Late Payments Consultation
A Response from Build UK

Measure 1 – Audit Committees and Board-Level Scrutiny of Large Company Payment Practices

Q9a. 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]

Q9b. To what extent do you agree that the Small Business Commissioner should write to Audit Committees and company boards, where companies have them, when undertaking payment performance reporting assurance and when investigating any other matter relating to a company's payment practices?

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

Q9c. Are there any potential unintended consequences or considerations that could happen if this measure was introduced?

[**Yes** / No]

Q9d. Explain the reasons for your answer to question 9c.

Build UK is fully supportive of increasing scrutiny around payment performance at board level. Our benchmarking of payment performance in the construction sector since 2018 has led to significant peer pressure within company leadership, raising awareness of the need for prompt payment and resulting in tangible improvements in performance.

This transparency will be strengthened further by the new requirement under the Companies (Directors' Report) (Payment Reporting) Regulations for large companies to include payment performance data in their directors' reports from 1 January 2026. As the board of a company must approve directors' reports, we believe that this new requirement will ensure that payment performance is scrutinised at a senior level.

Until the impact of the new requirement is known, it is difficult to determine if this additional measure or any other changes are required to increase scrutiny at board level and whether this would lead to further improvements in payment performance.

Build UK members have also raised concerns about whether the Small Business Commissioner would have sufficient capacity to write to audit committees as well as carry out other enforcement actions, particularly as the data will have already been subject to external audit.

Measure 2 – Maximum Payment Terms

Q10a. 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]

Q10b. Explain the reasons for your answer to question 10a.

As the existing requirement is to pay invoices within a maximum of 60 days unless a supplier agrees to longer terms which are not 'grossly unfair', Build UK believes that removing this exemption is an appropriate next step to reducing long payment terms.

A significant majority of Build UK members who report their payment performance under the Reporting on Payment Practices and Performance Regulations state a maximum payment term of 60 days or less. From discussions with those members who currently state a longer maximum payment term, we understand that it is either rarely used or could be readily reduced.

All Build UK tier one Contractor members who report on payment performance currently pay on average 96% of invoices within 60 days, and none of them have average payment days of more than 45 days, which is the requirement for central Government contracts from 1 October 2025.

Q10c. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q10d. Explain the reasons for your answer to question 10c.

There is a concern that if this measure were introduced, it could be misinterpreted by businesses as the standard, rather than the maximum, resulting in them extending their payment terms to 60 days. The Government should therefore keep the maximum payment term under review and look to reduce it at an appropriate time in the future, in a similar manner to which the required average payment time for companies working on central Government contracts has been reduced (PPN 018).

Q10e. What exemptions, if any, do you think should apply and why – for example, in specific sectors or in particular circumstances?

N/A

Measure 3 – A Deadline for Disputing Invoices

Q11a. 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]

Q11b. Explain the reasons for your answer to 11a.

Whilst Build UK is supportive of the principle of a statutory time limit to dispute invoices, the construction industry already has a statutory payment regime that imposes time limits on parties wishing to dispute claims for payment, which is backed up by a large volume of supporting case law and a well-established adjudication process.

The Housing Grants, Construction and Regeneration Act (the Construction Act) sets out a mandatory framework for payment under 'construction contracts', and Build UK believes that the proposal to amend the Late Payment of Commercial Debts (Interest) Act to introduce a deadline for disputing invoices may create a parallel mechanism which risks being incompatible with the Construction Act.

The Construction Act specifies the following payment process for construction contracts:

- The Payee may request payment according to what they believe is due (via an application for payment).
- The Payer must assess the amount due, taking into account any application for payment from the Payee, and issue a Payment Notice to the Payee by a contractually specified date.
- This establishes a 'Notified Sum' which must then be paid by the contractually specified Final Date for Payment.
- In the absence of a Payment Notice being issued, the Notified Sum (i.e. the amount due by the Final Date for Payment) is the amount stated in the application for payment.
- The Payer may subsequently reduce the Notified Sum by issuing a Pay Less Notice by a contractually specified date prior to the Final Date for Payment.
- If a Pay Less Notice is not issued by the Final Date for Payment, then the amount in the original Payment Notice (or in the absence of a Payment Notice, the application for payment) is the amount due which must be paid.

