Title: Reporting on Payment Practices and Performance Regulations: Final Stage Impact Assessment **IA No: DBT024(F)-23-BG** **RPC Reference No:** N/A **Lead department or agency:** Department for Business and Trade **Other departments or agencies:** N/A	**Impact Assessment (IA)** **Date:** February 2024 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** responsiblepaymentculture@beis.gov.uk

Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option (in 2022 prices)			
Total Net Present Social Value	**Business Net Present Value**	**Net cost to business per year**	**Business Impact Target Status** Qualifying provision
£-121.1m	£-121.1m	£14.1m	

What is the problem under consideration? Why is government action or intervention necessary?

UK companies often supply goods and services on trade credit, deferring payment for a period after delivery rather than requiring immediate payment of invoices. In particularly adverse economic conditions, such as recessions or periods of high inflation, businesses can see the late payment of these invoices as a form of 'free' finance, and late payment tends to worsen. When customers do not pay on time this causes problems for suppliers, affecting their cash flow, diverting resources towards chasing payment and potentially incurring costs of covering cash flow shortages by raising external finance. When suppliers agree contracts with customers, they may lack information on customers' payment punctuality. Government intervention can address this absence of information and imbalance in market power – that disproportionately harms small businesses, many of which generally lack real negotiating power when agreeing contracts – by requiring large businesses to report information on their payment practices and performance.

What are the policy objectives of the action or intervention and the intended effects?

To bring about greater transparency of payment practices and performance, overcoming the asymmetry of information between large businesses and their suppliers. This will mean suppliers are in a better position to make an informed judgement on whether to agree a contract, to negotiate fair terms (based on market standards) and to make better-informed challenges against large businesses' late payments, where they occur. The key intended effect is an increase in the incentives for large businesses to improve payment practices and performance, reducing the overall level of late payment in the economy and thereby increasing economic resilience.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: Do nothing: This would allow the current regulations to expire and leave the problem of late payment unaddressed.
Option 2: Extending the requirement of large businesses to report on payment practices and performance but leaving the policy unchanged.
Option 3: Extending the requirement of large businesses to report on payment practices and performance but with additions to required reporting metrics.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date: 2029**

Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	**Micro** No	**Small** No	**Medium** No	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)	**Traded:** **N/A**		**Non-traded:** **N/A**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date: 14/02/2024

Summary: Analysis & Evidence — Final Government Position

Description: Extend the requirement of large businesses to report on payment practices and performance but with additions to required reporting metrics

FULL ECONOMIC ASSESSMENT

Price Base Year 2022	PV Base Year 2024	Time Period Years 10	Present Value of Costs (PVC) (£m)		
			Low: -109.0	**High:** -132.2	**Best Estimate:** -121.1

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Cost (Present Value)
Low	4.1	1 and 2	12.2	**109.0**
High	5.0		14.9	**133.2**
Best Estimate	4.6		13.5	**121.1**

Description and scale of key monetised costs by 'main affected groups'

There are 2 main costs: Transition costs for businesses (£4.6m) associated with adapting to the changes in the existing Reporting on Payment Practices and Performance Regulations (the Regulations), and ongoing costs for businesses (£13.5m per annum) largely comprising the cost of reporting in line with the Regulations. Both transition and ongoing costs for businesses are higher than in Option 2 (extend the Regulations but leave the requirements unchanged), accounting for the additional reporting requirements.

Other key non-monetised costs by 'main affected groups'

There are some small administrative costs to government, which have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant	Total Benefit (Present Value)
Low	Not quantified		Not quantified	**Not quantified**
High	Not quantified		Not quantified	**Not quantified**
Best Estimate	Not quantified		Not quantified	**Not quantified**

Description and scale of key monetised benefits by 'main affected groups'

Not quantified.

Other key non-monetised benefits by 'main affected groups'

Continuations of those benefits provided by the original Regulations, namely:
-Greater transparency within the trade credit market, allowing for stronger competition.
-Improvement to the asymmetry of information on late payments, allowing fairer contract negotiation.
-Increased availability of information to businesses, both large and small, helping suppliers choose businesses with better payment practices.
-Incentivisation for businesses to improve their payment practices, leading to a better payment culture.
-Ability to place commercial and reputational pressure on businesses to pay promptly.
-All leading to more stable cashflows for UK businesses.
Other benefits, driven by the additional reporting requirements, which mitigate some of the risks of the original policy:
-Value reporting removes the possibility of covering late large payments with large numbers of rapid, small payments.
-Specific reporting of disputed invoices alleviates the risk of unfair disputes and a requirement to refer to payment reports in annual reports increases general awareness of the data.
-The proposed addition of a selection of metrics related to retention payments will highlight and target a sector with historically high levels of late payment by focusing on an area which causes unique sectoral issues.

