



# Late Payment

## Background

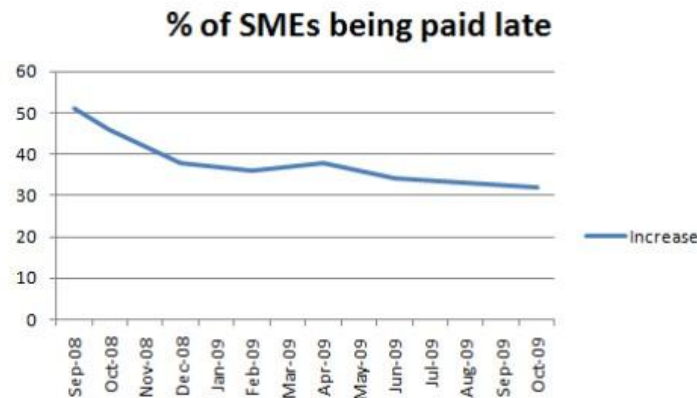
Late payments have become an ever increasing problem for small businesses in the UK. A recent survey<sup>1</sup> suggested that there is £18.6 billion in outstanding payments to the SME sector. The research also showed that almost a fifth of SMEs (19 per cent) now employ a dedicated person to chase late payments and that the average figure owed is £30,000.

Late payment has come to represent standard business practice, but it is wrong and it has to end. Late payment costs jobs.

## The UK Situation and the Late Payment Directive

The FSB welcomes moves by government, local government and the Opposition to ensure payments by public bodies are made within 10 – 20 days. However, the Government can go further.

At the European level the Late Payment Directive sets out to ensure payments by public bodies are made within 30 days. The Directive is currently undergoing Parliamentary scrutiny in the UK. The Government will be undertaking an impact assessment and will engage with business organisations via a working group. The Government is promoting its prompt payment initiative within Brussels and has put a challenge to the Commission to seek to pay its invoices within 10 days.



Over half of small businesses were experiencing late payment last year; this has slowly eased although a third are still being paid late.<sup>2</sup>

## Late Payment and the Financial Crisis

During the financial crisis late payments are leading to business closures and job losses. 36 per cent of small businesses said that they were being paid later in March 2009 than in January 2009 by private sector companies.<sup>3</sup>

The EU says that one in four businesses goes bust due to late payments, and throughout the EU 45,000 jobs are lost due to late invoice payments.<sup>4</sup>

<sup>1</sup> <http://www.bytestart.co.uk/content/statistics/late-payment-2008.shtml>

<sup>2</sup> The FSB polled thousands of its members over the duration of the economic downturn. This graph tracks small businesses' experiences of trade, late payment and access to credit between September 2008 and August 2009

<sup>3</sup> <http://www.fsb.org.uk/News.aspx?loc=pressroom&rec=5006>

<sup>4</sup> [http://ec.europa.eu/news/business/090409\\_1\\_en.htm](http://ec.europa.eu/news/business/090409_1_en.htm)



## **An Example of Good Practice**

The State of California has a simple Act<sup>5</sup> for small businesses that supply Government agencies. They have legislated that all contracts must be paid within the contract period, or within 45 days. This provides all small businesses the comfort of knowing when payment will come, and helps them plan cash-flow management. While this legislation concentrates on business to public sector contracts, it provides clear guidance on days, charges and mediator.

## **Proposals**

- Fully enact the Companies Act of 1985
- Double the resources being directed to Companies House to fulfil its duties
- Introduce a payment league table
- Publicly name, shame and fine companies renegeing on the payment terms registered with Companies House
- Introduce a "social clause" into the Late Payment Directive

At present a larger problem for small businesses is actually late payment from one business to another. Very few small businesses currently work with public authorities so are not really affected by the Late Payment Directive or the measures taken in the UK, the main issue currently for many small businesses is business to business payment, something that the Late Payment Directive does not tackle due to the Commissions lack of competency in this area. Many small businesses would however like to work directly with public bodies but are put off or prevented from doing so due to current public sector procurement procedures; this is something that the FSB is working to change.

The FSB would like to see the European Commission introduce a payment league table that charts how long it takes every European Commission department to pay suppliers.

Ever since the Companies Act 1985, Public Companies have been obliged to submit their payment terms to Companies House. However, this has not been fully enforced and Companies House lacks the resources to fulfil its role. Companies House should be given the resources to properly carry out its duties in the Companies Act 1985 so it can punish and fine companies that do not submit payment policies every year.

While the Commission does not have the power to intervene in the contractual relationship between one business and another, they could introduce a "social clause" into the current Late Payment Directive.

Many small businesses are taken on as sub contractors by larger businesses, often this will be to assist the larger business fulfil a contract they have with a public sector body. This is particularly common in the construction sector. The Late Payment Directive will stipulate that the public body must pay the larger company with whom it has a contract within 30 days, there is however no similar obligation on the larger company to pay his sub contractors as quickly.

The FSB would like the Late Payment Directive to include a "social clause". This clause would stipulate that if a larger business is paid within 30 days by a public body, that they are equally obliged to pay their sub contractors within 30 days of them receiving payment from the public body. If they fail to do this then they should fall foul of the Late Payment Directive and should be financially penalised. The FSB would also like to see tougher action taken against businesses and public bodies that pay late. The FSB is calling on the Government to publicly name, shame and fine companies renegeing on the payment terms registered with Companies House.

**For further information contact:** Sietske de Groot  
[Sietske.degroot@fsb.org.uk](mailto:Sietske.degroot@fsb.org.uk)

---

<sup>5</sup> <http://www.pd.dgs.ca.gov/promptpay/AQPPA.htm>