The concept of establishing an amount for payment by a deadline, as well as an efficient method for enforcing non-payment via a statutory right to adjudication, is well established within the construction industry through the Construction Act, and the Construction Act's provisions have been interpreted and enforced through case law over the intervening years.

Taking the above into account, we believe that the Department for Business and Trade needs to consider how introducing a 30-day time limit based on *invoices* would be reconciled with the existing statutory payment regime for construction contracts, based on *applications and notices*.

For instance, the guidance to the Reporting on Payment Practices and Performance Regulations states that when counting the time for payment under construction contracts where an invoice is not present, businesses must use as day 1 "*the earliest point at which they have notice of an amount for payment [which] would generally be the date they receive an application for payment*".

Q11c. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q11d. Explain the reasons for your answer to question 11c.

The construction industry has an established payment framework in the Construction Act, so if this measure were to be introduced, there is a risk of creating two parallel regimes that are incompatible. Any implementation of this measure would need to resolve this apparent incompatibility (see our response to Q11b).

Q11e. Are there more effective ways the government could prevent frivolous disputing of invoices?

N/A

Measure 4 – Mandatory Statutory Interest

Q12a. 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]

Q12b. Explain the reasons for your answer to question 12a.

Build UK supports a fixed statutory interest rate of 8% above the Bank of England base rate and removing the ability for businesses to negotiate a lower rate.

Whilst Build UK is also supportive of the principle of paying interest on late payments, there is a concern that making it mandatory without exception could actually create a disproportionate administrative burden, remove the flexibility to do business, and undermine collaborative business relationships.

It is also difficult to see how mandatory interest would work in practice and how it would be enforced if it wasn't paid.

Q12c. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q12d. Explain the reasons for your answer to question 12c.

There is a concern that making it mandatory to pay interest after the agreed payment term has passed without exception could actually create a disproportionate administrative burden, remove the flexibility to do business, and undermine collaborative business relationships.

This is particularly relevant where the payee (and not the payer) is at 'fault' for the late payment, for example through an administrative error. All businesses should be able to resolve inaccurate payment requests, and there could be an unintended consequence that mandatory payment of interest without exception would not provide any flexibility in such situations.

It is also difficult to see how mandatory interest would work in practice and how it would be enforced if it were not paid.

Measure 5 – Additional Reporting on Statutory Interest

Q13a. 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]

Q13b. Explain the reasons for your answer to question 13a.

Whilst Build UK recognises that the implementation of this measure is linked to the introduction of financial penalties for late payers (Measure 6), it is unclear to what extent reporting on interest would incentivise large companies to improve their payment practices beyond the existing metrics.

We believe that increased transparency about payment performance is valuable to the supply chain when making decisions about whether to work for large companies. However, our reporting members have raised concerns that the administrative burden of providing this data would be disproportionate to the limited additional transparency for the supply chain.

Q13c. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q13d. Explain the reasons for your answer to question 13c.

If this measure were to be introduced, careful consideration must be given to the information that large companies are required to report and how it would be displayed on the Government portal.

Based on our experience of the introduction of the new metrics on value of invoices paid from 1 January 2025, sums in pounds for total statutory interest owed and total statutory interest paid would not provide meaningful data for the supply chain that could be used to monitor and compare performance. It could also provide an inaccurate picture where invoices are paid late due to a dispute where the payee is at 'fault'.

We would encourage the Government to ensure the objective of introducing this measure is clear so that large companies are required to submit the relevant data. If the objective is to highlight the extent to which large companies are actually paying the statutory interest that they owe, then we believe that the interest paid should be shown as a percentage of the total interest owed so that the supply chain can monitor and compare performance amongst large businesses.

