

Consultation: Amendments to the Payment Practices and Performance Regulations 2017

A public consultation issued by Department for Business and Trade

Comments from ACCA to The Department for Business and Trade

28 April 2023

About ACCA:

ACCA (the Association of Chartered Certified Accountants) is the global professional body for professional accountants.

ACCA has a thriving community across the UK including 97,000 members and 67,000 future members, who work across a wide range of sectors, regions and business sizes. Our framework includes qualifications ranging from Levels 2 to 7. Through this we strive to uphold the highest professional and ethical values.

We offer everyone everywhere the opportunity to experience a rewarding career in accountancy, finance and management. Our qualifications and learning opportunities develop strategic business leaders, forward-thinking professionals with the financial, business and digital expertise essential for the creation of sustainable organisations and flourishing societies.

Since 1904, being a force for public good has been embedded in our purpose. We believe that accountancy is a cornerstone profession of society and is vital in helping economies, organisations and individuals to grow and prosper. It does this by creating robust trusted financial and business management, combating corruption, ensuring organisations are managed ethically, driving sustainability, and providing rewarding career opportunities.

And through our cutting-edge research, we lead the profession by answering today's questions and preparing for the future. We're a not-for-profit organisation. Find out more at accaglobal.com

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Late Payment Consultation

ACCA response summary:

- As a professional body with a public interest remit, ACCA trains, develops and regulates accountants, setting out the highest standards we expect from those working in finance and accountancy. Our members work across all sectors, public and private, from micro businesses to large firms and are trusted advisors to businesses in the UK, giving them unique insight into business and economic conditions.
- Accordingly, ACCA takes a strong interest in business payment practices in the UK. We regularly engage with our members on the specific topic of late payment, through discussions, surveys and webinars, as well as regular roundtables with successive Small Business Commissioners, including a series of engagements in 2022, at which our members were able to share feedback with the Commissioner.
- Based on the insight from our members over the last two decades, we believe that late payment is a persistent problem in the UK. Poor payment practices have a domino effect throughout supply chains, with severe consequences for cashflow and the survival of SMEs.
- We have therefore supported actions to tackle late payment in recent years, including the introduction of reporting requirements, the Prompt Payment Code, as well as the establishment of the Small Business Commissioner.
- We agree that improving poor payment practices in the UK requires change on a number of fronts, including changes in culture, improving awareness and enabling scrutiny, as well as effective regulation over a sufficient time period and, where required, legislative change. We recognise that this will take time and, given the particular challenges reaching small businesses, it is probably too early for the full effect of some measures to be felt.
- Our view, as well as analysis by a wide range of organisations such as insolvency bodies, suggests that late payment is still a problem in the UK. Indeed, as we seek to pull on every lever to create the best economic environment to enable the economy to flourish, we believe there is a merit in strengthening certain aspects of the late payment landscape, such as the inclusion of payment performance in supply chain reporting, maximising the information available to small firms, and enhancing the role of the Small Business Commissioner.

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

Yes / No / Don't know

Please explain your answer / provide evidence

Late payment is persistent problem in the UK hindering cashflow throughout supply chains, ultimately leading to devastating consequences for SMEs. While progress has been made through introduction of these regulations, change takes time to embed. Removing the regulations too early could see a return to poor practice.

ACCA members noted that late payment from large corporate companies has the biggest and most detrimental impact on the stability of small businesses. Late payment from large businesses creates a 'domino effect' throughout the supply chain, in turn prohibiting smaller business from being able to make their own payments to others on time. In recent roundtables, with the Small Business Commissioner and MPs, members endorsed the framework and expressed support for it continuing as late payment continues to be an issue, particularly for small businesses.

We believe that legislation is an important component of tackling poor payment and it is important to retain, and strengthen – not weaken – the regulatory approach, alongside other measures such as education and awareness raising around the impact of late payments.

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 / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

On balance we are persuaded that this would be in line with best practice.

ACCA believes there are seven characteristics of good corporate reporting¹:

- relevance and materiality,
- completeness,
- reliability,
- comparability,
- verifiability;
- timeliness;
- understandability.

¹ <https://www.accaglobal.com/gb/en/professional-insights/global-profession/Tenets-of-good-corporate-reporting.html>

Completeness and comparability would be served by reporting both volume of transactions and total value. We believe that reporting one or the other has a similar potential to distort both behaviour and reporting.

We are in favour of the broadest possible transparency around payment practices. We recognise that government's previous decision was taken to avoid disproportionate requirements and providing an overdue burden and we recognise the need to avoid any unnecessary increase in reporting requirements. However, with increasing digitisation, especially in larger firms, comes ease of access for additional data analysis. With that in mind, we do not believe this presents an undue burden to report both volume and value.

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 / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

Whilst we are in favour of the broadest possible transparency around payment practices, this must be balanced against the ease with which the reforms can be implemented, and the additional complexity introduced by any enhanced requirements.

In our response to the BEIS Consultation on 'Restoring trust in audit and corporate governance'², we supported the proposal to require the annual report of Public Interest Entities to include a summary of supplier payment performance in the Strategic Report. We believe a requirement to include payment practices and performance reports in the directors' report will both support compliance with the regulations and reinforce the director's responsibility to promote the success of the company for the benefit of its members.

