

Changes to the Prompt Payment Code

Introduction

There have been a number of [changes to the Prompt Payment Code \(PPC\)](#), including a new requirement to pay 95% of invoices from businesses with fewer than 50 employees within 30 days from 1 July 2021.

The Interim Small Business Commissioner attended a meeting with Build UK members on 12 May 2021 to provide further information on the changes, and the key points are summarised below.

Paying Businesses with Fewer than 50 Employees within 30 Days

Identifying suppliers

- Fewer than 50 employees has been used to define a small business in order to keep the requirement as simple as possible for signatories to the PPC. There are no exceptions to this definition and signatories should include all businesses with fewer than 50 employees, including Special Purpose Vehicles which may have 0 employees, when determining the percentage of invoices paid to them within 30 days.
- When calculating the number of employees a supplier has, only direct employees should be counted; signatories do not have to take into consideration any labour-only sub-contractors the business may have.
- Only employees that are based in the UK should be counted, on the basis that the PPC is a UK-based code.
- For companies with fewer than 50 employees which are part of a larger group, the new requirement to pay them within 30 days applies where a signatory contracts directly with the small company.
- There will not be a central register of businesses with fewer than 50 employees, so each signatory will need to identify these organisations within their supply chain. The PPC has recommended that this is done during the on-boarding stage, for example by encouraging suppliers to declare on their invoices if they have fewer than 50 employees. The PPC has confirmed that it will be looking to ensure that signatories have taken all reasonable steps to identify small businesses within their supply chain.
- Signatories should be checking on a regular basis whether suppliers have fewer than 50 employees, and the PPC has indicated that once a year would be reasonable.

The Common Assessment Standard

Build UK members can use the [Common Assessment Standard](#) to identify suppliers with fewer than 50 employees. Question 10 asks '*Are you a Micro, a Small or a Medium-Sized Enterprise?*' and any suppliers that state they are 'Micro' or 'Small' have fewer than 50 employees, in accordance with the EC definitions used within the standard.

Members specifying the Common Assessment Standard, or a product aligned to it, are able to rely on this information from suppliers which is independently verified by a certification body on an annual basis.

www.BuildUK.org/pre-qualification

Reporting

- The PPC is encouraging signatories that are required to report their payment performance under the [Duty to Report regulations](#) to include the percentage of invoices from businesses with fewer than 50 employees that they pay within 30 days as part of their biannual report. There is a narrative box under the Payment Terms section within the report, which signatories can use to provide this information. The PPC has confirmed that if a signatory does not include this information within its Duty to Report submission, then it will follow up directly with the signatory to request it.
- PPC signatories that are not within scope of the Duty to Report regulations will be required to demonstrate compliance via an annual declaration signed by the Chief Executive or Finance Director or, in the case of smaller businesses, the owner.
- There are currently no plans to amend the Duty to Report regulations to include a metric on payment to businesses with fewer than 50 employees.

Compliance

- The new requirement applies to all payments made from 1 July 2021. The PPC has confirmed that there has been a transition period for signatories to achieve compliance since the requirement was announced in January 2021.
- For signatories that report under the Duty to Report regulations, the PPC will be enforcing compliance with the requirement from a signatory's next full reporting period, which for Build UK members with a financial year ending 31 December will be January 2022.
- If a signatory's latest Duty to Report submission is not compliant with the requirements of the PPC, it is not automatic that they will be suspended or removed from the PPC. In this situation, the PPC would discuss with the signatory the reasons for non-compliance in case there are mitigating circumstances. For example, inter-company transactions are out of scope of the PPC, whereas they are included within the Duty to Report regulations, so in the event that this was the reason for non-compliance then it may be taken into account as a reasonable explanation.
- Any businesses with fewer than 50 employees not being paid within 30 days by a signatory will be encouraged to contact the PPC who will discuss the concerns with the signatory.

Other Requirements

- Where invoices are paid using a company purchasing card, the date for payment should be counted as when the supplier receives the money, rather than when the signatory pays the invoice, usually at the end of the month.
- It is up to signatories to determine how they meet the requirement of the PPC to "acknowledge [a supplier's] right to use late payment legislation to invoice for late payment interest and charges when appropriate". The PPC has suggested that this could be done either in the contract or as part of the onboarding process.
- The new [PPC Compliance Board](#) is currently finalising the compliance process for signatories, including suspension and removal from the PPC, which should be available by the end of July 2021.
- Whilst the PPC has not suspended any signatories recently due to the coronavirus pandemic, it is expected that compliance with the requirements will be monitored and enforced from 1 July 2021.

Further Information

- Further information about the Prompt Payment Code can be found at <https://www.smallbusinesscommissioner.gov.uk/ppc/>.