



LATE PAYMENTS: TACKLING POOR PAYMENT PRACTICES

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ICAEW welcomes the opportunity to comment on the Late Payments: Tackling Poor Payment Practices published by Department for Business & Trade on 30 July 2025, a copy of which is available from this [link](#).

ICAEW welcomes the government's commitment to tackling poor payment practices and improving payment culture across UK businesses. Late payments continue to undermine SME resilience and hinder economic growth. To ensure that proposed reforms deliver meaningful change, ICAEW recommends the following:

1. **Target systemic risk and entrenched poor practices** by focusing on systemic entities whose payment delays create widespread financial strain across supply chains.
2. **Strengthen enforcement mechanisms** by introducing proportionate financial penalties for persistent late payers and expanding the powers and resourcing of the Small Business Commissioner to ensure effective oversight and intervention.
3. **Preserve transparency and accessibility** by maintaining a standalone reporting mechanism for payment performance data, even if reporting frequency is reduced. Payment disclosures should remain distinct from annual reports to avoid dilution of purpose and delays in data availability.
4. **Avoid conflating late payments with long contractual terms**, recognising that extended terms may be commercially appropriate when transparently negotiated and mutually agreed. The focus should remain on unjustified delays and poor payment discipline.
5. **Ensure proportionality and avoid overregulation**, particularly for businesses that already comply with fair payment principles. Reforms should be designed to support compliance without imposing undue administrative burdens.
6. **Promote cultural change** by addressing sector-specific norms and incentivising behavioural shifts through reputational, financial, and regulatory levers.
7. **Consult stakeholders on the merits of introducing simple assurance requirements on retention payments** in construction, to safeguard subcontractors and improve financial discipline across the supply chain.
8. **Support digital transformation** by encouraging wider adoption of e-invoicing and other technologies that streamline payment processes, reduce disputes, and enhance transparency.
9. **Expand the scope of reform** to address SME-to-SME payment challenges and practices in online marketplaces that impose extended terms without assuming risk.

ICAEW

Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK
T +44 (0)1908 248 250 F +44 (0)20 7920 0547 [icaew.com](https://www.icaew.com)

The Institute of Chartered Accountants in England and Wales (ICAEW) incorporated by Royal Charter (RC000246)
Registered office: Chartered Accountants' Hall Moorgate Place London EC2R 6EA UK

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KEY POINTS

1. ICAEW strongly supports the overarching goal of improving payment practices, recognising that late payments are often an early warning sign of economic stress and disproportionately impact small businesses and the self-employed. When cash flow is constrained, SMEs face heightened insolvency risk, reduced investment capacity, and increased administrative burden chasing overdue invoices, time that could otherwise be spent growing their businesses.
2. We agree that proportionate action to encourage prompt payment can help move towards the ambition of making the UK the best place in the world to start, run, and grow a business. Prompt payment is both a matter of fairness but also a driver of economic resilience and trust across supply chains.
3. However, to move the dial on payment practices the measures need to be focused. There are hundreds of millions¹ of business-to-business transactions in the UK each year, the number of individual payments made past the contractual due date is therefore high. Government needs to better define and prioritise the problems it is seeking to solve.
4. We believe the emphasis should be on managing credit risk. Long contractual payment terms, when mutually agreed and entered into with a clear understanding of the relationship, are not inherently problematic. In such cases, both parties are making informed decisions based on trust and commercial alignment.
5. The real concern arises when large businesses facing liquidity pressures delay payments beyond agreed terms due to an inability to pay. While some level of corporate failure is inevitable in a market economy, and mechanisms like credit ratings and insurance exist to manage this risk, it becomes more serious when poor payment practices become systemic. This is particularly concerning when a single large entity relies heavily on trade credit across a wide supplier base, or when late payment becomes entrenched within a sector.
6. A relevant parallel is the Post Office scandal. Although it did not involve late payment of supplier invoices, it highlights the risks of power imbalance between dominant institutions and smaller suppliers. It demonstrates the need for an effective intermediary such as the Small Business Commissioner to act as a 'trip switch', consolidating individual concerns and raising them before they escalate into a crisis. We believe this is where government intervention could be most impactful.

Our members highlighted several key points:

- **Fair Payment Code Alignment:** Many businesses that subscribe to the Fair Payment Code already implement several of the measures proposed in this consultation, demonstrating that some of these measures are achievable and practical. This suggests that the challenge lies less in defining good practice and more in ensuring widespread adoption and enforcement.
- **Transparency Alone Is Insufficient:** While reporting and disclosure can improve visibility, they do not guarantee behavioural change. Persistent late payers are unlikely to alter practices without meaningful consequences whether reputational, financial, or regulatory.
- **Cultural Change Is Critical:** Late payment is often embedded in commercial norms, particularly in sectors where extended terms are used strategically. Reform must address these cultural factors alongside legal requirements, noting that it is important to focus on particular examples of egregious and problematic culture.
- **Avoid Overregulation:** Measures should be proportionate and avoid creating unnecessary burdens for businesses that already comply with fair payment principles. Overregulation risks discouraging investment and innovation, particularly in sectors with complex supply chains. Trying to tackle each and every contractually late payment may be an unrealistic goal.