Key assumptions/sensitivities/risks — **Discount rate (%)** 3.5

There is some possibility that as more information on the wider market becomes available, some large businesses may use their better payment records to negotiate more favourable terms with suppliers. However, as this would then mean the businesses with better records will have lower costs, it may go some way towards achieving the stated objectives. The risk also remains that general power imbalances between large and small businesses will hinder suppliers' capacities for the negotiation of fairer terms; information is only one element of negotiation, and wider issues will remain in certain sectors.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 14.1	**Benefits:** 0	**Net:** -14.1	70.3

Executive summary

1. This final stage Impact Assessment accompanies the government response to the Amendments to the Payment Practices and Performance Regulations 2017 consultation, which closed in April 2023.

2. Following the consultation, the government's final position is to take forward Option 3, namely extend the Regulations for 7 years, amending the Regulations such that:

    - Qualifying businesses will be required to report the total value of payments due in the reporting period that have not been paid within agreed terms, alongside existing requirements to report on the total volume of payments due. To mirror the existing volume reporting, this metric will capture statistics on the total value of payments due within the reporting period which were not paid within the agreed payment period, as well as those paid in 30 days or fewer, between 31 and 60 days and in 61 days or longer.

    - The Regulations will include an effective method of reporting the proportion of disputed invoices whilst still including them as late payments in overall payment time data.

    - A requirement is introduced that payment performance data must be included in the business's Annual (Directors') Reports. This is currently subject to the outcome of the ongoing Financial Reporting Council (FRC) review of non-financial reporting.

    - The payment dates to be reported when supply chain finance is used will be made clearer.

    - Where relevant, reporting must include information on standard retention payment terms and retention payment performance statistics for qualifying construction contracts.

3. Importantly, most of these amendments will come into effect when the Regulations are extended in 2024. Additional reporting requirements relating to retention payments for qualifying construction contracts however will come into effect a year later in 2025.

4. The Impact Assessment outlines the costs and benefits associated with the different options. The total cost of extending and amending the Regulations is PV £121.1m, over 10 years. Quantified costs exclusively fall on qualifying businesses. Benefits are not quantified, rather described in terms of the Regulations' objectives, namely normalising prompt payment and reducing instances of late payment between businesses.

5. This Impact Assessment has not been reviewed by the Regulatory Policy Committee (RPC). The additional Equivalent Annual Net Direct Cost to Business (EANDCB) of extending and amending the Regulations, compared to extending the Regulations as is, falls below the £5m *de minimis* threshold for mandatory RPC scrutiny.

Background

Legislative context

6. Previous UK governments and the European Union have legislated to address late payment. The Late Payment of Commercial Debts (Interest) Act 1998 created a statutory

framework in the UK for tackling late payment. This was amended in 2002, when the 2000 EU Late Payment Directive was transposed into UK law; and again in 2013, when the recast 2011 EU Late Payment Directive was transposed into UK law.

7. Regulations made under sections 3 and 161 of the Small Business, Enterprise and Employment Act 2015 (and for limited liability partnerships (LLPs), made under section 15 and 17 of the Limited Liability Partnerships Act 2000), introduce a duty on the UK's large companies and LLPs to report on a half-yearly basis on their payment practices, policies and performance for financial years beginning on or after 6 April 2017.

8. The legislation governing the reporting requirements for companies are the Reporting on Payment Practices and Performance Regulations 2017 and for LLPs, the Limited Liability Partnerships (Reporting on Payment Practices and Performance) Regulations 2017 ("the Regulations").

9. When the Regulations came into effect in 2017, in line with a practice that when a new policy imposes burdens on business (and does not implement European regulation), a sunset provision was included. The normal length of time for a sunset provision is 7 years, which is why the Regulations are currently due to no longer be in effect after 6 April 2024.

10. In addition to legislation outlined above, regulation 113(7) of the Public Contracts Regulations (PCR) 2015 outlines a requirement for businesses competing for public contracts to demonstrate effective payment systems. Cabinet Office Procurement Policy Notices (PPNs) fully describe the requirements. The most recent PPN, which was set out in August 2021 and came into effect in April 2022, requires that companies bidding for contracts worth more than £5 million per annum (as calculated over the full length and cost of the contract) must meet certain payment performance thresholds.[1]

Statutory Review of the Regulations

11. In April 2022, Government published a Statutory Review of the Regulations, assessing the extent to which the Regulations have achieved their objectives, whether those objectives remain appropriate, whether the Regulations remain the appropriate vehicle to deliver the policy, and if there have been any unintended effects of the Regulations.[2]

12. The review concluded that the Regulations have brought greater transparency to the payment practices and performance of large businesses. Moreover, the policy remains appropriate because there is an ongoing need to ensure greater compliance in terms of prompt payment and to increase awareness of the performance of large businesses in this area. Finally, having considered alternatives that may impose less regulation, the review concluded that the Regulations were the appropriate mechanism to address the policy objectives.

Consultation on amending the Regulations

[1] https://www.gov.uk/government/publications/procurement-policy-note-0821
[2] https://www.legislation.gov.uk/uksi/2017/395/resources

13. Following the conclusions of the Statutory Review, Government consulted on extending and amending the Regulations. The Government's provisional view was to extend the Regulations for a further 7 years, reviewing them again after 5. The consultation took place between January and April 2023, asking again whether the Regulations should be extended beyond their current expiry date of 6 April 2024, also taking views on proposed amendments.

