

Corporate Policy and Strategy Committee

10.00am, Tuesday 2 December 2014

Corporate Debt Policy – amendments to Sundry Debt Policy

Item number 7.6
Report number
Executive/routine
Wards

Executive summary

In considering a report on legacy statutory notice-related debt on 30 October, the Finance and Resources Committee provided in-principle agreement to a number of recommendations geared towards maximising recovery of sums due. These recommendations include extending some repayment periods, reviewing the appropriate level of interest to be levied as part of agreed payment plans and offering, in appropriate circumstances, voluntary inhibitions.

Pending the anticipated full updating of the Corporate Debt Policy in early 2015, Committee approval is sought to introduce a specific addendum to the existing sundry debt policy to reflect these changes.

Links

Coalition pledges [P30](#), [P40](#), [P41](#)
Council outcomes [CO25](#), [CO26](#)
Single Outcome Agreement [SO4](#)

Corporate Debt Policy – amendments to Sundry Debt Policy

Recommendations

- 1.1 Members of the Corporate Policy and Strategy Committee are requested to:
 - 1.1.1 approve the proposed changes to the Corporate Debt Policy in specific respect of legacy statutory notice debt;
 - 1.1.2 note that the Finance and Resources Committee has approved the setting up of a cross-party working group to review the Corporate Debt Policy as a whole; and
 - 1.1.3 note that the resulting changes will be incorporated in the full update of the policy to be considered by the Committee by Spring 2015.

Background

- 2.1 The Council's Corporate Debt Policy was approved by the Corporate Policy and Strategy Committee on 3 September 2013. The policy outlines operational debt recovery activities and principles across a range of debt types, including Council House rent arrears, Council Tax, service charges, Non-Domestic Rates, parking charges and any benefit or salary overpayments.
- 2.2 An annual update on activity underpinning the principles of, and provisions within, the policy was considered by the Committee on 30 September. This report noted that a review of the policy's content was underway, with a view to presenting an updated version to the Corporate Policy and Strategy Committee for approval as part of a wider refresh of the Council's governance framework. This updated policy will also now take account as appropriate of any recommendations from the recently-established member-officer working group in this area.
- 2.3 One specific area identified for attention by the Finance and Resources Committee is the potential impact of the current policy on sundry debt recovery in collecting sums due through previously-served statutory notices. The Council has historically acted under The City of Edinburgh District Council Confirmation Order 1991 to instruct repairs on private properties and thereafter to recover the reasonable cost of the repairs from the home owners.

- 2.4 Given the structural nature of this work, even when the cost has been split amongst relevant property owners, the resulting invoice has often been substantial. Invoices raised have historically been due for full payment within 28 days of the invoice date but with an option for payment to be spread over four years with an attendant annual interest rate of 8%. Where such a payment plan cannot be agreed, or in the case of debtor default, the Council has raised formal debt recovery proceedings, including action right up to obtaining a court decree to place an inhibition on the debtor's property.
- 2.5 Work undertaken thus far through Project Momentum, charged with accelerating the billing and recovery of sums due to the Council under the statutory notice system, has highlighted the need for a specific supplementary policy to cover legacy work in this area. The following proposed amendments are therefore geared towards maximising the level of debt recovered whilst, at the same time, reducing the likelihood of requiring to initiate court proceedings.

Main report

- 3.1 The Finance and Resources Committee meeting of 30 October considered a number of specific recommendations on proposed changes to the policy with regard to legacy statutory notice-related debt i.e. for works undertaken prior to the suspension of activity in April 2011. Whilst approving these in principle, formal authority to revise the policy rests with the Corporate Policy and Strategy Committee. The following sections therefore set out the proposed changes and their accompanying rationale. These changes would be applied from 2 December and effected by means of supplementing the current provisions within the Sundry Debt Policy (as illustrated in Appendix 1) in advance of a full update early in the new year. Pending approval, debt recovery action has been temporarily suspended since 30 October, in line with the requirements of the decision of the Finance and Resources Committee.

Repayment period and payment plans

- 3.2 As noted above, statutory notice-related invoices have historically been due for full payment, or agreement of a payment plan, within 28 days of the invoice date. Following the issuing of a final notice on the day following expiry of this period, a further six weeks must then elapse before formal debt recovery procedures are initiated. The Corporate Debt Policy does, however, make provision for considering a three-month interest-free repayment plan and it is recommended that this now be offered to all owners in receipt of such a legacy notice.
- 3.3 The Corporate Debt Policy also makes provision for longer payment plans covering a period of up to four years, on which interest will be charged at the court-approved rate. Given the level of debt pertaining to some legacy statutory notices, a number of owners may struggle to make repayments even over this

extended period. Following receipt of legal advice confirming the ability to vary repayment periods, it is recommended that these therefore be revised as follows:

- 3.3.1 to offer owners with combined legacy statutory notice debts of up to £5,000 a payment plan covering no longer than four years;
- 3.3.2 to offer owners with combined legacy statutory notice debts of between £5,000 and £10,000 a payment plan with a term no longer than seven years; and
- 3.3.3 to offer owners with combined legacy statutory notice debts in excess of £10,000 a payment plan of a maximum of ten years' duration.

Interest rates

- 3.4 Under the terms of the existing Corporate Debt Policy, payment plans extending beyond three months attract interest at the court-approved rate, currently 8% per annum. Given wider economic conditions, it is recommended that the appropriateness of this rate in maximising prompt collection of sums due to the Council be reviewed. In accordance with the Scheme of Delegation, the Head of Finance will therefore consider all relevant factors in determining the interest rate to be applied throughout the repayment period, setting this at such a level as to promote prompt payment of sums due.
- 3.5 In addition, following consideration by the Finance and Resources Committee, the Head of Finance contacted a credit union to determine the extent to which they may be able to supplement the Council's arrangements in supporting repayment of sums due; the outcome of this will be reported to a future Committee.