¹ [2508.17695] Revisiting Hötte (2025): A Companion Analysis with Extended Evidence from UK Inter-Industry Payment Data, 2017-2024

- **Distinguish Late vs. Long Payments:** It is important not to conflate late payments with long payment terms. Longer terms can be appropriate when negotiated transparently and supported by trust between parties. They may be essential to UK competitiveness in global supply chains. The focus should remain on preventing unjustified delays and poor payment discipline.

7. ICAEW believes that promoting prompt payment is just as important as tackling late payment. Both objectives are essential to building a responsible payment culture that supports SMEs and strengthens the UK's economic competitiveness.

RETENTION PAYMENTS - A REGULATED ASSURANCE SCHEME

8. Retention payments are a longstanding feature of the construction sector, intended to ensure that subcontracted work is completed to a particular standard. Retention sums in construction are often left unsecured for months or years, exposing subcontractors to loss if the holding firm becomes insolvent. To strengthen confidence and reduce disputes, another option which the government might consider is performing outreach with relevant stakeholders about developing a simple reporting and assurance scheme for retention payments.

9. Such a scheme could give a nominated sector oversight body a consistent flow of verified financial data, enabling it to assess risk, ensure adequate protection, and intervene early where concerns arise. Such a system would not interfere with well-established industry practice, but could enable some form of assurance (or Agreed Upon Procedures) to protect small contractors' money, stabilise cash flow through the supply chain, and bring a similar kind of financial discipline to construction that the Civil Aviation Authority's (CAA) Air Travel Organisers' Licensing (ATOL) scheme has long provided in travel.

ANSWERS TO SPECIFIC QUESTIONS

Question 4: If you are responding on behalf of a representative body, make it clear who the organisation represents and, where applicable, how the members' views were assembled

10. ICAEW represents over 210,000 members and students across the accountancy profession.

For this submission, we gathered a wide range of member views through several channels. This included input from our National Technical Advisory Board, and Business Committee as well as members from sector-specific communities such as travel and tourism, retail, construction, and manufacturing. We also consulted our technical committees, including those focused on non-financial reporting and Corporate Governance, to ensure the submission reflects both broad and specialist perspectives.

MEASURE 1 – AUDIT COMMITTEES AND BOARD-LEVEL SCRUTINY OF LARGE COMPANY PAYMENT PRACTICES

Question 9a: To what extent do you agree that Audit Committees, where companies have them, should provide commentary and make recommendations to company directors before data is submitted to government and included in directors reports?

[Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree].

11. We somewhat disagree. While we recognise the importance of board-level visibility and oversight of payment practices, we do not believe that mandating Audit Committees to provide commentary and recommendations is the most appropriate mechanism. Audit Committees have a defined remit focused on internal controls, corporate reporting, and audit oversight. Expanding their role to operational matters such as supplier payments risks diluting their core responsibilities and creating ambiguity around accountability.
12. Some members acknowledged the potential benefits of additional oversight, but others questioned the relevance of involving Audit Committees in this area. We therefore do not support a blanket requirement. Instead, if the Board considers payment practices to be a material risk, it should ensure appropriate governance and scrutiny is in place whether through the Audit Committee or another function with direct oversight of supplier relationships.
13. It is also essential to maintain clarity on roles and responsibilities. Responsibility for disclosures must remain with the company, as this is a legal requirement. Auditors provide assurance but should not be tasked with producing the content. This principle underpins audit integrity and company accountability.
14. We note the government's intention to legislate on Audit Committees' role in improving payment practices. However, we question whether this is the most effective route. If commentary is required, it may be more appropriate for a governance or compliance function with direct oversight of supplier relationships and the ability to influence day-to-day payment performance.
15. Finally, we support efforts to streamline corporate reporting and avoid unnecessary duplication. Any new obligations must be coherent and proportionate, ensuring they demonstrably add value without increasing complexity.

Question 9b: To what extent do you agree that the Small Business Commissioner should write to audit committees and company board, where companies have them, when undertaking payment performance reporting assurance and when investigating any other matter relating to a companies' payment practices? [Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

16. We somewhat agree. Our members have consistently noted that for any intervention to be effective, it must carry real impact, whether through reputational consequences, financial penalties, or regulatory pressure. Without a clear cost to non-compliance, companies are unlikely to change internal policies or practices. This is particularly true in large organisations where payment practices may be deeply embedded and resistant to change unless they affect profit, cash flow, or public perception.
17. If the SBC is expected to engage with persistent late payers, this will require significant resourcing. As acknowledged in the consultation, the scale of the issue is substantial, particularly in sectors where late payment is systemic. Without adequate capacity and authority, the Commissioner and team may struggle to intervene effectively or consistently.