14. Consultation responses showed high levels of support for both extending the Regulations and the proposed amendments. Specifically, the review of consultation responses concluded that Government would take forward the following actions:

    - The Regulations will be extended beyond the sunset clause date of the 6th of April 2024 for up to 7 years, with a review to take place after 5.

    - Qualifying businesses will be required to report the total value of payments due in the reporting period that have not been paid within agreed terms, alongside existing requirements to report on the total volume of payments due. To mirror the existing volume reporting, this metric will capture statistics on the total value of payments due within the reporting period which were not paid within the agreed payment period, as well as those paid in 30 days or fewer, between 31 and 60 days and in 61 days or longer.

    - The Regulations will include an effective method of reporting the proportion of disputed invoices whilst still including them as late payments in overall payment time data.

    - A requirement is introduced that payment performance data must be included in the business's Annual (Director's) Reports. This is currently subject to the outcome of the ongoing Financial Reporting Council (FRC) review of non-financial reporting.

    - The payment dates to be reported when supply chain finance is used will be made clearer.

    - Where relevant, reporting must include information on standard retention payment terms and retention payment performance statistics for qualifying construction contracts.

Problem under consideration

15. UK companies often supply goods and services on credit, agreeing to defer payment for a period after invoice rather than requiring immediate payment. This form of payment, known as 'trade credit,' is a common part of business practice in the UK, with almost 4 in 10 SMEs using trade credit in 2022.[3]

16. Late payment occurs when a business has been supplied goods or services on credit but fails to pay within the agreed term. Legally, if no explicit payment terms have been agreed, payment is assumed to be due after 30 days for the purposes of charging statutory interest.[4]

17. Late payment causes problems for businesses that are not paid on time as it adversely affects their liquidity. This can constrain the ability of a business to invest for future

[3] BVA BDRC SME Finance Monitor Q4 2022

[4] Section 4(2A) of the Late Payment of Commercial Debts (Interest) Act 1998

growth, and in the worst cases it can force businesses to exit the market. Small businesses are especially exposed to liquidity problems when they do not receive payment on time.

18. Late and long payment are also particularly problematic for newer businesses; established businesses have more established sources of funding and strong relationships with creditors, and so can withstand periods of low cashflow. New and innovative businesses, however, require more 'start-up capital' when they are paid more slowly, as they do not have established sources of funding.

Scale of the problem

19. Evidence on the scale of the problem comes from business surveys that ask questions about the use of trade credit, the extent to which businesses experience late payment and what form of detriment it causes:

- Late payment was considered a problem by 56% of those that gave trade credit (or 26% of all SME employers).[5] There was very little difference by size of business, with 57% of medium sized employers considering late payment a problem, compared to 60% of small firms and 55% of micro businesses (as proportions of those that gave trade credit).[6]

- The Federation of Small Businesses carried out a survey[7] on the impact of the pandemic on late payments to businesses, receiving 5,471 responses of which 4,228 responses were businesses where late payments were relevant.[8] They found that 62% of respondents have experienced either an increase in late payments and/or had payments frozen completely as a result of COVID-19 and 10% had experienced an increase in payment times due to COVID-19.

- Account software maker Xero found that 49% of payments to small businesses were late in 2021, with around 12% more than 1 month late.[9] Xero also found that, based on the time value of money, late payments cost businesses £684 million per annum.

- According to the SME Finance Monitor[10], in 2022 Q4, 11 per cent of SMEs expected "cash flow/issues with late payment" to be a major obstacle in the next 12 months, with 22 per cent expecting these issues to be a moderate obstacle.

Current length of payment delay

20. According to the European Payment Report 2023[11], UK businesses allow their business-to-business customers average payment terms of 41 days, an increase of 3 days compared to that reported in 2022. The average time taken to pay was 58, an increase of 7 days compared to 2022.[12]

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[5] BVA BDRC SME Finance Monitor Q4 2022

[6] Ibid.

[7] https://www.fsb.org.uk/resources-page/late-again--how-the-coronavirus-pandemic-is-impacting-payment-terms-for-small-firms--.html

[8] The data analysed was mostly gathered after the lockdown was announced (23 March 2020), and the survey questions asked in such a way as to capture its impact. The survey was in the field between 22 April and the 30 April, receiving 5,471 responses.

[9] https://www.xero.com/content/dam/xero/pdfs/xsbi/cash-flow-challenges-facing-small-businesses-part2.pdf

[10] BVA BDRC SME Finance Monitor Q4 2022. Surveys over 4,000 SMEs (turnover less than £25m) every quarter about past borrowing events and future borrowing intentions: https://www.bva-bdrc.com/products/sme-finance-monitor

[11] The report is based on a survey that was conducted simultaneously in 29 European countries between end of November 2022 and March 2023. A total of 10,556 companies across 15 industries in Europe participated in the research: https://www.intrum.co.uk/business-solutions/reports-insights/reports/european-payment-report-2023/

[12] Currently, this data cannot be broken down by business size.

