

Briefing for the Public Petitions Committee

Petition Number: [PE1824](#)

Main Petitioner: Bill Alexander

Subject: 30-day supply chain payment for government work

Calls on the Parliament to urge the Scottish Government to ensure the 30-day supply chain payment policy is being complied with.

Background

This petition relates to the length of time it takes for public bodies, or their main contractors, to pay for goods and services bought from private businesses often SMEs. It has been a policy of the Scottish Government since 2008 to speed up the payment of its bills. In recent years it has paid 99% of valid invoices within 10 days.

The Scottish Government sees a strong link between prompt payment, cash-flow, business performance and productivity. According to its [Scottish Business Pledge site](#), by agreeing to pay invoices on time, businesses set in motion a positive 'supply chain reaction' which can boost companies' ability to compete for new work and grow the business.

[The Scottish Government is committed](#) to the prompt payment of invoices both to and by their contractors and their subcontractors. This condition, when applied throughout the supply chain, must also make clear that if a subcontractor believes that invoices are not being paid within 30 days they can raise the issue directly with the Scottish Government.

The [Procurement Reform \(Scotland\) Act 2014](#) extended some prompt payment requirements to the wider devolved public sector, including local authorities, health boards and [many other organisations](#). In its [statutory guidance](#) accompanying the introduction of the Procurement Reform (Scotland) Act, the Scottish Government advised public bodies that:

Effective contract management and monitoring should be undertaken to ensure that prompt payment continues to be applied throughout the duration of the contract, for example, by requesting information on prompt payment at all levels of the contract. A contracting authority and economic operators should then, where relevant, take any necessary steps to rectify any prompt payment issues experienced.

A contracting authority should also consider monitoring the prompt payment of sub-contractors, for example by carrying out spot checks and/or using project bank accounts or trusts, where relevant and proportionate.

The petitioner acknowledges the principles and rationale behind the prompt payment agenda; however, he questions how well these have been working in practice. Fundamentally, the petitioner requests better monitoring and policing of the prompt payment policy. He argues there is little evidence of monitoring being done at the moment.

It's worth remembering that the issue of late payment is a pressing issue for many SMEs. Recent [Federation of Small Businesses \(FSB\) research](#) shows that a high number of small firms across the UK have been affected by late payment as a result of COVID-19, with "those in public sector supply chains faring no better than those that sell to other businesses". Of course, the report is for the UK as a whole and does not specifically mention contracts relating to Scottish public procurement.

Scottish Government Action

Recent Scottish Government action in this area is set-out in its [submission to the Committee](#).

To recap, Section 15 of the [Procurement Reform \(Scotland\) Act 2014](#) requires all contracting authorities to publish their procurement strategies. Section 18 of the Act also requires each authority to publish an annual procurement report. These should monitor the authority's regulated procurement activities against delivery of its procurement strategy. The Scottish Government analysed these reports and produced its [Report on Procurement Activity in Scotland 2019](#). It has very little to say about prompt payment performance, except:

"The 2014 Act requires Scottish public bodies to set out their prompt payment policy in their procurement strategies. While a number of public bodies included information on payment performance within their reports, we know there is more to do so that all public bodies routinely include information on payment performance within their annual procurement reports."

In its [submission to the Committee](#), the Scottish Government states that the following ideas are "under consideration":

- conducting a supplier survey including questions on prompt payment.
- requiring the main contractor to report monthly on payment performance throughout its supply chain.
- requiring main contractors during procurement processes to provide evidence of their prompt supply chain payment policy, procedures and performance.

It is unclear if these proposals relate to the procurement practices of all devolved public bodies, or only procurement by the Scottish Government.

However, what is clear is [the petitioner is not satisfied](#) with the Scottish Government's response so far.

Scottish Parliament Action

The issue of contractors withholding payment to subcontractors was discussed during the recent Economy, Energy and Tourism Committee's [inquiry into the construction industry](#). Members heard that SMEs regularly report problems of lengthening payment periods, spurious reasons for withholding payments, late payment, and late release or non-payment of cash retentions.

It may be of interest to note that the Economy, Energy and Tourism Committee expects to hold a short inquiry into the effectiveness of the Procurement Reform Act in early 2021. Although looking at the Act in its entirety, interested parties will have an opportunity to submit their views on various aspects of the legislation.

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29 September 2020

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