

Institute of Directors

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Dear Sir/Madam

## Reporting on Payment Practices and Performance Regulations 2017

*The IoD is an independent, non-party political organisation representing 20,000 company directors, senior business leaders, and entrepreneurs. It is the UK's longest-running organisation for professional leaders, having been founded in 1903 and incorporated by Royal Charter in 1906. Its aim is to promote good governance and ensure high levels of skills and integrity among directors of organisations. It campaigns on issues of importance to its members and to the wider business community with the aim of fostering a climate favourable to entrepreneurial activity in the UK.*

We therefore welcome the opportunity to respond to the government consultation on [The Reporting on Payment Practices and Performance Regulations 2017](#).

## Introduction

Large businesses are currently required to report on the length of time taken to pay their suppliers, under regulations introduced in 2017. During a routine review of those regulations last year, the government identified other potential improvements that could be made, which are the subject of this consultation.

It is in the interests of all companies, and particularly smaller companies, that their clients should pay invoices as swiftly as possible, to support cashflow planning and therefore viability. In a survey conducted in February 2023, 16% of our members cited 'difficulty or delays obtaining payment from customers' as a factor having a negative impact on their organisation, rising to 20% among medium-sized companies of between 50 and 249 employees. Moreover organisations will be required to plan for greater resilience if the option to delay paying their suppliers becomes harder. Supplier firms will be more productive if they do not have to spend time and effort chasing invoices for work that has already been undertaken. We therefore support policy changes designed to improve payment terms. We also support policy measures that increase the transparency of the payment practices of individual businesses so that suppliers can make commercial decisions about whether, and on what terms, they wish to contract with those businesses.

We feel that the government can do more in the way it displays the information it collects under these regulations to increase reputational pressure on larger companies to pay their invoices more swiftly without suppliers needing to take any action themselves. It should be more straightforward for a firm to assess its own performance in relation to competitors, and also for external organisations, including campaign groups and the media, to compare and contrast the performance of different organisations. We address this issue in our response to Question 2.

We also want to see reporting of payment practices by public sector entities through the same portal so that their practices can be compared to those of private sector entities. Additionally we would like to see greater enforcement activity by government against firms that do not comply with the reporting requirements as laid out in the Regulations.

The sections that follow respond to the consultation questions in turn.

**Question 1: Do you agree that the Regulations should be amended to extend their effect beyond 6 April 2024?**

Strongly agree.

As described in [our response](#) to the 2022 statutory review of the Reporting on Payment Practices and Performance Regulations, our members are supportive of the Regulations.

In a poll conducted in late 2021, 69% of our members who sell to larger businesses agreed with the statement ‘This is a good idea. The service should be continued’ (8% disagreed). Similarly, 77% disagreed with the statement ‘This is a bad idea. Large businesses should not be required to provide this information.’ (5% agreed). Furthermore 41% disagreed with the statement ‘This service is of no use to my organisation’ implying that it was of direct practical use to them over and above the point of principle as to whether it should be retained (21% agreed).

We also urge that the scope of the regulations be extended to include all public sector bodies of a comparable size. From the point of view of suppliers, it is equally as useful to have transparency on performance of public sector clients as it is for private sector clients. And there is no point having regulations if they are not complied with; government should invest in enforcement against organisations that are not reporting their payment practices in the way that they should.

**Question 2: Do you agree that the Regulations should be amended so that a qualifying business is required to report the total value of payments due in the reporting period that have not been paid within agreed terms?**

Strongly Agree.

Without amendment, there is a perverse incentive on firms to consciously pay smaller value invoices swiftly to give a false impression to larger-value suppliers.

However, we have two suggestions:

(a) In addition to reporting on the absolute value of payments (in £), firms should also be required to report on the proportion by value (in %) of all payments in the six month period. This is to get a sense of scale of the issue, both for the company concerned and of the impact on suppliers.

(b) The reporting of total value should be broader than ‘within agreed terms’ to include the same specific term criteria as in the current regulations. This would mean that the requirement to report statistics would be amended to read as follows (changes in bold):

- the average number of days taken to make payments in the reporting period
- the percentage of payments, **and the percentage of the total value of payments**, made within the reporting period which were paid in 30 days or fewer, between 31 and 60 days, and in 61 days or longer
- the percentage of payments, **the amount (£) and percentage of the total value of payments** due within the reporting period which were not paid within the agreed payment period

Paragraph 40 of the consultation, in the section leading up to Question 2, states: *It would be particularly useful to hear views on what format would be most useful and impactful for the purposes of transparency of payment practices.*

We consider this to be the core question that lies at the heart of how to improve the impact of the regulations. We are strongly of the view that the single most impactful change to current practice would be to invest in the impact of the gov.uk website that reports on the information provided by companies under the current regulations so that the best and worst performers could be easily identified.