21. Payment times for UK businesses normally compare well to the rest of Europe, though these may be subject to differing legal and cultural norms. Increases in contractual payment terms and payment times in 2023 however has seen UK performance drop relative to European counterparts. The table below shows the average of agreed contractual payment terms in days and the average number of days that it takes for final payment to be made across various countries in Europe.

Table 1: Average business-to-business payment times across European countries

Country	Average business-to business contractual payment terms (days)	Average time business-to business customers actually take to pay (days)
Ireland	32	46
Croatia	36	49
Slovenia	40	51
The Netherlands	42	54
Switzerland	41	54
Greece	40	55
Romania	41	55
Austria	40	56
Bosnia Herzegovina	43	56
Germany	42	56
Italy	40	56
Lithuania	42	56
Portugal	41	56
Serbia	41	56
Slovakia	41	56
Spain	41	56
France	40	57
Poland	42	57
Sweden	41	57
Belgium	42	58
Czech Republic	43	58
Finland	44	58
Hungary	44	58
Latvia	41	58
United Kingdom	**41**	**58**
Estonia	44	59
Norway	43	59
Denmark	45	61
Bulgaria	45	62

Costs to businesses

22. Suppliers suffering late payment face costs associated with providing the necessary liquidity to cover their own obligations. Internal costs include the administrative costs associated with chasing and recovering payment and the use of management time diverted to contingency planning to maintain liquidity.

23. Tide surveyed 1,000 CEOs, founders, directors, and senior management staff at SMEs in December 2021 to analyse the use of their time during the working day[13]. The study

[13] https://www.tide.co/blog/tide-update/new-research-uk-smes-chasing-50bn-in-late-payments/

found that the average UK SME is chasing five outstanding invoices at any one time, amounting to an average of £8,500 owed and 1.5 hours per day. Research by Smart Data Foundry (using Sage accounting data) found that a typical small business was owed approximately £22,000 in late payments in 2021.[14]

24. These costs have significantly larger impact on smaller businesses or those with smaller cashflows. A company with only 5 employees suffers significantly more from a few hours extra work per week than a company with 50; likewise, companies with small operating budgets are far more likely to suffer serious cashflow problems and default on their own debts if they are not paid in reasonable time.

Informing choice for suppliers negotiating sales

25. Effective markets are generally characterised by high levels of information available to both sides of the market, i.e., the buyers and sellers. These provide the right incentives to reward good quality performance. In the product market, when customers have full information about the quality of products available from different suppliers, the suppliers providing the highest quality products are likely to be rewarded with better sales. In credit markets, when lenders have full information on the reliability of a borrower's debt repayment, the more reliable borrowers are likely to be rewarded with greater availability of credit and/or on better terms (e.g., lower rates of interest).

26. The use of trade credit between businesses is a form of credit market. The market works best when both sides of a contract have full information on the reliability of the other's payment times. When businesses are aware of the likelihood of others paying on time, they are more likely to enter contracts with prompt paying businesses and avoid taking on contracts with those that have poor payment records. This creates incentives that reward prompt payment and helps tackle a culture of late payment.

27. Without the Regulations, introduced in 2017, it would be difficult to obtain information on the payment practices and performance of other businesses.

Establishing 'norms' of payment times

28. Without the Regulations, the lack of transparency would make it difficult for businesses to assess whether the performance of their customer or the terms they are offered are comparable to the norm. This situation tips the balance of power between supplier and customer and allows for a more robust negotiation from the customer; suppliers are likely to be reluctant to take the risk of leaving a contract when unsure whether alternative options would involve quicker payment. There is a commercial disincentive for suppliers to leave lucrative contracts, even if the cost of late transactions is eating away at profit. In industries where there are few large contractors, there is a concern that a further contract will be lost or even that there will be some sort of 'blacklisting'.

29. Where there is evidence that a customer is requesting terms that are outside of an industry norm and potentially unfair, it is possible for third parties to bring pressure for a return to fairer and more normal terms – for example through business representative organisations who 'name and shame' certain businesses as unfair to suppliers.

Signal of effective corporate governance

[14] Estimate is based on accounting data, which looks at invoices across a sample of 110,000 businesses. https://cms.smartdatafoundry.com/wp-content/uploads/2022/11/221103-late-and-slow-payments-part-one-Final59.pdf

30. Supplier relationships are an important marker of a company's business model and financial structure. When the board and senior management of companies can understand how they are interacting with their supply chain in practice rather than just in principle, they are in a better position to drive change and improve their business relationships. Information such as the extent to which a business is a reliable payer of its suppliers or whether it has a reputation for repeat late payment may not be apparent from the financial sections of annual accounts but may have some value as a signal to Board and senior management about the quality of management and processes at the company.