Measure 6 – Financial Penalties for Persistent Late Payers

Q14a. 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]

Q14b. Explain the reasons for your answer to question 14a.

Build UK fully supports the principle of monitoring and enforcing compliance with the Reporting on Payment Practices and Performance Regulations, which have provided the catalyst for significant improvement in payment practices within the construction sector since they were introduced in 2017.

We believe that the priority for enforcement should be ensuring that all eligible large companies are complying with the existing legal requirement to report to ensure a level playing field.

The introduction of financial penalties for those reporting businesses that persistently pay late would also be beneficial as it would provide an additional incentive for large companies to pay within agreed terms.

The definition of 'persistently' in terms of paying late is important, and we would suggest that the Government mirrors what it has done with the required average payment time for companies working on central Government contracts and takes into account two consecutive six-monthly reporting periods (PPN 018).

Q14c. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q14d. Explain the reasons for your answer to question 14c.

Whilst Build UK is supportive of the principle of financial penalties for large companies that persistently pay late, we are concerned that the proposed 'trigger point' of 25% of payments late might be too low based on the current payment performance of large companies.

Based on a 'snapshot' of all large companies that reported payment data in July 2025, a trigger point of 25% or more of payments late would result in a third of reporting companies being liable for a financial penalty.

We believe that the Government should consider starting with a higher trigger point, which would focus on those businesses with the worst payment performance, and that this trigger point should be reviewed over time as performance improves. This would be consistent with how the required average payment time for companies working on central Government contracts has been implemented (PPN 018).

There is also a risk that if payment beyond terms were to be the only trigger point for a financial penalty, then businesses could extend their payment terms to ensure compliance. This could result in the average time taken to pay becoming longer, undermining the intent of these measures to speed up payments to suppliers.

Q14e. 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]

Q14f. Explain the reasons for your answer to question 14e.

There is a lack of detail in the consultation document as to how linking financial penalties to unpaid statutory interest liabilities would work. For example, if a company were to pay all its statutory interest liabilities, would a financial penalty not be imposed even though the business exceeded the trigger point for persistently paying its suppliers late? As such, it might be more appropriate to base the penalty on a fixed amount rather than a variable figure.

Measure 7 – Additional Powers for the Small Business Commissioner, including Assurance of Payment Reporting Data

Q15a. 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]

Q15b. Explain the reasons for your answer to question 15a.

Build UK fully supports the principle of monitoring and enforcing compliance with regulations around payments, and the Reporting on Payment Practices and Performance Regulations have provided the catalyst for significant improvement in payment practices within the construction sector since they were introduced in 2017.

We believe that the priority for enforcement should be ensuring that all eligible large companies are complying with the existing legal requirement to report to ensure a level playing field.

Construction disputes are out of scope of the Small Business Commissioner (SBC) and so any new powers for the SBC are likely to have limited impact in our sector.

Q15c. To what extent do you agree that the introduction of the new powers for the Small Business Commissioner will enhance its ability to support small businesses to resolve payment disputes?

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

Q15d. Explain the reasons for your answer to question 15c.

Construction disputes are out of scope of the Small Business Commissioner (SBC) as the industry has a statutory adjudication scheme, and we understand from discussions with the Department for Business and Trade that any additional powers given to the SBC to provide legally binding arbitration would not apply to construction disputes.

Q15e. Are there any potential unintended consequences or considerations that should be taken into account for the introduction of this measure?

[**Yes** / No]

Q15f. Explain the reasons for your answer to question Q15e.

Under the new Companies (Directors' Report) (Payment Reporting) Regulations, large companies will be required to include payment performance data in their Directors' reports from 1 January 2026, with the aim of increasing scrutiny of the data and ensuring accuracy through external audit. We believe that until the impact of this new requirement is known, it is difficult to determine whether any further changes are required to ensure the accuracy of payment data.

Q16a. 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**]

Q16b. Explain the reasons for your answer to question 16a.