Voluntary inhibitions and standard securities

- 3.6 In considering the repayment of sums associated with legacy statutory notices, the Finance and Resources Committee recognised that there may be instances where, irrespective of the period offered, owners may not have the financial means of making repayment. In such circumstances, the Council has in some instances initiated court proceedings, resulting in the placing of an inhibition on the owner's property. The effect of such an inhibition is to prevent the person on whom it is placed from selling, otherwise disposing of or granting a security over any land or buildings they own. It is recommended that the Council offer the debtor the option of entering into a voluntary inhibition, thereby avoiding both the time and expense of formal proceedings.

- 3.7 Consideration is also being given to obtaining a security on the property concerned in cases where repayment spans a period of at least seven years. Specific recommendations in this area will be included in the full update of the policy to be considered early in the new year. In the case of both voluntary inhibitions and securities, the homeowner would be advised to take legal advice before entering such an agreement.

Resource implications

- 3.8 While the above arrangements are designed to increase overall debt repayment levels, in the short-term they will likely result in additional costs, both in terms of increased staffing resource and necessary systems modifications. These costs will, as far as possible, be contained within relevant service budgets but opportunities for spend to save funding will also be examined.

Measures of success

- 4.1 Maximisation of sums collected in respect of legacy work undertaken. It should be noted, however, that increasing the interest-free repayment period and offering longer repayment terms more generally may result in short-term deterioration in collection rates.

Financial impact

- 5.1 The effectiveness of the proposed changes in maximising the recovery of sums due will be regularly reviewed. The interest rate to be applied to all future instalment plans for legacy statutory repairs work will be set at such a level as to promote prompt payment.
- 5.2 Where the additional costs associated with the proposed revised arrangements cannot be contained within existing resources, these will require to be considered as part of setting 2015/16's revenue budget.

Risk, policy, compliance and governance impact

- 6.1 Approval and regular updating of the Corporate Debt Policy promotes consistency and transparency across all aspects of recovery activity.

Equalities impact

- 7.1 Increasing the range of payment options and extending periods of repayment should contribute positively to the financial security of property owners.

Where relevant, the money management services available from the Council and its partner agencies will also be publicised.

Sustainability impact

8.1 There are no direct sustainability impacts as a result of this report.

Consultation and engagement

9.1 There are no direct relevant impacts as a result of this report, although the recommended changes reflect what is considered to be an appropriate balance between the expressed needs of customers and the Council's legal duty to collect all sums due to it.

Background reading/external references

Property Conservation – Debt Recovery (B Agenda item), Finance and Resources Committee, 30 October 2014

[Corporate Debt Policy – Annual Update](#), Corporate Policy and Strategy Committee, 30 September 2014

[Compliance, Risk and Governance - Corporate Debt Policy](#), Corporate Policy and Strategy Committee, 3 September 2013

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Links

Coalition pledges	P30 – Continue to maintain a sound financial position including long-term financial planning P40 – Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city's built heritage P41 – Take firm action to resolve issues surrounding the Council's property services
Council outcomes	CO7 – Edinburgh draws new investment in development and regeneration CO19 – Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high-

quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm

CO25 - The Council has efficient and effective services that deliver on objectives

CO26 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives

Single Outcome Agreement

SO4 – Edinburgh’s communities are safer and have improved physical and social fabric

Appendices

Appendix 1 – proposed amendments to Sundry Debt Policy

Extract from Sundry Debt Policy, with proposed additions highlighted in italics

Payment Terms – *applies to all categories of sundry debt except legacy Statutory Notice-related debt*

1. The Council will collect monies owing to it fully and promptly. Where invoices are raised payment will typically become due after 28 days. Payment terms will only be considered where the customer is not able to settle the debt in full in one payment.
2. The Council will consider an interest-free instalment plan if the debt is settled within three months of becoming due. Any instalment plan longer than three months will attract interest at the court-approved rate. The Council's maximum instalment term is 48 months. Where the Council secures a court decree interest will immediately be applied to the principal debt at the court approved rate.
3. The Accounts Receivable Team will set up and monitor all payment arrangements. Payment terms will be withdrawn if a debtor fails to honour the agreement.

Payment terms – *legacy Statutory Notice-related debt*

4. *While the above terms relate to all other categories of sundry debt, it is recognised that the often-substantial sums relating to legacy statutory notice works (i.e. those initiated prior to April 2011) require particular attention. In order to spread the cost over a more manageable period and set the interest rate at such a level as to maximise overall collection rates, the following terms will apply:*
 - (i) *A three-month interest-free instalment plan will be offered to all property owners in receipt of a legacy statutory notice-related invoice as defined above;*
 - (ii) *Payment plans in respect of statutory notice-related works will be based on the combined debts outstanding for individual property owners as follows:*
 - *owners with total debts of up to £5,000 will be offered a payment plan of a maximum of four years;*
 - *owners with total debts of between £5,000 and £10,000 will be offered a payment plan of no longer than seven years and*
 - *owners with total debts of more than £10,000 will be offered a payment plan of a maximum of ten years.*
5. *In accordance with the Scheme of Delegation, the Head of Finance will review all relevant factors in determining the interest rate to be applied to legacy statutory notice-related debt; in order to provide greater certainty, this rate will remain fixed for the full period of repayment.*
6. *In exceptional circumstances the Council may consider offering a legacy Statutory Notice-related debtor the option of being made subject to a voluntary inhibition without the need for court proceedings to be instigated. At the time any offer is made, the Council will advise the debtor that legal advice should be sought in this regard.*