31. In addition to internal concerns, clearer evidence of good payment can be a signal to investors of healthy cashflow and effective governance. When such information is hidden, what looks like a functioning business could be hiding its cashflow problems by using suppliers for 'free' finance.

Macroeconomic risk

32. Late payment can worsen a shortage of liquidity in the economy when there is a credit crunch or recession. The knock-on effect of one customer paying a supplier late leading to that supplier paying its own supplier(s) late can quickly spread the impact of late payment to multiple firms, increasing the demand for credit at a time when access may be difficult. As the risk of firms paying late increases during an economic downturn or recession, the problem of late payment both is exacerbated by difficult credit conditions and worsens them.

33. The policy measures assessed in this Impact Assessment are not specifically designed to improve the problem of late payment during abnormal economic conditions but rather should be seen as a measure aimed at improving the general culture of prompt payment during normal economic conditions. If effective, this would reduce the macroeconomic risk by lowering the level of outstanding debt from late payment that businesses carry into a future downturn or recession.

The Policy

Policy objective

34. The rationale for intervention and objective of the policy is to promote greater transparency and public scrutiny of large businesses' payment practices and performance, in order to overcome the asymmetry of information between large businesses and their suppliers with regard to payment processes.

35. Making this information easily accessible allows suppliers to have a better understanding of what to expect from their customers, and therefore be in a better position to:

    - Make an informed judgement on whether to enter a commercial relationship (e.g., whether terms are fair and whether they are likely to be observed, thereby avoiding the cost of chasing late payments).

    - Negotiate fairer terms.

- Collect intelligence which makes it easier to challenge late payment.

36. The 2022 Statutory Review concluded that the Regulations are meeting the stated expectations of their objectives: they have brought greater transparency and symmetry of information to the payment practices and performance of large businesses and continue to highlight businesses that have poor payment practices.

37. The review also concluded that objectives of the policy remain appropriate because there is a continued requirement to ensure compliance and increase awareness of the payment practices and performance of large businesses. The reporting function should continue to ensure that qualifying businesses are required to report their payment data.

38. The consultation on the Regulations which followed the Statutory Review, taking place between January and April 2023, also confirmed that large businesses should continue to be required to report on their payment practices, and showed high levels of support for proposed amendments (outlined in paragraph 13).

Policy proposal

39. The policy options proposed are largely the same as the existing Regulations introduced in 2017, except for some proposed additions to what and how variables are reported which are described in the ‘Changes proposed to the information required in relation to qualifying contracts’ section. This includes the addition of specific reporting requirements relating to retention payments, an area of serious concern in the construction sector, which historically has some of the worst payment performance.

Reporting requirements under the Regulations

40. Large companies and large Limited Liability Partnerships (LLPs) are required under the Regulations to publish information about their payment practices and performance twice per financial year. The information must be published through a web-based service, available to the public, provided for the purposes of the Regulations.

Businesses which need to report

41. The reporting requirements apply to companies and LLPs (regardless of whether they are private, public or quoted), active and incorporated in the UK, which exceed certain size criteria, as outlined below. The companies and LLPs in scope of the requirement are referred to in the Regulations as “qualifying companies” and “qualifying LLPs”.

Size criteria for the reporting requirement

42. Businesses are in scope of the requirement for a financial year if, on their last two balance sheet dates (or, if only in their second financial year, on their last balance sheet date before that financial year), they exceeded at least two of the thresholds for qualifying as a medium-sized company under the Companies Act 2006 (section 465(3)); in the case of LLPs, as applied and modified by regulation 26 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations

2008). The thresholds relate to turnover, balance sheet total and average number of employees.

43. At the time of publication, these general thresholds are:

- £36 million annual turnover.
- £18 million balance sheet total.
- 250 employees.

44. A parent company or parent LLP is only required to report if, on its last two balance sheet dates (or, if only in their second financial year, on their last balance sheet date before that financial year), that business: (i) exceeds two or all three of the general thresholds; and (ii) the group it heads exceeds two or all three of the group thresholds for qualifying as a medium-sized group in (section 466(4) of the Companies Act 2006; in the case of LLPs, as applied and modified by regulation 55 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008).

Number of businesses in scope

45. The 2016 Impact Assessment for the Regulations used the FAME database to generate an estimate for the number of businesses in scope. FAME is used in analyses such as these as it has combined data on companies' employee numbers, assets, turnover, Standard Industrial Classification Codes, etc. However, based both on the number of companies that have thus far reported and the discrepancy between, for example, DBT (formerly BEIS) Business Population and FAME estimates for the number of UK businesses with more than 250 employees (7,700 and 12,300, respectively), we consider FAME to be an overestimate of the number of businesses in scope.[15]

46. As of May 2023, more than 70,000 reports on payment practices had been submitted and published on the gov.uk website[16] by 9,600 businesses, of which an estimated 600 were in the construction sector[17]. This is likely to be a slight underestimate of the total businesses in scope of the newly proposed requirements (in that it is likely more businesses will pass the threshold in the coming years, businesses may not have reported, etc.).

