

REPORT TO: FINANCE COMMITTEE – 10 NOVEMBER 2003

REPORT ON: CITY COUNCIL'S RESPONSE TO LATE PAYMENT OF
COMMERCIAL DEBTS (SCOTLAND) REGULATIONS 2002

REPORT BY: DEPUTE CHIEF EXECUTIVE (FINANCE)

REPORT NO: 723-2003

1 INTRODUCTION

The Late Payment of Commercial Debts (Scotland) Regulations 2002 came into force on the 7 August 2002. The effect of this legislation is to extend the previous powers such as to allow all businesses and public sector bodies to claim statutory interest for the late payment of commercial debts. The purpose of this report is to agree the Council's policy in implementing this legislation both in terms of its debtors and creditors.

2 RECOMMENDATIONS

The Committee is asked to approve the following recommendations.

- 2.1 Note the provisions of the Late Payment of Commercial Debts (Scotland) Regulations 2002.
- 2.2 Note that the Council's policies in respect of the payment of its creditors are consistent with ensuring the timely payment of creditors in line with the new legislation.
- 2.3 Approve the policy of applying the statutory interest rate and compensation for commercial debts due to the Council which are not paid within 30 days. Note that the policy will only apply to businesses being limited companies, partnerships and individuals operating as businesses.

3 FINANCIAL IMPLICATIONS

- 3.1 The Council's policy to pay its creditors within 30 days will mean that the level of statutory interest and compensation charged against the Council should be minimal. The payment of any statutory interest and compensation will be charged to the Department responsible for receiving the service/works from the creditor.
- 3.2 The application of the powers conferred by the Late Payment of Commercial Debt (Scotland) Regulations 2002 may generate additional income for the Council. Any such income will be credited to the Finance Department, however, it is too early to accurately estimate the likely level of income to be generated from the application of this new policy.

4 EQUAL OPPORTUNITIES IMPLICATIONS

None.

5 **LOCAL AGENDA 21 IMPLICATIONS**

None.

6 **BACKGROUND**

6.1 The Late Payment of Commercial Debts regulations have implications for the City Council in respect of its relationship with both its creditors and its debtors and these are considered below.

6.2 The implications of these regulations are that where a body/person has entered into a contract for the provision of services in return for a consideration, ie money, then payment must be made within a predetermined period. If payment is not made by the date agreed by the parties to the contract or 30 days following the date of performance or date of the receipt of invoice, the statutory interest is payable at a fixed rate (currently 8% above base, ie 11.5%). The new Regulations also introduce a fixed sum of compensation payable to the supplier, in addition to the statutory interest, being £40 for debt less than £1,000, £70 for debt between £1,000 and £10,000 and £100 for debt over £10,000.

7 **CITY COUNCIL CREDITORS**

7.1 In respect of its creditors, the City Council has a very proactive policy in ensuring whenever possible that its creditors are paid with usual credit terms of 30 days. The delivery of this policy is measured by the production of a Statutory Performance Indicator. In 2002/03 the City Council achieved the payment of creditors within 30 days in 94.5% of all cases and this was the best performance of all 32 Scottish local authorities.

7.2 In addition, the City Council is thought to be the only local authority in Scotland to operate an early payment policy for local creditors, whereby local creditors are paid within 14 days of the Council receiving the invoice. The objective of this policy is to assist local companies with their short-term cash flow. It must be appreciated that this is a difficult policy to operate effectively, as invoices in the first instance may be sent to operational bases, eg schools and homes for the elderly, but in 2002/03 63% of all local creditor invoices were paid within 14 days.

7.3 In terms of the Council's compliance with the Late Payment regulations, it is envisaged that the Council is well placed and that the payment of statutory interest and compensation will be kept to a minimum. If the delay in making payment is caused by the actions of a Department then any cost of statutory interest or compensation will be passed onto the relevant Department.

8 **CITY COUNCIL DEBTORS**

8.1 It should be first noted that the Late Payment regulations do not apply to debts such as Council Tax, Community Charge, Housing rents and Non-Domestic Rates.

- 8.2 The legislation refers to the types of debts that this is applicable to as "commercial debt" and examples of those within the City Council are as follows:

Trade waste charges
Public Analyst testing
Environmental Health/Pest control charges
Leisure & Arts - Let of premises
Education - Let of premises

- 8.3 The proposal would be to apply the Late Payment regulations to any commercial debts which are due to the City Council by businesses, ie limited companies, partnerships and individuals operating as a business. Interest will not be charged to individuals, voluntary or community organisations accessing Council services.

9 **CONSULTATIONS**

The Chief Executive and Depute Chief Executive (Support Services) have been consulted on the content of this report.

BACKGROUND PAPERS

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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28 OCTOBER 2003