Engagement with boards and Audit Committees must be backed by an enforcement mechanism and sufficient operational support.

18. In summary, while we support the principle of enhancing governance oversight of payment practices, we believe that the proposed engagement model for the SBC requires further development to ensure it is both impactful and sustainable. Any new responsibilities must be matched with the necessary resources and authority to deliver meaningful change.

Question 9c: Are there any potential unintended consequences or considerations that could happen if this measure was introduced? [Yes / No]

19. Yes

Question 9d: Explain the reasons for your answer to question 9c.

20. There are several unintended consequences and considerations that should be taken into account if this measure is introduced.
21. In many large companies, extended payment terms such as 60 to 90 days are not operational anomalies but board-approved policies. Simply writing to boards or involving audit committees may have limited impact if these practices are already strategically embedded. Without a mechanism to challenge or override such policies, the measure may not yield meaningful change.
22. There is also a risk that existing reporting frameworks could produce misleading data. For example, the Prompt Payment Code relies on invoice counts, which can be easily skewed. A company may pay a large volume of small invoices promptly while delaying payment on larger, more critical invoices. This creates a statistical illusion of compliance while masking poor practices that disproportionately affect suppliers.
23. Related to the above there is a risk that top-level reporting fails to capture the real challenges faced by SMEs. Large firms may classify late payments as immaterial, masking the severe impact on smaller suppliers who often face the greatest cashflow issues.

“Even if there’s a standard way of measuring payment practices, it might not reflect the real impact on suppliers especially those at the top tier who feel the most pain.” – Anonymous ICAEW Member

24. Oversight inconsistency is another concern. Not all companies in scope will have Audit Committees. If the measure is not carefully drafted, this could leave gaps in oversight and accountability allowing some companies to fall outside the scope of engagement. This would undermine the effectiveness of the policy and create uneven accountability across the market.
25. Taken together, these considerations suggest that while the measure may be well-intentioned, its design and implementation must be carefully calibrated to avoid unintended consequences and ensure that it delivers real improvements in payment practices.

MEASURE 2 – MAXIMUM PAYMENT TERMS

Question 10a: To what extent do you agree that limiting UK payment terms to 60 days at a maximum will be effective in addressing the stated problem of long payment times? [Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

26. Neither agree nor disagree

Question 10b: Explain the reasons for your answer to question 10a.

27. We recognise the potential benefits of a 60-day maximum payment term, particularly in addressing the negotiating imbalance between large companies and smaller suppliers. Many SMEs feel compelled to accept extended terms sometimes up to 120 or even 180 days simply to secure contracts with large firms. A clear legal limit could help rebalance this dynamic and improve cash flow for smaller suppliers.

“This gives suppliers some power, but only if they choose to enforce it. No one’s going to monitor payment terms from the outside if the government isn’t going to penalise slow payers.” – Anonymous ICAEW Member

28. However, the issue is complex and sector-specific. In some industries, longer terms are standard and mutually agreed without being “grossly unfair.” Removing the ability to negotiate beyond 60 days could reduce commercial flexibility in cases where both parties are willing and able to accommodate longer terms.

29. We therefore neither fully agree nor disagree with the proposal. While we support measures that promote prompt payment and fair treatment of suppliers, any cap must be designed to reflect sectoral differences and avoid unintended consequences. Enforcement will also be critical without meaningful consequences for non-compliance; the measure may have limited impact.

Question 10c: Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[Yes / No]

30. Yes

Question 10d: Explain the reasons for your answer to question 10c

31. There are several important considerations and potential unintended consequences that should be taken into account when introducing a maximum payment term:

- **Negotiation power imbalance:** SMEs often have little choice but to accept long payment terms from large businesses. A cap could help address this, but only if it is enforceable and backed by meaningful consequences for non-compliance.
- **International trade implications:** Businesses operating across multiple markets may face conflicting payment regimes. A UK-only cap could create cash flow challenges when trading with partners in jurisdictions with longer terms, such as the US or EU.
- **Conflation of long and late payments:** There is a risk of conflating contractually agreed long terms with poor payment discipline. Not all long terms are inherently harmful, and some are negotiated in good faith to suit both parties.
- **Behavioural drift toward the maximum:** Introducing a 60-day cap could unintentionally encourage businesses that currently pay faster to extend their terms to the maximum allowed, reducing overall payment speed.
- **Sector-specific realities:** Certain industries, such as media, construction, and retail, operate with complex supply chains and financing arrangements. A rigid cap may not reflect these commercial realities..

“End-of-month and mid-month payment cycles are common. Many credit terms are set at 30 or 60 days EOM to avoid daily payment runs, which would be operationally unmanageable.” – Anonymous ICAEW Member

- **Loss of commercial flexibility:** Fixing payment terms may remove the ability for businesses to negotiate arrangements that suit their sector or cash flow cycles. In some industries, longer terms are standard and mutually agreed without being “grossly unfair.”