47. Importantly, this Impact Assessment uses reporting numbers from November 2022, uplifted by 10% to account for businesses that will likely come in scope of the regulations in coming years – namely 10,300 total businesses, of which 700 are believed to be in construction.

Reporting obligations

[15] The current FAME estimate for the number of businesses in scope is 15,700, as of June 2023

[16] https://check-payment-practices.service.gov.uk/export

[17] Based on FAME estimates of the proportion of businesses subject to reporting requirements which were in the construction sector (we consider FAME's distributions likely to be accurate, if not its overall numbers).

48. Businesses in scope of the reporting requirement must prepare and publish information about their payment practices and performance in relation to qualifying contracts[18], for every reporting period in the financial year. The information for each period must reflect the policies and practices which have applied during said period, and overall business performance.

49. The report must be published on the web-based service provided by Government within 30 days, beginning with the day after the last day of the period a report covers.

50. The report must contain the information required by the Regulations and must be approved by a director (where the reporting business is a company) or a designated member (where the reporting business is an LLP), before it is published. The name of that director or designated member should be included in the report.

Contracts in scope

51. Businesses will not be required to report on contracts for financial services or contracts which do not relate to the United Kingdom.

Information currently required in relation to qualifying contracts

52. Statistics on:

- The average number of days taken to make payments in the reporting period, measured from the day after the receipt of invoice or other notice to the date the cash is received in full by the supplier.

- The percentage of payments made within the reporting period which were paid in 30 days or fewer, between 31 and 60 days, and in 61 days or longer (note: for the purposes of timekeeping, day 1 is the day after the date on which the invoice or other notice is received by the qualifying business).

- The percentage of payments due within the reporting period which were not paid within the agreed payment period (the period in which a company is contractually required to pay a sum).

53. Narrative descriptions of the business' standard payment terms in qualifying contracts, which must include:

- The standard contractual length of time for payment of invoices.

- Any changes to the standard payment terms in the reporting period.

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[18] Page 9, Guidance to reporting on payment practices and performance: https://www.gov.uk/government/publications/business-payment-practices-and-performance-reporting-requirements; and see regulation 6 of the Reporting on Payment Practices and Performance Regulations 2017 and regulation 3 of the Limited Liability Partnerships (Reporting on Payment Practices and Performance) Regulations 2017, read with section 3(2) of the Small Business, Enterprise and Employment Act 2015.

- How suppliers have been notified of or consulted on these changes.

- The maximum payment period specified in a qualifying contract taken on during the reporting period.

- The business' process for resolving disputes related to payment under a qualifying contract.

54. Tick box statements about:

    - Whether suppliers are offered e-invoicing.

    - Whether supply chain finance is available to suppliers.

    - Whether the business' practices and policies cover deducting sums from payments as a charge for remaining on a supplier's list, and whether they have done this in the reporting period.

    - Whether the business is a signatory of a payment code, and the name of the code.

The sanctions if a business does not comply

55. It is a criminal offence by the business, and every director of the company or designated member of an LLP, if the business fails to publish a report containing the necessary information within the specified filing period of 30 days. There is a defence available to the director or designated member who can prove he or she took all reasonable steps to secure publication within the statutory timeframe.

56. Anyone who knowingly or recklessly publishes or causes to be published for the purposes of the Regulations a report or any information or makes, for any such purpose, a statement which is misleading, false, or deceptive commits a criminal offence if they knew, or were reckless, about it being false or misleading at the time it was made. This applies to businesses and individuals.

57. These offences are punishable, on summary conviction, by a fine.

Changes proposed to the information required in relation to qualifying contracts

58. Following the 2022 Statutory Review and consultation in early 2023, proposed changes the Regulations include an additional requirement to report the value of payments within the reporting period – aimed at providing further transparency and allowing for comparison between the total value of invoices paid within terms to those paid outside agreed terms.

59. Specifically, this metric will capture information on the total value of payments due within the reporting period which were not paid within the agreed payment period, as well as those paid in 30 days or fewer, between 31 and 60 days and in 61 days or longer.

60. Additionally, the Regulations may include a requirement for a reporting business to include their payment practices and performance information in their annual report. This is aimed at having a 'self-governing' effect on reporting businesses by reaffirming awareness of the importance of reporting at board level, and in the audience of a company's annual report, including its shareholders.

61. Importantly, the FRC (the UK regulator for corporate reporting) is currently conducting a review of the non-financial reporting requirements UK companies need to comply with to produce their annual report.[19] The requirement for reporting businesses to include their payment practices and performance information in their annual report is in scope of the review, and a final decision on the inclusion of payment reporting in annual reports will therefore be taken once the review has been completed.

62. The Regulations will also make it a requirement for reporting businesses to explicitly report on disputed invoices (in addition to overall metrics), to increase accountability of their payment practices.

63. Finally, the Regulations will also include a requirement that payment practice and performance reports include information on retention payment terms in qualifying construction contracts. This will capture a range of information, including:

- The policy of the organisation in relation to retentions, and any standard terms they apply to these, as well as their approach to releasing retentions to suppliers.

