



Subject:	Control of Japanese knotweed – further update.
Date:	9 th October 2018
Reporting Officer:	Nigel Grimshaw, Strategic Director City & Neighbourhood Services
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Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, when will the report become unrestricted	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Members will be aware that at the People and Communities Committee meeting of 6 th February 2018, Councillor McReynolds proposed a motion that the Council must do more to assist individuals whose homes are negatively impacted upon by Japanese knotweed and should write to the Northern Ireland Environment Agency (NIEA) to see if they would be content to co-fund a Belfast City Council ' <i>not for profit</i> ' service to treat properties across Belfast. An action arising from the Committee meeting was therefore for officers to consider the feasibility of this request.
1.2	An interim update report was provided to Members at the Committee meeting of 12 th April 2018, advising that officers had written to their counterparts within NIEA concerning the manner of delivery of a potential Japanese knotweed treatment scheme for Belfast and

<p>1.3</p> <p>1.4</p>	<p>regarding the potential for part-funding by NIEA for such a scheme. In addition, the report highlighted a range of complex treatment and other technical issues that would have to be overcome by the council before any Japanese knotweed treatment scheme could be commenced. The report also highlighted that the view of the City Solicitor had been sought on whether a council '<i>not for profit</i>' treatment scheme might face a legal challenge from existing commercial Japanese knotweed treatment providers.</p> <p>Responses have been received from NIEA and the City Solicitor.</p> <p>This report serves to provide a further update to the Committee and to seek a recommendation concerning the introduction of a Belfast City Council led '<i>not for profit</i>' treatment service, taking account of the responses received from NIEA and the City Solicitor and the anticipated resource requirements and risks associated with the introduction and operation of such a scheme.</p>
<p>2.0</p>	<p>Recommendations.</p>
<p>2.1</p>	<p>Committee is asked to</p> <ul style="list-style-type: none"> ▪ Note the content of this update report. ▪ Consider the recommendation in paragraph 3.7 that the Council should not introduce a '<i>not for profit</i>' Japanese knotweed treatment scheme to treat properties across Belfast at this time.
<p>3.0</p>	<p>Main report.</p>
<p>3.1</p> <p>3.2</p>	<p>In respect of a Council offered Japanese knotweed treatment scheme, the City Solicitor has advised that Article 79 '<i>Council's general power of competence</i>' of the Local Government Act (Northern Ireland) 2014, empowers a council to do anything, with or without a charge, that individuals generally may do for the benefit of the council, its district or persons resident or present in its district. However, the City Solicitor has caveated this advice by instructing that it would be important to have a form of indemnity signed off by those who are to receive a treatment service from the council in order to safeguard the council.</p> <p>The previous Committee report of 12th April 2018 highlighted a range of technical Japanese knotweed treatment issues that, in view of the City Solicitor's advice, would have to be specifically indemnified, including, for example, the treatment approach (chemical treatment, deep burial or excavation and off site disposal), the treatment methodology, the likely treatment duration (up to 5 years), the use of external contractors and the potential</p>

implications of treatment on the sale or depreciation of properties or assets. It is additionally considered that it would be highly problematic to forecast the likely demand for a Japanese knotweed treatment scheme as there is limited information available on the incidence of invasive species across Belfast.

NIEA Response

- 3.3 In its response to the Council, NIEA has highlighted that the treatment and control of Japanese knotweed, and indeed other invasive plants listed in Part II of Schedule 9 of the Wildlife (Northern Ireland) Order 1985, is challenging as there are no statutory mechanisms to compel owners or occupiers of land to control invasive species or to permit others to carry out control without the owner or occupier's consent. Accordingly, NIEA has advised that in accordance with national and European legislative provisions, the Department's policy context is one of protecting the ecology of an area as opposed to safeguarding property or other commercial assets.
- 3.4 As a consequence of legislative and other competing imperatives, NIEA, who is the regulator, has advised that it is not therefore in a position to provide enhanced support beyond that which the Agency currently provides, i.e. supporting members of the public when they seek advice from NIEA on treatment methodologies and supporting training events for council staff delivered by the council's Biodiversity Officer. Members will be aware that NIEA staff have already joined with council officers to provide guidance on awareness and treatment of Japanese knotweed to the general public via the June 2017 edition of City Matters. Members are advised that officers will seek further opportunities to engage with NIEA on Japanese knotweed awareness initiatives during the 2019 growing season.
- 3.5 In respect of funding private landowners to maintain their properties, NIEA has stated that this would be outside of the remit of the Department of Agriculture, Environment and Rural Affairs (DAERA).
- 3.6 Accordingly, and in view of NIEA's response, it is considered that if the Council were to introduce a '*not for profit*' treatment scheme for Japanese knotweed for Belfast, it would have to wholly devise, establish, fund, manage and operate such a scheme, whether delivered through internal resources or via an external contractor, mindful of all of the legal, financial, contractual, resource, reputational and other liabilities connected with delivering such a scheme. Members are reminded however, that the Council has **no statutory remit**

	<p>in respect of the control of Japanese knotweed, other than on its own lands, that there are no internal staff resources available to deliver such a treatment scheme and that there are a number of established and accredited commercial Japanese knotweed treatment contractors already operating across Northern Ireland. Additionally, Members will be aware that the general public can take proactive control steps themselves through the prompt application of an appropriate herbicide to either prevent Japanese knotweed becoming established on their property or to control its ingress from an adjoining property or lands.</p>
3.7	<p>As a consequence of these numerous issues, and mindful of the various legal, financial, contractual, resource and reputational liabilities and risks associated with offering a council led treatment scheme for Japanese knotweed, the Committee is asked to consider a recommendation that the council should not introduce a '<i>not for profit</i>' Japanese knotweed treatment scheme to treat properties across Belfast.</p>
	<p>Financial & Resource Implications</p>
3.8	<p>The previous Committee report of 12th April 2018 highlighted that the provision of a '<i>not for profit</i>' treatment service has not been included within existing revenue estimates for the 2018/2019 financial period and that any treatment option could have significant financial impact on revenue estimates for the Council. Members are advised that provisions for the scheme have similarly not been included within 2019/2020 financial estimates.</p>
3.9	<p>The report also highlighted the potential for significant administrative and financial resource implications should the council wish to establish a commercial contractor led '<i>not for profit</i>' Japanese knotweed treatment scheme or if the council wished to provide an equivalent scheme from '<i>in house</i>' resources.</p>
3.10	<p>NIEA has confirmed that funding private landowners to maintain their properties is outside of the remit of the Department of Agriculture, Environment and Rural Affairs (DAERA).</p>
	<p>Equality & Good Relations Implications/Rural Needs Assessment</p>
3.11	<p>The previous Committee report of 12th April 2018 advised that there would be no equality or good relations issues associated with establishing a Japanese knotweed treatment scheme for Belfast.</p>
4.0	Appendices – Documents Attached
	None