32. Overall, while the proposal has merit, its effectiveness will depend on how it is implemented, enforced, and adapted to different business contexts.

Question 10e: What exemptions, if any, do you think should apply and why – for example, in specific sectors or in particular circumstances?

33. We have not conducted a detailed sectoral analysis, but we recommend that any exemptions be subject to clear criteria and transparency to prevent misuse, while still protecting smaller suppliers from unfair practices.

34. However, as noted in our response to Question 10d, we believe exemptions should be considered at least in the following circumstances:

- **Mutually Agreed Terms:** Where payment terms have been genuinely agreed by both parties and do not cause harm to either business, flexibility should be preserved. However, exemptions must not allow situations where smaller suppliers are pressured into accepting extended terms or disproportionate credit risk.

- **Sector-Specific Arrangements:** Industries such as media, construction, and retail often operate with complex supply chains and financing models. A rigid cap may not reflect these operational realities and could disrupt established practices.

35. Any exemption framework should be carefully designed to avoid undermining the policy's intent, while allowing for legitimate commercial flexibility.

MEASURE 3 – A DEADLINE FOR DISPUTING INVOICES

Question 11a: To what extent do you agree that introducing a 30-day time limit on the ability for businesses to dispute invoices will be effective in addressing the stated problem of the deliberate disputing of invoices to extend payment times? [Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

36. We somewhat agree.

Question 11b: Explain the reasons for your answer to 11a.

37. We somewhat agree that introducing a 30-day time limit on the ability for businesses to dispute invoices could help address the problem of deliberate disputing used to extend payment times. There was general support for the principle of limiting the window for raising disputes, particularly as a way to discourage intentional delays that undermine supplier cash flow.

“For most businesses, 30 days is reasonable, but there are quirks where it’s not enough. Unfortunately, that just adds burden yet if the window is too long, the rule loses its impact.” — Anonymous ICAEW Member

38. It is surprising that the consultation does not make more reference to electronic invoicing. Where suppliers have online access to the ledger, can see the current status of their invoice and can easily lodge required resolution information, protracted dispute processes may be less of a problem.

Question 11c: Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure? [Yes / No]

39. Yes

Question 11d: Explain the reasons for your answer to question 11c.

40. There are several unintended consequences and practical considerations that should be addressed if this measure is introduced. Members highlighted that administrative issues such as misrouted invoices due to incorrect email addresses or system errors can prevent timely responses, particularly in larger organisations with complex approval processes. A rigid 30-day timeframe may therefore be impractical in some cases.

“The challenge can sometimes be simply figuring out where the invoice has gone. Practically speaking, if someone in the business sets up the wrong email address or there’s a system error, it can mean the invoice never reaches the right person and that makes it very difficult to respond within a strict 30-day window.” — Anonymous ICAEW Member

“This proposal seems geared toward businesses with perfect systems. For those of us dealing with more complex or bespoke arrangements, it adds a lot of extra work.” — Anonymous ICAEW Member

41. Some members highlighted that in sectors where goods are purchased in bulk—such as textiles issues may only become apparent after the materials are used, which can be well beyond the proposed 30-day dispute window.

“We buy large batches of fabric, and issues often only become apparent once we start using it, well beyond 30 days. That makes early dispute windows impractical the fabric is stored on-site until needed. Inspecting everything on arrival just to meet a 30-day dispute window would be inefficient and burdensome.” — Anonymous ICAEW Member

42. Concerns were also raised about the effectiveness of the measure in changing behaviour among habitual late payers. Without robust enforcement and meaningful penalties, the time limit risks being symbolic rather than transformative.
43. Importantly, while the proposal sets a deadline for raising disputes, it does not require timely resolution. This gap could allow companies to initiate disputes within the window but delay payment indefinitely, undermining the intent of the reform. A more comprehensive framework is needed one that includes mechanisms for resolving disputes within a reasonable timeframe.
44. SMEs may also be reluctant to challenge payment practices due to fear of retaliation or jeopardising future business relationships. Targeted interventions that address systemic issues such as the practices of persistently problematic large customers may be more effective than blanket rules. Any new approach should ensure smaller suppliers feel protected when asserting their rights.

Question 11e: Are there more effective ways the government could prevent frivolous disputing of invoices?

45. In terms of alternative approaches, we have not conducted a detailed analysis of more effective ways the government could prevent frivolous disputing of invoices.

MEASURE 4 – MANDATORY STATUTORY INTEREST

Question 12a: To what extent do you agree that all qualifying contracts being subject to mandatory statutory interest on their late payments without exception will address the stated problem and help incentivise paying on time?

[Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

46. We somewhat agree

Question 12b: Explain the reasons for your answer to question 12a.