Build UK is firmly of the view that large companies should continue to be required to report on their payment performance every six months on the dedicated Government portal to provide suppliers with access to timely information.

When consulting on the introduction of the regulations in 2016, the Government's response stated the following in relation to frequency of reporting:

"*We consider that annual reporting would not provide suppliers access to timely information, but accept that quarterly could be overly burdensome for larger businesses without delivering much improved data. We think six monthly reporting strikes the right balance.*"

We believe that the improvements in payment performance achieved in the construction sector since the regulations were introduced proves the value and necessity of biannual reporting.

We know from discussions with our reporting members that publishing their payment data every six months enables them to address issues as they arise and monitor and drive progress. Many of them have transformed their internal payment systems and processes to not only produce the data every six months but also to improve the speed of payments to suppliers.

If large companies are required to report the data only once a year as part of their Directors' reports, then the data may not be available until up to nine months after the end of the reporting period. This would make it extremely difficult for suppliers to access, monitor and compare payment performance of the large companies they looking to work with.

Measure 8 – Use of Retention Clauses in Construction Contracts

Q17a. 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 / somewhat disagree / strongly disagree]

Q17b. Explain the reasons for your answer to question 17a.

Whilst retentions are intended to provide security to the industry's clients that any defects will be rectified appropriately, they are problematic for all parties in the supply chain. The late and non-payment of retentions as a strategic lever at the end of a project, coupled with the loss of retentions due to insolvency, has a significant impact upon cash flow throughout the supply chain. As such, it is widely accepted that retentions fail to provide an appropriate or proportionate mechanism for ensuring quality and fair payment.

Build UK fully supports the ambition of zero cash retentions as part of a more collaborative and financially viable sector. Retentions have become an established practice over many years, and legislative action is essential to drive change and overcome the issues with their use. We believe that prohibiting the use of retentions would both address the issues with payment and require the sector to manage quality in a more effective way.

The introduction of the Building Safety Act has increased the focus on competence and compliance with Building Regulations, and there has been a positive impact on the delivery and quality of work across the sector. The requirement for a formal change control process as part of the new Gateway system for Higher-Risk Buildings, where a building is required to obtain a Completion Certificate before it can be registered and occupied, has significantly increased the scrutiny of both design and construction on projects of all types, reducing the potential for defective work and therefore the need for a retention to be withheld.

Where security against defects is still required, there are a number of possible alternatives to retentions. There isn't a 'one size fits all' approach and prohibiting the use of retentions would encourage increased collaboration and transparency, helping to ensure that any form of security used against defects is appropriate and proportionate for the project and supplier. Where there are long-standing commercial relationships, the prospect of future work is sufficient incentive for a supplier to rectify defects.

There are a number of significant benefits for the industry and its clients that would be realised from prohibiting the use of retentions, not least an increase in working capital within the supply chain to support investment, productivity and growth. By removing the threat of unfair payment, there would also be an incentive to improve quality of completed works on projects as well as increased assurance that any defects that did occur would be rectified appropriately.

Any legislative action on retentions would require an appropriate transition period, with clear steps for the industry to work towards the new requirements. From the date that the new requirements come into effect, they should apply to new contracts only, which will also help the industry to adapt.

Q18. 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.

Please see our response to Q17b.

Q19. What length of transitional period would be required for a payer to adjust to the ban measure? Explain the reasons for your answer.

Please see our response to Q17b.

Q20. 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.

N/A.

Q21a. 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 / somewhat disagree / strongly disagree]

Q21b. Explain the reasons for your answer to question 21a.

Retentions have become an established practice over many years, and Build UK firmly believes that legislative action is essential to drive change and overcome the issues with their use.

Whilst introducing requirements to protect retention sums would mitigate the risk of insolvency and support the fair and timely release of monies, it would not meet the industry ambition for zero retentions nor resolve the other issues associated with retentions, including inconsistency in rectifying defects and loss of working capital from the supply chain.