We also suggest including a statement on whether the business is a signatory, or not, to the Prompt Payment Code³.

² <https://www.accaglobal.com/gb/en/technical-activities/technical-resources-search/2021/july/BEIS-consultation-response-restoring-trust-in-audit-corporate-governance.html>

³ <https://www.accaglobal.com/an/en/technical-activities/technical-resources-search/2020/october/reform-prompt-payment-code.html>

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?

Strongly agree / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

Whilst we are in favour of the broadest possible transparency around payment practices, this must be balanced against the ease with which the reforms can be implemented, and the additional complexity introduced by any enhanced requirements. The critical factor will be to ensure that small businesses can access data in a consistent, accessible way. We believe this additional requirement in addition to the existing regulations can support the normalisation of proper payment practices.

ACCA believes there are seven characteristics of good corporate reporting⁴:

- relevance and materiality,
- completeness,
- reliability,
- comparability,
- verifiability;
- timeliness;
- understandability.

We believe that adding this requirement to an existing known commodity, in the directors' report, is preferable to the creation of another discrete form of reporting.

However, we are keen to explore how we maximise the ability of small businesses to scrutinise the payment performance of potential customers through the availability of consistent, accessible information.

Our members suggested a range of additional options to enhance and streamline reporting, such as alignment with corporate governance guidance, including requirements issued by the FRC (and the planned new body ARGA). Further, ongoing reform to corporate governance and audit, combined with increasing requirements for sustainability reporting, means much greater importance is now being given to oversight of the supply chain. There is an opportunity to dovetail action on late payment as part of this reform, for example, the inclusion of best practice on late payment in future guidance to audit committees.

We also know that Companies House data on registered entities is a key source of information, so ensuring payment performance reporting can be accessed there would further support small business scrutiny.

⁴ <https://www.accaglobal.com/gb/en/professional-insights/global-profession/Tenets-of-good-corporate-reporting.html>

Overall, the key should be to establish good practice on data collection and sharing across government and its agencies, to improve the availability of information.

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

Strongly agree / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

ACCA supports the amendment of the Regulations - alignment of the dates across legislation and guidance will provide clarity, reduce confusion and improve transparency.

Reporting should avoid any 'masking' of true payment practices that may arise through the use of intermediaries, including through supply chain finance. The key reporting point is the time from invoice to final settling of the debt incurred – whether or not this final payment is to an intermediary.

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?

Strongly agree / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

Yes, though we recognise the difficulties around how to categorise disputed/mismatched invoices. Nevertheless consistent feedback from small firms suggests that the stretching of payment terms through vexatious disputing of invoices is one of the core aspects of bad payment practice. Better data that segments disputed invoices, for example, administrative errors, disputes about quality of work etc, might help us build up picture of extent of the problem.

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?

Strongly agree / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

ACCA has limited feedback on this specific issue. However, the feedback we do have tends to support the proposal.

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?

Strongly agree / agree / neither agree nor disagree / disagree / strongly disagree / don't know

Please explain your answer / provide evidence

ACCA has limited feedback on this specific issue. However, the feedback we do have tends to support the proposal.

Question 8: How many hours does your business spend and which staff are required (please give an indication of hours by level of seniority) in order to comply with the Reporting on Payment Practices and Performance Regulations 2017?

Please explain your answer / provide evidence

Whilst we recognise the importance of minimising the reporting burden on firms, and strongly support an approach which seeks to align various reporting requirements, we believe that any resultant increase in reporting requirements suggested here feels manageable and proportionate. While this will of course vary from firm to firm, some feedback from members has suggested that as much of this is automated, it may be equivalent to 1 FTE spending a couple of hours a month on production of information.

As set out above, firms are increasingly focusing on supply chain integrity, including capture of data for analysis and reporting.

We have also highlighted, however, that while digital innovation enables ever-faster and easier data analysis, this space is fast changing, so the specifications of reporting requirements in the regulations may need more frequent review.

Lastly, we note the importance of the format of the data required, which should be structured in such a way as to be open and transparent and compatible with digital methods of data analysis such as Opensource or compatible with application programming interface (API).

Question 9: What does this cost your business in terms of pay for each level of seniority?

Please explain your answer / provide evidence

We have asked our members for information on this matter and have varied responses, meaning we are not able to provide any specific costs. ACCA would be happy to work with the Department on roundtables of our members to consider costs involved.

Question 10: What (if any) additional costs did your business incur (beyond staff pay) in complying with the Reporting on Payment Practices and Performance Regulations 2017?

Please explain your answer / provide evidence

As set out above, firms are increasingly focusing on supply chain integrity, including routine capture of data for analysis and reporting, so we are keen to align reporting requirements wherever possible.

We have also highlighted, however, that while digital innovation enables ever-faster and easier data analysis, this space is fast changing, so the specifications of reporting requirements in the regulations may need more frequent review.

We are mindful of the need to avoid any unnecessary administrative burden for larger firms. However, we believe the overarching burden falls on smaller businesses. The government should consider the time taken by large numbers of small businesses chasing payments and the inevitable impact on productivity and business growth.