47. We somewhat agree that making statutory interest mandatory on all qualifying contracts could help incentivise timely payment. One of the most significant barriers to the current system is the reluctance of small businesses to enforce statutory interest, even when they are legally entitled to do so. Many SMEs fear that claiming interest could damage relationships with larger clients or result in the loss of future work. In some cases, suppliers have been explicitly told that enforcing interest would jeopardise ongoing contracts.
48. If statutory interest were mandatory and genuinely enforceable without placing the burden on SMEs to initiate claims or risking reputational harm this could help rebalance the power dynamic between small suppliers and large buyers.
49. However, for the measure to be effective, it must be accompanied by safeguards that protect smaller businesses from retaliation and ensure that enforcement possible.

Question 12c: Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[Yes / No]

50. yes

Question 12d: Explain the reasons for your answer to question 12c.

51. Yes, there are several potential unintended consequences and considerations that should be taken into account if mandatory statutory interest is introduced on all qualifying contracts. While the proposal aims to strengthen the incentive to pay on time, members expressed mixed views about its likely effectiveness in practice. One concern is the use of contractual workarounds by larger businesses. These companies often embed terms that delay payment cycles, for example, monthly billing cut-offs or extended approval processes, which can result in suppliers waiting months for payment even when work is completed promptly. If such practices are not addressed alongside the introduction of statutory interest, the measure may have limited impact.
52. There is also a risk that mandatory interest could lead to cost recovery strategies, where large businesses adjust pricing or contractual terms to offset the financial impact, effectively passing

the burden back to suppliers. This could undermine the policy's intent and place additional pressure on smaller businesses.

53. In addition, there are several technical and operational risks that should be considered. If not properly enforced, the measure could discourage small businesses from engaging with larger buyers, fearing retaliation or strained relationships. From an audit and accounting perspective, accrued interest could become material in some cases, raising questions about how it should be accounted for. If businesses fail to accrue correctly, this could create audit challenges and compliance risks. There is also the potential for miscalculation, particularly among businesses that lack systems to track payment timing accurately or are unaware of their obligations.

MEASURE 5 – ADDITIONAL REPORTING ON STATUTORY INTEREST

Question 13a: To what extent do you agree that requiring businesses that report under the Reporting on Payment Practices and Performance Regulations 2017 to report how much interest they owe and pay to their suppliers as a result of late payments will help incentivise reporting businesses to improve their payment practices? [Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

Question 13b: Explain the reasons for your answer to question 13a.

54. We somewhat agree that requiring businesses reporting under the Reporting on Payment Practices and Performance Regulations 2017 to disclose how much statutory interest they owe and pay to suppliers as a result of late payments could help incentivise better payment practices. This measure would increase transparency and highlight the financial consequences of poor payment discipline. Public reporting of interest owed and paid could shine a light on persistent poor performers and create reputational pressure, particularly in sectors where supplier relationships and public accountability matter.
55. However, we believe this measure needs to be coupled with others to have a true impact. Many large companies embed long payment cycles into their commercial models and may not be deterred by reputational risk alone. Without enforcement or consequences, reporting risks becoming a procedural exercise rather than a genuine driver of behavioural change. For the measure to be effective, it must be part of a broader framework that includes accountability, enforcement, and cultural change within organisations.

Question 13c: Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?
[Yes / No]

56. Yes

Question 13d: Explain the reasons for your answer to question 13c.

57. As noted in our responses to earlier questions, we have already highlighted that persistent late payers are unlikely to change their behaviour simply because of additional reporting requirements. Without meaningful consequences such as reputational risks or financial penalties these measures may have limited impact on improving payment practices. Reporting alone does not create sufficient incentive for businesses that consistently delay payments.
58. As noted in our earlier responses, persistent late payers are unlikely to change their behaviour solely due to additional reporting requirements. Without meaningful consequences such as reputational risks or financial penalties reporting alone does not create sufficient incentive for businesses that consistently delay payments.
59. The effectiveness of interest reporting will depend on how clearly the requirements are defined and how robustly they are implemented. There is a risk of misreporting if businesses do not fully understand what is required or lack the systems to report consistently. Inaccurate disclosures could distort the overall picture of payment practices and reduce the effectiveness of the policy.
60. Finally, the administrative burden should not be underestimated. For businesses with high transaction volumes, calculating and reporting interest owed and paid may involve manual

processes or system enhancements. These additional compliance requirements could increase operational costs and may disproportionately affect businesses with complex supply chains.

MEASURE 6 – FINANCIAL PENALTIES FOR PERSISTENT LATE PAYERS

Question 14a: To what extent do you agree that introducing financial penalties for large businesses persistently paying their suppliers late will address the stated issue and incentivise reporting businesses to pay on time?

[Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

61. We somewhat agree.

Question 14b: Explain the reasons for your answer to question 14a.

