

## Dealing With Late Payments

While collecting late payments is a relatively constant problem that affects businesses across nearly every industry, it is the single largest risk to the long-term sustainability of construction firms—especially small to mid-sized enterprises (SMEs). The average firm waits 107 days before it receives payment, according to industry research, despite having agreed-upon payment terms before the projects began. While the explanation for these delays may vary, their effects are the same—the liquidation and dissolution of firms.

But, the effects of late payments may extend even further. If a firm does not have adequate funds to complete a project to the required safety and quality standards, it could decide to cut corners. Such cost-saving concessions may present health and safety risks—if not during construction, then in the structure's use. Doing so can seriously endanger the future of any construction firm. Therefore, as a construction firm or a subcontractor, you need to understand what resources are available to you in order to effectively deal with late payments.

### Late Payment Legislation

The UK government has been aware of the systemic late payment problem, and, over the past two decades, has implemented legislation to mitigate the potential for such detrimental financial occurrences. There are five main pieces of relevant legislation and agreements:

1. [Part II of the Housing Grants, Construction and Regeneration Act 1996 \(as amended by the Local Democracy, Economic Development and Construction Act 2009\)](#):

The acts help clarify payment rules in the construction industry, introduce a more balanced payment regime, and make adjudication more accessible. Specific changes include expanded rights for contractors to suspend performance for non-payment, abolishing conditional payment clauses, and new requirements for submitting payment notices.

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The construction industry saw a 27 per cent increase in the number of overdue payments in 2015, according to research from Euler Hermes.

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2. [Late Payment of Commercial Debts \(Interest\) Act 1998](#): The act establishes that if another business is late paying for goods or a service, the payee business can charge 'statutory interest', which is defined as 8 per cent plus the Bank of England base rate.
3. [Late Payment of Commercial Debts Regulations 2013](#): These regulations impose payment period limits of 60 days for businesses and 30 days for public authorities.

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Provided by **Credon Insurance Brokers Ltd**

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4. **Prompt Payment Code:** This code is a voluntary agreement managed by the Chartered Institute of Credit Management. The code of conduct is meant to standardise payment practices and ensure that each business within a supply chain has its invoice settled on time. By signing the code, businesses are expected to follow these three practices:

- Pay suppliers within 30 days, with a maximum limit of 60 days. Businesses are required to pay 95 per cent of their undisputed invoices within 60 days, unless there are exceptional circumstances.
- Give clear guidance on payment procedures to suppliers. This should include providing a system for dealing with complaints and disputes.
- Encourage good payment practices within their industry. In addition, businesses should work to convince non-signatories to follow the code.

5. **Construction Supply Chain Payment Charter:**

This charter is a voluntary agreement managed by the Construction Leadership Council. To apply, businesses must first be a signatory to the Prompt Payment Code. By signing the charter, businesses are expected to follow 11 fair payment commitments. While each of the commitments are beneficial and relevant, the following six are especially important:

- A business will make the full payment as specified in the contract for all work that is properly carried out or when products are supplied.

- A business will not deliberately delay or unreasonably withhold payment.
- A business will ensure that payments are made to its supply chain no more than 45 days from the end of the calendar month in which the work was carried out or that products were supplied. Starting January 2018, businesses will be required to make payments no later than 30 days.
- A business will issue any 'pay less' notices at the earliest opportunity and no later than seven days prior to the final date for payment.
- A business will establish processes to ensure that any potential changes to a contract can be agreed upon promptly and fairly.
- A business will adopt a transparent, honest and collaborative approach when resolving differences and disputes.

As a construction firm or subcontractor, it is important to work with other businesses that adhere to either (or both) the Prompt Payment Code and the Construction Industry Payment Charter. Businesses that have agreed to follow these display a commitment to support a culture of fair, prompt payments.

### Associated Risks of Late Payments

If your business is forced to wait to receive a payment, it could be exposed to risks that restrict or even stop its growth. A late payment could lead to the following:

- Loss of employees

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- Damage to your reputation for not completing a contract or for not providing a satisfactory service
- Disruption to your supply chains
- A limit to the number of contracts you can accept
- Dissolution of your business

While this does not represent a comprehensive list of all the potential risks of waiting to receive a payment, it does reflect those that can be the most damaging.

### Best Practices for Dealing with Late Payments

As a construction firm or subcontractor, you know that if a payment is late, it has the potential to disrupt your entire business. Therefore, it is important for you to implement the following best practices to ensure that you are paid on time:

- Verify that the potential client has signed either (or both) the Prompt Payment Code and the Construction Industry Payment Charter.
- Establish the client's credit worthiness.
- Agree on payment terms of each contract from the very beginning to avoid any future disputes.
- Understand the contract's payment terms.
- Ensure that you price the job accurately.
- Negotiate the terms strictly.

- Remember to include the government's 8 per cent base rate in the contract, and do not hesitate to impose it.
- Take action immediately when payments become overdue.
- Do not be afraid to take late- or non-paying clients to court.
- Review your finances to ensure that you understand when payments should be coming in and when your expenses are due.

These best practices do not represent a complete list of all the possible strategies, but they do represent those that may be the most beneficial.

### Don't Wait: Empower Yourself and Get Paid

Late payments have unfortunately become a common practice in the construction industry. But, by following these best practices, you can protect your firm from situations where you are left waiting for the check. For more guidance on how to safeguard your business, contact the professionals at **Crendon Insurance Brokers Ltd** today.