

ABERDEEN CITY COUNCIL

COMMITTEE	Communities, Housing and Public Protection Committee
DATE	30 May 2024
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	RAAC Funding Update - May 2024
REPORT NUMBER	F&C 24/154
DIRECTOR	Eleanor Sheppard
CHIEF OFFICER	Stephen Booth, John Wilson and Jacqui McKenzie
REPORT AUTHOR	Stephen Booth
TERMS OF REFERENCE	1.1.1

1. PURPOSE OF REPORT

- 1.1 On 28 March 2024, the Committee were updated in relation to the on-going survey investigation work which was being carried out on the identified Reinforced Autoclaved Aerated Concrete (RAAC) roofed properties at Balnagask, and the progress on the engagement activity undertaken with residents.
- 1.2 The Committee instructed officers to explore available funding opportunities to support private owners whose properties were affected and to report back to the next committee meeting.
- 1.3 This report gives an update to this and acknowledges that there are no obvious funding solutions to address mitigations to the RAAC risk in privately owned properties, the cost and financial implications of which will develop as the Options Appraisal to mitigate the RAAC risk for the affected properties progresses.

2. RECOMMENDATION(S)

That the Committee:-

- 2.1 Note that approaches have been made to both the Scottish and UK Governments and their responses are included in Appendices 3 and 4;
- 2.2 Note that the Chief Officers – Corporate Landlord, Housing and Capital are to continue dialogue with both Governments as the Options Appraisal for the affected properties progresses; and
- 2.3 Note that the Options Appraisal to be reported to Council on 21 August 2024 will include consideration of the impact of any preferred option on private owners including the financial impact on them.

3. CURRENT SITUATION

- 3.1 At its meeting on 28 March 2024 a [report](#) and verbal update was provided in relation to RAAC within residential properties owned by Aberdeen City Council. The committee resolved:-

(v) to instruct the Chief Officer – Corporate Landlord, Chief Officer – Capital and Chief Officer - Housing, to explore any available funding opportunities to support private owners and report back to the next committee meeting.

Approaches to Government(s)

- 3.2 Letters have been sent to both the Scottish and UK Government and these are attached at Appendices 1 and 2.
- 3.3 Responses to these letters are attached as Appendices 3 and 4.
- 3.4 The Committee are asked to note the responses received from both Governments and note that the Council will continue to engage with both Governments as Officers work through the Option Appraisal as instructed by the Urgent Business Committee on 29th February 2024.
- 3.5 It is intended to bring an interim Report of findings from the Options Appraisal for consideration by Council on 3 July 2024, following which wider engagement would be taken forward with stakeholders in advance of final recommendations being made to Council on 21 August 2024.
- 3.6 The Option Appraisal will consider the range of previously noted options being considered for the Council House stock and will consider a range of affordability criteria in relation to the Council stock. The disruptive nature of each solution has influenced the need for a re-homing programme being required.

Implications for Private Owners from Actions taken on behalf of Council Tenants

- 3.7 The option appraisal work to date has identified the complexities and interconnectivities in delivering technical solutions whether this is by way of terrace and semi-detached properties with shared roof structures or flatted properties with a shared roof.
- 3.8 The preferred options will require further investigations and discussions with owners where their properties are connected to or share roof spaces with Council owned properties. Agreement will be required in relation to how owners will meet their proportion of costs should remedial or replacement roof works be viable and the implication for them if remedial options are not viable for Council house stock. Similarly, owners with properties that are not connected to Council owned properties may also wish to understand the Council preferred solutions and how they, as owners, are impacted.
- 3.9 The implications for private owners from future Council decisions will continue to be reviewed as part of the options appraisal process and in conversations with wider stakeholders. This will include officers continuing to review the powers open to Council's in addition to those noted within this Report.

What can and cannot be charged to the General Fund / Housing Revenue Account.

- 3.10 Having identified (above) that there are implications for owners of private properties due to the location / connection that their properties have with Council owned properties the Council has, in the absence of any Government backed assistance schemes, given consideration to the financial implications for Councils. The result of that initial work is as follows.