62. Our members have consistently noted that for any intervention to be effective, it must carry real impact, whether through reputational consequences, financial penalties, or regulatory pressure. Without a clear cost to non-compliance, companies are unlikely to change culture, internal policies or practices. This is particularly true in large organisations where payment practices may be deeply embedded and resistant to change unless they affect profit, cash flow, or public perception.

Question 14e: To what extent do you agree that linking financial penalties for consistently late-paying businesses to their unpaid statutory interest liabilities is a proportionate and effective approach?

[Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

63. We somewhat agree.

Question 14f: Explain the reasons for your answer to question 14e.

64. We somewhat agree that linking financial penalties for consistently late-paying businesses to their unpaid statutory interest liabilities could be a proportionate and effective approach, but only if implemented carefully.

65. The principle of tying penalties to unpaid statutory interest has merit because it reinforces existing legal obligations and creates a direct financial consequence for non-compliance. This could incentivise timely payment and reduce the prevalence of poor practices that disproportionately harm SMEs.

66. However, there are important considerations around proportionality and enforceability. Statutory interest can accumulate significantly over time, particularly where payment delays are prolonged. Linking financial penalties directly to these amounts could therefore result in very large liabilities for businesses that are already under financial strain. In some cases, late payment may be a symptom of wider cash flow challenges rather than deliberate poor practice. Imposing substantial penalties in such circumstances risks exacerbating financial distress and, in extreme cases, could push otherwise viable businesses towards insolvency especially given the broader cost pressures many firms are currently facing. Any approach must therefore strike a balance between creating a strong deterrent and avoiding unintended consequences that could harm business continuity and, by extension, the wider supply chain.

67. While this approach could strengthen deterrence, it should not be seen as a substitute for cultural change.

Question 15a: To what extent do you agree that the introduction of the new powers for the Small Business Commissioner will be effective in improving compliance and enforcement of new and existing regulations around payments?

[Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

68. We somewhat agree.

Question 15b: Explain the reasons for your answer to question 15a.

69. We support the introduction of new powers for the SBC as a necessary step to improve compliance and enforcement of payment regulations. The proposed powers, such as the ability to arbitrate disputes, are proportionate and align with the need for a stronger statutory framework to address persistent late payment practices and protect SME's.

70. ICAEW has previously supported measures that strengthen accountability and enforcement, including enhancing the SBC's oversight role and reinforcing director-level responsibility. These proposals reflect that direction and should help create a credible deterrent for poor payment practices.

OTHER CHANGES TO PAYMENT PERFORMANCE REPORTING

Question 16a: To what extent do you agree that the requirement for businesses to report under the Payment Practices and Performance Reporting Regulations should be changed from twice a year to once a year? [Strongly agree / somewhat agree / neither / somewhat disagree / strongly disagree]

71. We somewhat agree.

Question 16b: Explain the reasons for your answer to question 16a.

72. We do not object to reducing the frequency of reporting from twice a year to once, but we recommend maintaining a standalone reporting mechanism, such as the existing GOV.UK portal. This would preserve accessibility, comparability, and timeliness, while avoiding the dilution of annual reports, which are primarily designed for investor communication.

73. We do not support the proposal to include payment performance data within companies' annual reports. Annual reports serve a distinct purpose and adding public policy disclosures risks undermining their clarity and focus. This position aligns with ICAEW's previously expressed views.

74. Importantly, payment reporting was previously required in annual reports but later removed. Government should reflect on the rationale behind that decision and assess whether those reasons remain valid. Reintroducing such requirements without revisiting the original concerns could lead to unintended consequences.

75. Reducing the frequency of reporting also raises concerns about transparency. Less frequent disclosures may limit the availability of timely data, which suppliers and stakeholders rely on to assess risk and make informed decisions. If annual payment reporting is tied to company filing deadlines, the data could be significantly delayed potentially several months after the period it relates to reducing its usefulness for monitoring and improving payment practices.

76. To mitigate the loss of timeliness, government could consider requiring an interim update or summary for key metrics or setting earlier deadlines for payment reporting than for full annual accounts. Harmonisation across reporting frameworks should also be prioritised to reduce complexity and ensure consistency.

MEASURE 8 – USE OF RETENTION CLAUSES IN CONSTRUCTION CONTRACTS

Question 17a: To what extent do you agree that prohibiting the use of retention clauses in construction contracts would be effective in addressing the stated problems associated with retention?

[Strongly agree / somewhat agree / neither agree or disagree / somewhat disagree / strongly disagree]

77. We strongly disagree.

Question 17b. Explain the reasons for your answer to question 17a.

78. Retention clauses serve as a critical mechanism for ensuring post-completion accountability in construction projects. They incentivise contractors to return and rectify defects, which is essential for maintaining quality standards and protecting the client's investment. Eliminating retention clauses entirely would remove this leverage, increasing risk for clients and potentially reducing the quality of delivered work.

