CREDIT CONTROL JOURNAL and ASSET & RISK REVIEW is published by House of Words Media Limited.

The current issue and full text archive of this journal is available at **https://www.creditcontrol.co.uk/**

Analysis

The Commercial Immorality of Late Payments

Nick Hood

Nick Hood
Senior Business Advisor
Opus Business Advisory Group

Biography

Nick Hood is the Senior Business Adviser at the Opus Business Advisory Group (https://www.opusllp.com), the largest independent advisory, restructuring and insolvency firm in the UK.

Nick was a licensed Insolvency Practitioner, working in the business rescue market for 25 years. He is a committed internationalist, having created the largest global network of independent business rescue firms and having also worked overseas in Canada, Milan and Bahrain.

In his earlier career and after qualifying as a Chartered Accountant in 1970, Nick held senior executive positions in major companies in the construction, engineering and media sectors, as well as working for a boutique investment bank.

Nick's thought leadership and opinion blogs for Opus can be found at https://opusllp.com/resources/.

Keywords Late payment, Supplier, Supply chain, SMEs, Credit control, Cash flow, Prompt Payment Code, Fair Payment Code

Paper type Reference

Abstract

The UK commercial world is plagued by endemic late payment of bills owed to suppliers, most often delays imposed by large businesses on smaller ones. The outcome for the unpaid supplier is at best uncertainty, and at worst, a cash flow crisis that could push it unnecessarily into insolvency. The practice dates back decades and seems to resist all attempts to curb this abuse of power within commercial relationships. In this article, the author looks at disturbing data on the scale of the problem and reviews the many attempts to stop, or at least reduce, the phenomenon – all of them unsuccessful so far.

Introduction – the hard facts

Research in August 2024 by accounting software specialists, FreeAgent into ever-continuing late payment practices found that late payments in the UK had increased by 49% in the past year[1].

Another software business, Xero had published data[2] in July 2024 showing that late payments had risen in Q2 2024 by 4% in just three months and are at the highest level since pre-pandemic. More Xero research[3] early in 2024 had revealed that

CREDIT CONTROL JOURNAL and ASSET & RISK REVIEW is published by House of Words Media Limited.

The current issue and full text archive of this journal is available at **https://www.creditcontrol.co.uk/**

delayed payments cost small businesses £1.6 billion in 2023, double the impact seen in 2021.

Also in August 2024, receivables software experts, Upflow issued research findings[4] suggesting that well over half (57%) of outstanding B2B invoices are overdue and that a third (33%) were taking more than 90 days to be settled.

The long battle to end late payments

This deluge of depressing data keeps coming despite a long running, concerted but largely unsuccessful campaign against late payments, which are universally accepted to be a financial burden mainly imposed arbitrarily by large businesses on the SME community. However, it is also a feature among SMEs as their own cash flow issues force them to pass this unwarranted pain down the food chain until it eventually reaches micro businesses and the self-employed, who are the least able to withstand the financial pressure it causes.

A full quarter of a century ago in 1998, the Late Payments & Commercial Debt (Interest) Act was brought into law, a measure meant to deal a death blow to the late payment practices which had plagued the UK economy for decades. Unfortunately, this pernicious behaviour still kills more businesses than any other single factor, excepting only bad management.

It is also now over 15 years since the Prompt Payment Code (PPC) was introduced to the UK in 2008 as a voluntary code of practice, administered by the Office of the Small Business Commissioner.

CREDIT CONTROL JOURNAL and ASSET & RISK REVIEW is published by House of Words Media Limited.

The current issue and full text archive of this journal is available at **https://www.creditcontrol.co.uk/**

Naming and shaming persistent late payers

In October 2023, the previous government finally started to take action on naming and shaming late payers. The Department for Business and Trade announced a series of proposals[5] aimed at lifting the lid on businesses with a poor payments policy.

It then published a more detailed review paper[6] a month later. The focus of these actions was to improve transparency and to make the worst late payers more visible through mandatory public disclosure of their payment practices.

Latest government announcements

The new Labour administration came into power in July 2024 with an election manifesto commitment to “stamp down” on late payments to small businesses. In September 2024, it announced a fresh “crackdown” on late payment, with measures including broader reporting rules, a Fair Payment Code and consultation on “tough new laws”.

While large companies are already obliged to report on their pay performance, the government has said new legislation “introduced in the coming weeks” will force companies to detail their payment practices in annual reports. This revives plans announced by the previous government in November last year.

It said the measure would “put the onus on [companies] to provide clarity […] about how they treat small firms”, adding that “company boards and international investors will be able to see how firms are operating”.

The government also vowed to use existing laws to “step up” enforcement of large companies not complying with their pay performance obligations – threatening them with “potentially unlimited fines and criminal records”.