General Fund

- 3.11 The Local Government (Scotland) Act 1973 (s.93) requires each local authority to have a General Fund and, subject to certain exceptions, for all income and all expenditure to be paid into and out of that fund. Section 96 of that Act prescribes that every local authority shall keep accounts of all transactions relating to all funds of the local authority, subject to any provision contained in regulations made under s.105 of the Act; and that all accounts of a local authority shall be made up in respect of each financial year.
- 3.12 The Local Government in Scotland Act 2003 (s.12) requires each local authority to observe proper accounting practices. In Scotland, the Code of Practice on Local Authority Accounting in the UK (the Code) constitutes proper accounting practices under s.12 of the 2003 Act.
- 3.13 Proper accounting practices provide a set of principles and concepts that seek to bring consistency to the presentation of the financial statements of local authorities. The elements of the financial statements directly relate to the measurement of the finances of the Council, these elements include Assets, Liabilities, Reserves, Income and Expenses. They relate specifically to the services, powers and duties placed on the Council for the delivery of services. Paragraph 2.1.2.38 of the (2023/24) Code states that Expenses include expenses that arise in the course of ordinary activities.
- 3.14 The Code requires items that meet the definition of one of the elements of the financial statements to be recognised in the Balance Sheet or Comprehensive Income and Expenditure Statement. Counter to this is the requirement to derecognise items that do not or no longer meet the definition of an asset or liability. This normally occurs when the Council loses control of an asset or no longer has a present obligation for all or part of a liability. The sale of former Council properties would represent a loss of control and an end to obligations on the Council's part, therefore leaving no proper accounting practice basis for the Council to meet the costs of owners of private properties.

Housing Revenue Account

- 3.15 The Housing (Scotland) Act 1987 (s. 203) makes specific provision for the local authority to keep a Housing Revenue Account (HRA). The HRA must operate in compliance with legislation and any statutory guidance issued by Scottish Ministers in relation to local authority finance; and must adhere to any accounting codes of practice from the relevant professional bodies. In 2014 Scottish Ministers issued ['Guidance on the Operation of Local Authority](#)

Housing Revenue Accounts (HRAs) in Scotland and this remains a key document in determining what can and cannot be accounted for by the HRA.

- 3.16 This Guidance specifically directs local authorities to be clear about what is, and what is not, relevant income and expenditure. Crucial to this is correctly assigning HRA assets and liabilities. It states:

“30. A property has to be accounted for within the HRA if it has been provided under Part 1 of the 1987 Act (entitled Provision of Housing) and various earlier equivalents.

“31. If a property is not provided under the powers listed in paragraph 1 of Schedule 15 (entitled Application of the Account) to the 1987 Act, or in directions under section 203 of that Act, the authority must not assign it to the HRA.

“32. Equally, properties which may originally have been provided under Part 1 of the 1987 Act (or its predecessor powers) may no longer fulfil their original purpose in benefiting tenants...the authority should consider the removal of the property from the HRA.

“33. The ‘removal’ from the HRA of assets that are no longer connected to the housing stock or are not providing a financial return can take two forms – sale (or lease) to a third party or transfer to the General Fund.”

- 3.17 The conclusion, following this Guidance, is that if the properties have been sold from the HRA to a third party (for example, to a former tenant in the first instance) then there is no longer a connection to housing stock, and there is no connection or access to HRA resources for those privately owned properties.

Capital Expenditure

- 3.18 In Scotland, as a result of s.12 of the Local Government in Scotland Act 2003, the recognition and measurement of capital expenditure is defined according to proper accounting practice. The Code enables Councils to commit financial resources to repair, enhance, improve, reinstate and replace assets that it has under its control. There are extremely limited and tightly controlled circumstances where Councils can support capital expenditure on the asset of another entity. Scottish Ministers have the power to override proper practices in the definition of capital expenditure, and furthermore they have power to consent to a local authority borrowing to meet costs that they would not otherwise be able to meet from borrowing (paragraphs 66 and 67 of the 23/24 Code).

Power to Advance Well-Being

- 3.19 Under Section 20 of the Local Government in Scotland Act 2003, a local authority has power to do anything which it considers is likely to promote or improve the well-being of its area and/or persons within that area. However this power does not enable a local authority to do anything which legislation prohibits or prevents it from doing.