"There are mixed views on retention payments, but some simply couldn't operate without them. Without that hook to get people back to finish work or deal with defects, it would have a massive impact on how the company functions."—

Anonymous ICAEW Member

79. Stakeholders have expressed strong concern that a blanket prohibition would be more harmful to businesses than implementing safeguards. For many clients, retention is the only practical tool to ensure contractors address defects after completion. Removing this mechanism could lead to higher costs, more disputes, and greater reliance on litigation to enforce quality standards. Alternative approaches, such as requiring companies holding retention funds to provide surety or insurance, would be a more proportionate and effective solution than an outright ban.

Question 18: Under a prohibition on the use of retention clauses in construction contracts, what alternative measures would a payer seek to ensure performance and quality from a supplier? Explain the reasons for your answer.

80. In the absence of retention clauses, payers would likely seek alternative mechanisms such as performance bonds, bank guarantees, or upfront deposits. These instruments can provide financial assurance but often introduce additional complexity, cost, and administrative burden. They may also be less effective in incentivising defect resolution post-completion, as they do not create the same direct link between payment and performance. Some members suggest that the market would innovate to create new forms of surety or insurance to fill the gap, but these solutions are unlikely to replicate the simplicity and effectiveness of retention in ensuring accountability and quality.

“Retentions can be a bit of a pain, but the overwhelming feedback is, it may be a blunt instrument, but it’s often the only way to ensure the supply chain comes back to put things right.” – Anonymous ICAEW Member

Question 19: What length of transitional period would be required for a payer to adjust to the ban measure? Explain the reasons for your answer.

81. We have not undertaken this analysis.

Question 20: Please provide an estimate and an explanation of any costs firms would incur as the result of prohibiting the use of retention clauses in construction contracts.

82. We have not undertaken this analysis.

Question 21a: To what extent do you agree that requirements to protect retention sums deducted and withheld under retention clauses in construction contracts would be effective in addressing the stated problems associated with retention?

[Strongly agree / somewhat agree / neither agree or disagree / somewhat disagree / strongly disagree]

83. We strongly agree.

Question 21b: Explain the reasons for your answer to question 21a.

84. Protecting retention sums through mechanisms such as segregation in trust accounts or the use of guarantees directly addresses the primary risk associated with retention: non-payment due to insolvency or disputes. This approach preserves the benefits of retention as a tool for ensuring post-completion accountability while safeguarding the financial interests of subcontractors and suppliers. Stakeholders view this as a balanced and proportionate solution that maintains quality assurance without exposing payees to undue financial risk. It also aligns with best practice in other jurisdictions and could help build greater trust and stability within the construction supply chain.

Question 22a: What would be the preferred mechanism of a payer to protect the retention sums?

[Segregated bank account / instrument of guarantee / mixture of both]

85. A mixture of both.

Question 22b: Explain the reasons for your answer to question 22a.

86. Our members have suggested that a combination of mechanisms would provide the most effective and flexible solution. Segregated bank accounts offer transparency and control,

ensuring that retention sums are clearly identified and protected from misuse or insolvency risk. Instruments of guarantee, such as surety bonds or bank guarantees, provide an additional layer of financial security and assurance for payees.

87. This dual approach accommodates the diversity of contractual arrangements and stakeholder preferences within the construction sector. It also balances the need for safeguarding retention funds with the practicalities of cash flow management for payers. By allowing flexibility, this model can reduce systemic risk while maintaining the benefits of retention as a tool for ensuring quality and accountability.

Question 23: What length of transitional period would be required for a payer to adjust to the retention protection measure? Explain the reasons for your answer.

88. We have not done this analysis.

Question 24a: To what extent do you agree with the proposed features of the retention protection measure?

[Strongly agree / somewhat agree / neither agree or disagree / somewhat disagree / strongly disagree]

89. We somewhat agree.

Question 24b: Explain the reasons for your answer to question 24a, including any further features to the design and operation of this retention protection measure that you would recommend.

90. We are broadly supportive of measures to protect retention sums, as these address the key risk of non-payment due to insolvency or disputes. However, we have significant concerns about the proposal that any interest earned on retention sums should belong to the payee. While this may seem fair in principle, it introduces considerable complexity in practice.

91. For example, if a single account holds retention funds for hundreds of subcontractors over an 18-month period, with multiple interest rate changes during that time, calculating and allocating interest accurately would require daily calculations and sophisticated systems. Although automation could help, this would still create an additional administrative burden and cost for businesses, particularly at a time when cash flow is already under pressure and cost inflation is high.

92. There is also a risk of unintended consequences. Increased complexity and compliance costs could drive businesses to seek alternative instruments rather than using retention, potentially undermining the policy objective.

93. Experience from other regulated sectors, such as legal services, illustrates these challenges. Solicitors are required to pay clients a "fair sum" of interest on client money, but this has historically created compliance difficulties, disputes, and significant administrative overhead. Even with clear rules, firms often adopt thresholds or simplified methods to manage complexity. This demonstrates that while the principle is sound, the practicalities can be problematic and should not be underestimated.