- The average number of days taken to make retention payments in the reporting period, after practical completion and the end of the contractual defects liability period.

- The percentage of retention payments made within the reporting period which were paid in 30 days or fewer, between 31 and 60 days, and in 61 days or longer.

- The percentage of retention payments due within the reporting period which were not paid within the agreed payment period.

- The average value of retention held per construction contract (% of contract value).

64. Overall, these additional requirements will provide greater transparency and public scrutiny of large businesses' retention payment practices and performance, as well as improve information to suppliers in the construction supply chain.

Description of options considered

65. This Impact Assessment primarily assesses the impact of the options that continue the current Regulations with some additions to the existing policy (which is ending in 2024 due to the sunset clause).

[19] https://www.gov.uk/government/consultations/smarter-regulation-non-financial-reporting-review-call-for-evidence

Option 1: Do nothing

66. This would mean ending the current Payment Reporting Requirements on large businesses, which would result in the market failure associated with asymmetric information between suppliers and customers with relation to payment practices and performance no longer being constrained by regulatory action.

Option 2: Continue existing policy of duty to report on payment practices and performance as is

67. This would continue the policy implementation as it has been since its introduction in 2017, which is described in the above section under the ‘Policy proposal’ section.

Option 3: Continue existing policy of duty to report on payment practices and performance with some amendments to what and how some variables are reported

68. This would continue the policy implementation as it has been since its introduction in 2017, with various additions to the variables reported, which are set out in the ‘Changes proposed to the information required in relation to qualifying contracts’ section.

Cost-benefit analysis

Appraisal challenges and proportionality of approach

69. A key challenge to cost-benefit appraisal of the policy is that the costs of the policy fall on a specific population of businesses (those in scope of the reporting requirements) while its benefits could accrue to many parties, largely (but not exclusively) in-scope businesses’ suppliers. The costs of the policy apply directly to the affected businesses, which will incur various costs directly because of the continuation of reporting requirements. The benefits, however, accrue indirectly; they depend on some other economic decision taking place between the implementation of the policy and the benefit’s occurrence (e.g., behavioural change on behalf of suppliers to contract with faster payers in preference to slower payers and/or behavioural change on behalf of slower payers to improve their payment performance).

70. By extensive appropriate survey research with businesses (that are in scope of the requirements) we could identify more estimates of the likely direct costs, but it is much more difficult to quantify estimates for the potential benefits. Survey evidence suggests that the costs associated with late payment currently incurred by business are still considerable, however, there is potential for significant savings to business if the policy works as intended.

71. There is a risk that by not quantifying the benefits, the overall cost-benefit analysis may overemphasise the costs without reflecting the potential for offsetting benefits. While the benefits cannot be robustly quantified due to the uncertainty of the exact behavioural responses of businesses to the extra information provided by the policy and the scale of impact these will have on payment performance, using the evidence gathered for the Statutory Review we can give a qualitative overview of how well the original policy met its objectives, and provide a description of how the proposed additions would further aid in these goals.

72. For the 2016 Impact Assessment, DBT (formerly BEIS) commissioned a third party (Touchstone Renard) to obtain independent estimates of the costs faced by in scope businesses, based on a representative sample of 36 businesses.

73. The same costs are used to estimate impacts of renewing and amending the Regulations. Although the consultation, which ran between January and April 2023, asked businesses to provide estimates for costs associated with current reporting activity, responses were limited.[20]

Previous BEIS research

Between August and September 2016, Touchstone Renard contacted 300 businesses with a high-level specification of the proposed reporting requirements and an initial questionnaire. Respondents were subsequently followed up with a semi-structured telephone interview, to probe and understand the company's background, systems, costs of meeting the new requirements and any other issues relevant to compliance that were raised by the respondents.

The underlying population of businesses was defined as large companies as defined by the Companies Act. A sample of 300 businesses was drawn from data supplied by the FAME database, and was representative of all the main business sectors, included substantial numbers of both the largest and smallest companies within range in the overall population, as well as a random sample of all companies.

The research took place during the summer months and was done to a tight timescale, and so due to lack of availability of Finance Directors or other suitably informed respondents, the actual sample interviewed was relatively small (36).

Eight of the respondents were parent companies that provided estimates of the costings across their whole group. These cost estimates were divided by the number of subsidiary companies in the group to obtain an estimate per individual company. This enables the per business estimates to be scaled up to obtain whole economy costs by multiplying by the estimated number of businesses in scope of the reporting requirements.

Only one estimate has been recorded per observation. Where a parent company has reported group level costs on behalf of their subsidiaries, a single individual level estimate has been recorded. This is because the population estimate affected by the regulations is defined in company, rather than company group terms.

There is considerable variation in the cost estimates reported across the sample. In some cost categories we consider that high outlier figures would skew the mean cost upwards in a potentially non-representative manner. To seek to control for both high and low outlier responses, the central estimates in this Impact Assessment are based on the research's median estimates,[21] and, given clustering around the medians we have calculated, we employ lower and upper bound estimates. These are modelled as increases or decreases of 10 per cent from the central estimate.