Power to Compulsory Purchase

- 3.20 Under the Local Government (Scotland) Act 1973, Councils have the authority to issue Compulsory Purchase Orders (CPOs) to acquire property for public use. A guide for property owners and Acquiring Authorities is linked in Background Papers (Section 10).
- 3.21 In order to progress a CPO an acquiring authority needs to comply with strict criteria and procedural processes set out in legislation and government guidance documents, and would need to identify a clear future use of the properties being acquired. A CPO would require approval from the Scottish Government and the Council would need to be able to explain the following:
- a. Public Necessity: The purposes for which land and/or buildings is to be acquired are sufficiently important and serve a significant public purpose that justifies the deprivation of private property or interference with possession which a CPO entails;
 - b. Necessity of Acquisition: The land and/or buildings in question are necessary for the proper delivery of those purposes;
 - c. Proportionality: A less intrusive measure could not have been used for those purposes, and there are no other reasonable alternatives that could be undertaken that would cause materially less disruption to the property owner; and
 - d. Fair Balance: A fair and equitable balance has been struck between the rights of the individuals affected and the public interests and interests of the community.
- 3.22 A CPO process is complex and there is much case law. In order to progress a CPO the Council would need to:-
- a) Show a clear public interest case to acquire the properties supported by robust evidence demonstrating the public interest and necessity;
 - b) Secure approval of the necessary funding to compensate property owners fairly and to finance the intended use of the acquired property. This includes both acquisition costs and any redevelopment expenses;
 - c) Submit the CPO to the Scottish Government together with supporting evidence and justification for approval;
 - d) Identify an intended future use for the property, ensuring it aligns with statutory purposes and public policy objectives. The future use must be specific and justified in the CPO proposal.
- 3.23 Until the Options Appraisal is complete the Council would have no rationale for any CPO.

Interaction with Insurers and Other parties.

- 3.24 Officers have met with the insurance industry and banking industry and provided feedback to owners. The most recent statement is from 26th March 2024:

26th March Update from Association of British Insurers:

Insurers appreciate that discovering RAAC within your property can be very distressing. If a policyholder is concerned about the presence of RAAC in their building, they should contact their insurer to discuss the matter further.

The majority of Association of British Insurers member firms are not cancelling policies due to the presence of RAAC in homes in Balnagask, and insurers will consider the renewal of home insurance cover for properties with RAAC. If you are concerned about what the presence of RAAC in your building might mean for the future of your insurance cover, you should contact your insurer.

Domestic buildings insurance policies are generally designed to cover damage from named perils such as storms, floods, subsidence or damage from theft. Homeowners should still be able to claim on their insurance policies if they suffer damage from these perils.

Home insurance is not generally designed to cover wear and tear in a building, damage caused by defective materials or damage that happens gradually over time. They're not intended to cover design or build defects, or to replace construction materials that are gradually deteriorating over time. So, the replacement of RAAC is not likely to be covered.

The Association of British Insurers is discussing the situation in Balnagask with its property insurer members and they understand it is a priority for local parliamentarians, Aberdeen City Council and the Scottish Government.

- 3.25 Officers have also met with the banking industry and are discussing requests for information from a number of lenders at this time.
- 3.26 Officers will continue to meet and share experience and technical information with other affected Local Authorities and wider groups including CoSLA (Convention of Scottish Local Authorities) etc. Officers have been invited to attend the various RAAC Working Groups established by the Scottish Government, most recently on 16th May 2024.

Other Funding Routes

- 3.27 Officers from the Council's external funding team have reviewed available information around other funding sources that may be open to homeowners and have been unable to identify any schemes which would support private owners.

4. FINANCIAL IMPLICATIONS

- 4.1 Sections 3.10 to 3.19 identify some high level narrative around the Council's General Fund and Housing Revenue Accounts finances that show there is no obvious funding solutions from the Council for private owners. There are no financial implications arising directly from this report and officers will continue to engage UK and Scottish Government in pursuit of funding solutions to support all owners of properties affected by RAAC.

5. LEGAL IMPLICATIONS

- 5.1 There are no direct legal implications arising from the recommendations of this report. However there are significant legal implications being considered in relation to the Options Appraisal.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report, although future reports will consider the environmental performance of the properties and carbon impacts from options.

7. RISK

- 7.1 The risks in relation to the wider issues with RAAC have been identified in previous reports. As this Report deals only with a funding update no further risk information is provided.

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
	Impact of Report
Aberdeen City Council Policy Statement	The issues arising with the identification of RAAC in our housing stock requires us to work collaboratively across clusters to ensure the housing stock is safe and meets the varying needs of our citizens. The goal is to ensure that our current housing stock is fit for the future and brought up to the highest standards where possible.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Previous Integrated Impact Assessment relating to the Urgent Business Committee report of 29 February 2024 has been reviewed and no changes required.
Data Protection Impact Assessment	Not required
Other	None

10. BACKGROUND PAPERS

Compulsory Purchase Order Information:

<https://www.gov.scot/publications/guidance-acquiring-authorities-use-compulsory-purchase/pages/1/>

<https://www.gov.scot/publications/compulsory-purchase-scotland-guide-property-owners-occupiers/pages/1/>

11. APPENDICES

[Owners leaflet](#)

Letters to, and responses from, the UK and Scottish Governments

12. REPORT AUTHOR CONTACT DETAILS

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