limit, as far as possible, the number of paid requests.
- 4.6 The weekly register lists all properties which have active statutory notices. Each statutory notice is served on the whole tenement, each flat or commercial property within the tenement receives the same statutory notice which includes a reference to the individual address liable for the works, as required by the City of Edinburgh District Council Order Confirmation Act 1991.
- 4.7 The charge is voluntary, and while the process is designed for customer convenience, it does not preclude owners, or their representatives, from requesting information under the Freedom of Information process. The response period for these requests is 20 working days. ESRS recognise that conveyancers often require this information quickly and in a tailored format, while there is no legal requirement for the Council to provide this information out-with standard timescales, ESRS process statutory notice enquiries within 10 working days. This information is outlined under the refund policy, available for viewing prior to commencing the chargeable request form.

The Petition

- 4.8 The petition criteria states that a petition will not be accepted "if it relates to a decision of the Council or a committee within the previous six month period" and/or "it is a matter already being considered or scheduled to be considered by the Council or a committee". Further, Council Standing Order 30 states that "A decision of the Council or committee cannot be changed by the Council or committee within six months.... unless there has been a material change of circumstances or the Council or committee agrees the decision was based on erroneous, incorrect or incomplete information".
- 4.9 In the circumstances of paragraph 4.8, the current petition is invalid, however, it is recommended that Committee notes the background to the statutory charge and considers whether the charge should continue as part of 2022-23 budget setting exercise.

5. Next Steps

- 5.1 Subject to Committee approval, members are requested to consider whether the charge should continue as part of the 2022-23 budget setting exercise.

6. Financial impact

- 6.1 The income generated to enable reimbursement of the costs incurred in preparation of the Statutory Notice Debt Reports by ESRS in 2020/21 amounted to £81,381 to prepare and send 1,953 reports. The budgeted forecast income for 2021/22 amounts to £120,000. This process also contributes to the collection of outstanding debt to the Council.

7. Stakeholder/Community Impact

- 7.1 There are no stakeholder/ community impacts arising from the consideration of the petition.

8. Background reading/external references

- 8.1 Minute of the City of Edinburgh Council 22 June 2017.
- 8.2 Item B1.1 Property Conservation - Unimplemented Statutory Notices [b_agenda - finance and resources committee - 090616.pdf \(edinburgh.gov.uk\)](#)
- 8.3 Minute of the City of Edinburgh Council 20 Feb 2020.

9. Appendices

- 9.1 Appendix 1 – Petition - Remove all defunct Statutory Repair Notices

Appendix 1 - Remove all defunct Statutory Repair Notices

Date made available for signatures	Date closed for signatures	Petitions Title and Petitions Statement	Wards affected
26 February 2021	26 May 2021	<p>Remove all defunct Statutory Repair Notices</p> <p>I would like to council to review the effect that the charge of £50 to search for SRN debt is having on citizens.</p> <p>SRNs are showing up in searches on tenement blocks and it is unclear on which flat any debt is outstanding. While I accept the council has a FOI service, the 20 working day timeframe is too long for house movers given the stage in the process where the SRN is picked up. This is putting people in a position of either pay the charge or hold up a sale.</p> <p>The notices should only be tied to the flats with debt outstanding rather than the tenement.</p> <p>The council should remove older notices (mine was from 2002)</p> <p>The council should refund people the charge where there was no debt outstanding</p>	All