

Institute of Directors

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Submitted via [ONLINE FORM](#)

Dear Sir/Madam

Small Business Commissioner: invitation for views on the statutory review 2023

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 invitation for views on the [statutory review 2023 of the Small Business Commissioner \(SBC\)](#). Launched in 2017, the role of the SBC is primarily to support small businesses in payment disputes with their larger business customers, including advising on action to take if a payment is overdue. The SBC also has the ability to investigate individual complaints and make (non-binding) recommendations for resolution.

Summary of views

We believe the function and responsibilities of the SBC are important, not just to the small businesses who are chasing invoices for work done, but also to the wider economy. 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. We therefore support policy changes designed to improve payment terms. Moreover, 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.

For these reasons we support an expansion of the role of the SBC to include proactive powers of investigation, including into firms that may not be compliant with the 2017 regulations regarding reporting on payment practices and performance. We would also like to see the SBC's remit expanded

to include any payment dispute cases that originate from smaller businesses regardless of the size of the organisations with whom they have contracted. Our suggestions are outlined in response to the detailed questions below. Finally, we also believe there is a semantic problem with the name 'Small Business Commissioner' which is potentially misleading as to the scope of the role, and suggest it should instead be known as the 'Late Payments Ombudsman'.

Answers to individual consultation questions

1. How aware do you think businesses are of the role of the Small Business Commissioner? How aware would you say you are of the SBC's role as set out in this statutory review document?

We have not asked our membership this question, but our sense is that awareness of the role of the Small Business Commissioner is low among SMEs. We know, for example, that only around one in ten of our members are aware of the existence of public information around the payment practices of larger companies. As a professional representative organisation, the Institute of Directors is fully aware of the SBC's role.

2. Have you had any interactions with the SBC

a. Yes

3. If yes,

(i) how often?

b. occasionally (more than once a year)

(ii) Has your interaction with the Small Business Commissioner mainly been as a

b. stakeholder with an interest in SBC's activities

(iii) How satisfied are you with your dealings with the SBC?

a. Very satisfied

4. In your view, what impact, if any, has the SBC had on your business relationships (for example, with business suppliers or business customers), and/or business relationships between business suppliers and business customers in general.

Our engagement is as a stakeholder. Our impression is that for smaller business suppliers, the SBC provides a useful source of web-based information with an appropriate and engaging tone of voice, and that this has value to those businesses who seek out that information. We also are of the view that the approach that the current Commissioner has taken in raising awareness of the issue of late payments and the difficulties that smaller businesses face has been useful to stakeholders in the wider policy arena and helped to raise the quality of discussion as to the current and potential role for public policy in this area.

5. Do you think that resolving a complaint between business suppliers and business customers has become easier or harder since the establishment of the Small Business Commissioner? Why?

Easier. But that low awareness of the service, and understandable concerns on the part of smaller businesses to being labelled 'difficult' by their customers, means that the potential for impact in future would be greater if the role were strengthened.

6. What do you believe has been the impact of the SBC on payment issues?

It has been positive, through providing useful information to businesses affected by late payment, administering and promoting the Prompt Payment Code, raising awareness of the policy issues among stakeholders, and pursuing individual cases. The role now needs to be developed to build on these successes and raise its impact further.

7. In your view, is the role of the Small Business Commissioner sufficiently clear? How would you explain the role?

No, it is not sufficiently clear. There is a semantic issue with the phrase 'Small Business Commissioner' that implies a far broader role than it undertakes in practice. The reality of the current role, even with an extension of powers as proposed in our responses to this consultation, supports a job title of 'Late Payments Ombudsman'.

8. How effective do you consider the SBC has been in exercising the powers of the office:

a. running a complaint scheme.

Effective. It is clear from the website how to raise a complaint and the annual report states that 91% of complaints were resolved according to the timings set out in the SLA.

b. using powers to investigate a report from a small business that they are not being paid by a large business within the terms of their contract.

Effective. We have no reason to think this is not effective.

c. general advice to small businesses on payment issues.

Effective, demonstrated by the large number of website hits as outlined in the annual report, including the interest calculator.

d. drawing attention to the importance of prompt payment and taking steps to improve culture around payment practices.

Effective. The SBC is widely known in small business policy networks and fulfils the mandate of the role. However they would be more effective at improving payment culture within companies themselves if their powers were extended and also if the government took greater steps to put reputational pressure on organisations that were slower to pay, as outlined in the answer to question 9 below.

e. drawing attention to alternative dispute resolution options and approaches.

Effective. This is clearly signposted on the SBC website.

Please give your reasons: This question will allow us to gauge the broad sense of effectiveness in wide terms. Detailed analysis of effectiveness will be judged by responses to all questions.

9. What else could the SBC do to improve payment culture?

The SBC is currently constrained in its ability to improve payment culture by (a) its terms of reference and (b) the way in which the information received by government as a result of the Payment Practices and Reporting Regulations 2017 is presented.

Specifically, we would like to see:

1. The SBC being able to proactively contact organisations and conduct investigations, for example if they suspected the organisation was not compliant with the 2017 regulations around reporting of payment practices and performance, or if they had received other intelligence that suggested late payment practices.
2. The remit of the SBC extended to enable them to take up cases relating to late payment on the part of organisations of all sizes, not just larger organisations.

As outlined in our response to the parallel consultation around the operation of the 2017 Reporting on Payment Practices and Performance Regulations, the culture around payment practices would also be improved if:

3. The government produced ranked information of the performance of individual companies under each of the statistics that must be reported on by larger companies with the explicit aim of increasing reputational risk faced by organisations that have longer payment terms, or do not keep to the agreed terms.
4. Greater enforcement activity for non-compliance with the 2017 payment practice regulations.

10. The SBC receives fewer complaints than expected. What do you consider are the primary reasons why small businesses tend not to raise complaints with the SBC? Please indicate what you think is the most important reason, and also tick all other reasons that you think apply:

g. Other reason (please describe what this is). First – low awareness of the service. Second – it feels plausible that individual suppliers may not want to be thought of as ‘difficult’ by their clients and customers. This is another reason why government policy would be effective if it raised the possibility of reputational risk for companies that take longer to pay.

11. Would the introduction of broader powers for the Commissioner to investigate issues on their own initiative, or as a result of anonymous information, help address the late payment issues faced by small businesses? What else would encourage you or business in general to raise an issue with the SBC?

Yes. As outlined in the answer to question 9 above, we would support:

1. The SBC being able to proactively contact organisations and conduct investigations, for example if they suspected they were not compliant with the 2017 regulations around reporting of payment practices, or if they had received other intelligence around suggesting late payment practices.

2. The remit of the SBC being extended to enable them to take up cases relating to late payment on the part of organisations of all sizes, not just larger organisations.

12. Please provide any additional feedback on the scope of the SBC's powers, including the extent to which you consider it enables or restricts the SBC to fulfil the Commissioner's purpose

The powers are too narrow. The main changes we recommend are outlined in our answers to questions 9 and 11 above.

We also believe that the role of the SBC does not fit its name. Our recommended option is to adopt the changes outlined above and change the name of the current Commissioner to be 'Late Payments Ombudsman'.

We hope these comments are useful.

Yours faithfully

Kitty Ussher
Chief Economist