94. Members also highlighted the need for a clear dispute resolution process. Simply ring-fencing funds in an account does not address disagreements over whether retention should be released. A centralised scheme, similar to tenancy deposit protection in the rental sector, could provide a solution by combining fund protection with an independent adjudication mechanism. This would ensure fairness, reduce disputes, and provide oversight.

95. If interest allocation remains part of the design, a centralised calculation and distribution process rather than leaving this to individual businesses could reduce complexity and improve consistency.

96. We recommend that government:

- Establishes a centralised calculation and distribution mechanism to avoid disproportionate administrative burdens on businesses.
- Establishes a centralised retention protection scheme with an independent dispute resolution process, similar to tenancy deposit protection, to ensure fairness and reduce litigation risk.

- Engages with industry to design practical rules that balance transparency, cost, and enforceability.

97. To strengthen confidence and reduce disputes, another option which the government might consider is performing outreach with relevant stakeholders about developing a simple reporting and assurance scheme for retention payments.

98. Such a scheme could give a nominated sector oversight body a consistent flow of verified financial data, enabling it to assess risk, ensure adequate protection, and intervene early where concerns arise. Such a system would not interfere with well-established industry practice, but could enable some form of assurance (or Agreed Upon Procedures) to protect small contractors' money, stabilise cash flow through the supply chain, and bring a similar kind of financial discipline to construction that the Civil Aviation Authority's (CAA) Air Travel Organisers' Licensing (ATOL) scheme has long provided in travel.

Question 25: Provide an estimate and an explanation of any costs firms would incur as the result of the introduction of a framework for protecting retention sums.

The next 2 questions apply to both options for the use of retention clauses in construction contracts.

99. We have not done this analysis

Question 26: Are there any potential unintended consequences or considerations that should be taken into account for the introduction of either proposed measure for the use of retention clauses in construction contracts? Explain the reasons for your answer.

100. Unintended consequences could include a reduced willingness among firms to initiate projects due to perceived complexity or additional costs associated with compliance. Increased administrative requirements may deter smaller contractors from participating in the market, reducing competition and potentially driving up costs.

101. There is also a risk that contractors, who often rely on retention sums as part of their working capital, could experience cash flow pressures if retention funds are required to be held in trust or in separate accounts.

102. Once a true cost analysis for construction firms has been completed and verified by industry to ensure feasibility, this should be publicised to provide transparency and reduce uncertainty about the financial impact.

Question 27: Do you have any further comments on either proposed measure for the use of retention clauses in construction contracts?

103. Retention clauses remain a vital tool for ensuring quality and accountability in construction projects. Rather than prohibiting their use, the focus should be on reforming retention practices to protect payees and promote responsible payment behaviour. The consultation presents an opportunity to modernise retention mechanisms while preserving their core benefits, ensuring that reforms are practical, enforceable, and aligned with industry realities

MISCELLANEOUS

Question 28: Do you have any further comments on any elements of the proposals that might aid the consultation process as a whole?

104. Several broader reflections may help strengthen the consultation process and ensure the proposals are proportionate and effective. While many large firms already apply fair payment principles voluntarily, further formalisation risks adding to compliance costs. This is particularly relevant given the increasing volume of regulation facing businesses, which in some cases has contributed to decisions to delist. The consultation should consider how to balance enforceability with proportionality.

105. The proposals also focus primarily on large businesses, yet many late payment issues arise between small and medium-sized enterprises. These interactions are not addressed in the current framework, despite their significant impact. Expanding the scope to include SME-to-SME transactions would make the proposals more comprehensive and reflective of real-world experiences.

“Many of the late payment issues I’ve faced have come from other small businesses, not large ones.” – Anonymous ICAEW Member

106. Another growing concern relates to online marketplaces that impose extended payment terms on sellers, despite not taking ownership of stock or risk. This practice can severely affect SME cash flow and appears misaligned with fair payment principles. The consultation could usefully explore whether marketplace operators should be subject to clearer rules on fund disbursement, particularly where they act purely as intermediaries.

“Selling through marketplaces creates a cash flow squeeze. Refunds are processed immediately, but payments are staggered so retailers end up doubly out of pocket.” – Anonymous ICAEW Member

107. Finally, we would emphasise the role of technology in improving payment practices. Digitally enabled businesses are statistically less likely to fail in their first year, and wider adoption of e-invoicing could significantly streamline processes, reduce disputes, and enhance transparency across the supply chain. Evidence suggests that e-invoices are typically settled five to seven days earlier than paper invoices. According to Sage, e-invoicing can reduce late payments by up to 20% and cut processing times by 44%, unlocking substantial savings for small businesses. Promoting e-invoicing more widely across both UK businesses and the public sector could be a practical and impactful step toward improving payment culture.

108. These points are intended to support a more holistic and practical approach to tackling late payments, ensuring that reforms are targeted, proportionate, and responsive to the evolving business landscape.