We believe the size of the prize is much greater – to remove the use of retentions altogether.

Any legislative action on retentions would require an appropriate transition period, with clear steps for the industry to work towards the new requirements. From the date that the new requirements come into effect, they should apply to new contracts only, which will also help the industry to adapt.

Q22a. What would be the preferred mechanism of a payer to protect the retention sums?

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

Q22b. Explain the reasons for your answer to question 22a.

In a similar manner to possible alternatives to retention, there isn't a 'one size fits all' approach to protecting retention sums, and a number of different mechanisms would need to be explored and developed.

Q23. What length of transitional period would be required for a payer to adjust to the retention protection measure? Explain the reasons for your answer.

Please see our response to Q21b.

Q24a. 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]

Q24b. 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.

N/A

Q25. 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.

N/A

Q26. 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.

N/A

Q27. Do you have any further comments on either proposed measure for the use of retention clauses in construction contracts?

Retentions have become an established practice over many years, and Build UK first called for legislative action in 2018 to drive change and overcome the issues with their use.

With widespread support for change, we believe that now is the time to act and we would urge the Government to prohibit the use of retentions and support the sector to achieve its ambition of zero retentions with significant benefits for the industry and its clients.

Miscellaneous

Q28. Do you have any further comments on any elements of the proposals that might aid the consultation process as a whole?

Payment is a fundamental issue for the construction sector. Fair and transparent payment practices are essential for a thriving industry and a strong and resilient supply chain, which is why Build UK collates and publishes payment performance data for the largest companies in the sector.

Since 2018, benchmarking members and the wider industry in this way has enabled Build UK to present a consistent picture of payment practices within construction, helping to inform decision-making by suppliers and drive culture change across the sector. The result has been significant improvement from our tier one contractor members, with the average time taken to pay invoices decreasing from 45 days to 29 days. Further information about the construction sector's progress can be found in our infographic.

This consultation offers an opportunity to build on the progress made to date, and we would like to take the opportunity to highlight the following key themes:

- **Enforcing compliance** – The priority should be monitoring and enforcing compliance with the existing regulations around payments to ensure a level playing field, starting with those large companies that are not currently complying with the requirement to report payment data under the Reporting on Payment Practices and Performance Regulations. In recent years, the introduction of prompt payment requirements by the Cabinet Office, such as paying more than 95% of invoices within 60 days for all central Government contracts, has made a real difference in driving change, reinforcing that such requirements need to be enforced uniformly. This approach works well when initial targets are set at a reasonable level, then strengthened over time.

- **Allowing recently introduced requirements time to have an impact** – The changes that came into force recently, such as reporting on the value of invoices paid, need to be implemented and embedded properly, and their impact understood, before further requirements are introduced. The Government also needs to ensure that any new measures work within the existing framework and effect meaningful change.

- **The potential for unintended consequences** – Build UK members across the supply chain have raised concerns that some of the proposed measures intended to improve payment performance may actually have the opposite effect. For example, the imposition of financial penalties for late payers could result in the lengthening of standard payment terms if the 'trigger point' is not set at an appropriate level. We also have significant concerns that moving from biannual to annual reporting would disrupt systems developed by companies over recent years that are resulting in demonstrable improvements for the supply chain.

- **Focus on supporting small businesses** – We have found in the construction sector that payment performance can also be improved by providing support to small businesses with their invoicing processes. Applying for payment correctly, in line with contractual or other requirements, can avoid potential delays in small businesses getting paid on time. More broadly, a genuinely collaborative working environment between contractors and their supply chain is an important prerequisite for prompt payment.

Build UK would be pleased to share its experience of driving progress in the construction sector since 2018 and work with the Department for Business and Trade to ensure that initiatives to promote prompt payment are effective, enforceable and supportive of a collaborative working relationship between all parties in the supply chain. Any measures taken forward will require work to iron out the details to ensure that they achieve their objective of helping small businesses to get paid on time, without causing unintended consequences or resulting in a disproportionate burden for large companies.