Additionally, it has unveiled a new Fair Payment Code[7], which will replace the Prompt Payment Code. This is due to be launched in autumn and will be overseen by the current Small Business Commissioner, Liz Barclay. The new code will be voluntary like its predecessor. It will rank its signatories gold, silver or bronze based on their performance.

"The new code will reward businesses that treat their suppliers fairly and pay them quickly," Barclay said. "It will also include an ambitious new gold award which aims to make 30-day payments the new standard for which businesses can aim."

Finally, the government has said it will launch a consultation "in coming months" considering "tough new laws which will hold larger firms to account". The government said a "range of further policy measures" will be considered but has not said what they will be.

As always, the devil will be in the detail of the relevant legislation and then in its interpretation by the Courts as and when it is challenged. Its success is by no means assured in the face on the entrenched late payment culture in the UK.

What late payment does to its victims

- **Financial burden** – The Xero research highlights the additional interest cost of £1.6 billion[3] borne by SMEs because of late payments. This affects not just their profitability and viability, but their ability to invest and grow their businesses.

- **Management distraction** – Xero reported that on average the heads of SMEs were spending 10% of their day chasing unpaid invoices, while 20% of their respondents also complained that this caused a backlog of work. This is particularly damaging for businesses with finite and restricted management resources.

- **Reduced productivity** – 37% of the Xero respondents say that late payments impact their business's productivity, a problem they can well do without at a time when the UK economy is wallowing in a slow growth, no growth cycle and the pressure is on to boost output.

- **Wellbeing and stress** – Xero data shows that 52% of British business owners are concerned about overdue debts and worry about their cash flow as a result. Unrecognized mental health issues are common across the economy, with cash flow issues and their potential consequences among the most prevalent causes.

What actions can businesses take to ward off late payments?

The Law Society recently published a simple guide[8] for business owners and managers setting out ideas for minimizing late payments. The suggestions include:

- Know your customers and keep updating due diligence held on them.

- Be clear about payment terms at the outset and enforce them as a matter of routine, not exception.

- Don't accept cheques as payment.

- Invest in credit control resources and systems.

CREDIT CONTROL JOURNAL and ASSET & RISK REVIEW is published by House of Words Media Limited.

The current issue and full text archive of this journal is available at **https://www.creditcontrol.co.uk/**

- Don't delay in chasing a late payment – start the first day the debt is overdue.
- Claim interest on overdue amounts and make this policy clear from the outset.
- Be flexible over large amounts due when necessary.

There will be other measures dictated by the circumstances of each individual business, which supplement these broad principles.

Why do we put up with late payment?

Late payment is immoral and unacceptable: it represents unauthorized use of a supplier's borrowing facilities and cash flow. The interest received or interest saved by the late payer has been stolen from the supplier. To the extent that it's discretionary on a 'won't pay yet' rather than a 'can't pay yet' basis, it's commercial blackmail and an abuse of power within a commercial relationship.

It's also dangerous to the integrity of supply chains. These are already fragile enough after the pandemic, the Ukraine war and the Middle East crisis, without debtors gratuitously forcing suppliers to the brink of and even over the financial cliff edge by delaying payments. It's no wonder that corporate insolvencies are at an all-time high, with late payment persisting as a pernicious practice across the UK business world.

Reference

1 FreeAgent (25 September 2024) 'Where are the best (and worst) areas for getting paid on time?' Available at: https://www.freeagent.com/blog/best-areas-for-getting-paid/

2 Xero (25 July 2024) 'Small businesses suffer longest late payments times since pandemic'. Available at: https://www.xero.com/uk/media-releases/uk-xsbi-data-apr-jun-2024/

3 Xero (6 March 2024) 'UK small businesses faced slower wage growth, late payments and soft festive sales period'. Available at: https://www.xero.com/uk/media-releases/uk-small-business-insights-to-december/

4 Upflow (12 July 2024) *Report: The State of B2B Payments in 2024.* Available at: https://upflow.io/blog/business-to-business-payments/b2b-payment-insights

5 Department for Business and Trade (2 October 2023) 'Government takes action to back small businesses and tackle late payments'. Available at: https://www.gov.uk/government/news/government-takes-action-to-back-small-businesses-and-tackle-late-payments

6 Department for Business and Trade (22 November 2023) *Prompt payment and cash flow review.* Available at: https://www.gov.uk/government/publications/publication-of-the-prompt-payment-and-cash-flow-review

7 Small Business Commissioner (2024) New Fair Payment Code. Available at: https://www.smallbusinesscommissioner.gov.uk/new-fair-payment-code/

8 Dinsmore, S. (14 September 2023) 'Nine tips for tackling late payment'. The Law Society. Available at: https://www.lawsociety.org.uk/topics/small-firms/nine-tips-for-tackling-late-payments)