Specifically, we recommend that twice-yearly:

- The government should publish rankings of the payment performance of qualifying businesses for the most recent time period on the gov.uk website – instantly visible, without requiring any downloading, analysis or filtering of data.
- The headline ranking should be the average time taken to pay, with separate rankings for each of the statistics specified in the regulations.
- These ranking lists should be actively released to the media by the government, to raise awareness of the service and spur change by slower payers.
- In addition, the government should publish a headline indicator of the average payment times across all qualifying businesses, enabling policy makers to track progress and allowing the performance of individual firms to be compared to this average. The government’s own impact assessment (paragraph 16) shows, for example, the average time to pay across all industries was 37.2 days in 2021, the same as 2018; this information should be used more prominently to track progress.

- Historic data should also be made available, as it is at present.
- Qualifying businesses should be given a reasonable lead-time before the first ranking is published to give them time to consider the impact of this increased visibility on their business and make changes if they consider it advisable.

If implemented, these recommendations would raise the prospect of reputational risk for companies that pay slowly, thereby spurring the necessary change without smaller companies needing to either be aware of the service themselves or, once they are aware, needing to devote their own resources to taking action.

This is important because of the low awareness of the service: in our survey of members, undertaken in late 2021, only 9% agreed with the statement 'I have used this service to check the payment practices of my larger customers or clients' (65% disagreed). However, once they had been informed about it through our survey, there was support for using it in future: 51% agreed with the statement 'I was not previously aware of this service but will now use it in future' (25% disagreed).

We feel that, if implemented, this investment in the impact of the data would not only spur changes to behaviour among the firms affected but also raise the profile of the service, so that other suppliers are more likely to look up the relevant information.

At present, although each company has to report twice-yearly, it is not particularly easy to identify best and worst performers for recent time periods on the government's own website, although third party organisations such as Good Business Pays have started to devote resources to doing so. Although it is possible for an individual to download a .csv file of the data, it is for different time periods and includes firms no longer trading, making it harder to obtain rankings of the best and worst performers or comparisons with the average.

**Question 3: Do you agree that it should be a requirement for a reporting business to include their payment practices and performance reports in their directors' report?**

Strongly agree.

Paragraphs 47 and 48 of the consultation document propose making it a legal requirement for qualifying businesses to include their payment practices and performance information in their directors' report and, for consolidated group accounts, where more than one business within a group is required to report their payment practices, these should all be included within the directors' report.

We agree with this recommendation, which we feel would raise awareness of the issue across larger organisations and their stakeholders, potentially sharpening the reputational incentive for change in a way that benefits our members. This is consistent with our response to the 2021 consultation on Restoring Trust in Audit and Corporate Governance, where we stated in relation to Public Interest Entities (PIEs): *We are fully in agreement with the proposal that PIEs should publish details of their supplier payment record over the previous year in their annual report, including at Group level. We also agree that that this disclosure should appear in the Strategic Review.*

**Question 3a: Do you agree that making it a requirement for a reporting business to include their payment practices and performance reports in their directors' report is a sufficient additional requirement for a reporting business?**

Agree.

Paragraph 49 of the consultation document raises the issue of whether 'further validation, for example from a business' audit committee in addition to inclusion in a directors' report'. We disagree with this suggestion which we think is overly prescriptive as to the role of an audit committee. An audit committee may choose to review information around payment practices, but ultimately company disclosures are the responsibility of the entire board. As a general principle, government regulation should not seek to be prescriptive about how the board utilises its committees to fulfil its responsibilities.

Instead, we think a stronger route for change is in the way that reported data is displayed by government, as outlined in our response to question 2, above.

**Question 4: Do you agree that the Regulations should be amended to clarify payment dates used for reporting when supply chain finance is used?**

Agree.

The important metric is how long it takes for the supplier to receive payment in full, regardless of whether the payment is received, via a third party or directly from the organisation that has received the goods or services in question. We therefore support the proposed amendment as laid out in paragraphs 50-54.

**Question 5: Do you agree that the Regulations should be amended to consider disputed invoices as a separate entity, to improve the accuracy and transparency of the reporting data?**

Agree.

We concur with the statement in paragraph 57 that the extent to which a reporting business has disputed invoices could be useful for a supplier to inform their decision making prior to contracting.

**Question 6: Do you agree that the Regulations should be amended so that payment practice and performance reports should include information on the standard retention payment terms in qualifying construction contracts?**

Agree.

It is relevant to construction companies to understand the standard retention payment terms of their clients, due to the impact it has on cashflow planning.

**Question 7: Do you agree that the Regulations should be amended so that payment practice and performance reports should include statistical information on retention payments?**

Neither agree nor disagree.

We have not explored this question in detail. While it is important that systemic withholding of retention payments is exposed, we would not want to create a situation where non-payment of a retention payment due to substandard work disadvantages the client. A potential solution could be to include non-payment of retention payments in the more general category of 'disputed invoices' under question 5 above.

Questions 8-10 are not applicable to us as a Business Representative Organisation.

We hope these comments are useful

Yours faithfully

Kitty Ussher  
Chief Economist