Options 2 and 3 – Structure of costs

[20] Less than 5 responses, ranging between £3,000 and £15,000 per annum.
[21] Or the first cost value to exceed zero should zero be the reported median.

74. The costs quantified in this Impact Assessment are the direct costs as incurred by businesses in satisfying the reporting requirements. In Option 2, these are a continuation of the requirements for companies to report on their payment practices and performance. In Option 3 there is some small additional ongoing cost as well as a reasonably sizeable transition cost, occurring in year one. The cost burden imposed by this policy is the total of the costs incurred by the firms in scope of the requirements.

75. To account for the timing over which costs incur and discount future values appropriately, the costs have been separated into one-off "transition" costs – which would be expected to be incurred in the first year of the reporting requirements – and ongoing costs:

a) Transition costs

   i. Familiarisation with the new requirements.

   ii. Adapting IT systems.

   iii. Gathering information needed to update processes.

   iv. Changing processes.

b) Ongoing costs

   i. Maintaining systems and processes.

   ii. Preparing reports biannually.

   iii. Collating, approving and submitting reports biannually.

76. As Option 2 is just a continuation of the current policy there are no transition costs, only ongoing costs. Option 3 has some of the same ongoing costs as Option 2 but also has added transition costs and some small total increase to the ongoing cost due to the additional reporting requirements (chiefly relating to retention payments).

77. Importantly, Option 3 costings assume the inclusion of payment reporting in annual reports. While this is subject to the conclusion of the ongoing FRC review of non-financial reporting, they are included for completeness, and to demonstrate the highest possible costs associated with the Regulations. The costs themselves are not substantial (approximately £624k in transition and £928k per annum in terms of ongoing costs), but if the annual report requirement isn't implemented, impact assessment costs will be overestimated.

78. The costs of transition are assumed to occur once only, in advance of the preparation of the first report. For the purposes of NPV calculation, transition costs which apply to all businesses are scored in Year 1 (2024). Additional transition costs, relating to retention payments, which apply exclusively to construction businesses are scored in Year 2 (2025).

79. Costs of collecting and providing information, sign-off, systems maintenance and quality assurance recur in every year of the appraisal period. This Impact Assessment has regarded the ongoing costs as being constant, although in practice, the costs may reduce over time as businesses become more familiar with the need to report payment performance and streamline their processes.

80. Costs included are the cost of purchasing external equipment, hiring external contractors and the opportunity cost of in-house staff being diverted to activities associated with complying with the reporting requirements instead of working on other profitable activities.

Option 3 – Transition costs

Familiarisation costs

81. Businesses are likely to face a one-off cost of familiarisation with the new additions to the reporting requirements introduced in Option 3, including time taken to understand statutory requirements and ensure reporting processes comply with them. For costing purposes, we assume that the person responsible for familiarisation will be a middle manager and will typically need to be given responsibility for delivery of the requirements and clarifications which may be sought from DBT such as timing of reports and reporting methods.

82. Given that there are 4 additions/changes to the original reporting requirements for all businesses and a proposed 9 for construction businesses compared to the original 12, we expect the cost to businesses to be no more than one third of the previous estimated costs for other businesses and three-quarters for those in construction.

Adapting IT systems

83. For the proposed changes to the reporting requirements under Option 3, we expect that the additional fields will not require a large time investment or drastic change to existing IT systems. As the process is already in place for uploading the data to the government system and the additional data is of a similar nature to existing requirements, we would expect adapting the IT systems to cost only a fraction of what was quoted by businesses for the original 2017 policy. The reporting on retention payments, however, will require more comprehensive IT change and costs for construction businesses will reflect this (though will still be significantly smaller than in 2016).

84. Given that there is only 1 addition/change for most businesses to the original reporting requirements compared to the original 12 that would require adapting IT systems, we expect the cost to businesses to be no more than one twelfth of the previous estimated costs. For construction businesses there are 4 additions, so we expect the cost to be no more than one third of the previous estimate.

Gathering information needed to update processes

85. Managers need to understand what systems and locations are affected, what data are already held and what metrics have already been produced. They need assurances about the reliability of the data and may require an audit to be carried out to properly understand how to gather all the components of information that are needed to satisfy the requirements.

86. Estimated costs of gathering information from the original 2016 survey were mostly zero or relatively small (up to a thousand), although a small number of respondents gave estimates of several thousand pounds.

87. Given that there are 3 additions/changes to the original reporting requirements which require updated processes out of the original 12, we expect the costs faced by

businesses to be no more than a quarter of what was costed for the original policy. For construction businesses there are 8 additions, so we expect the cost to be no more than two thirds of the 2017 estimate.

Changing processes

88. Either new or adapted internal management processes will need to be established to comply with the additional reporting requirements under Option 3. To generate reports with new additions, extra procedures need to be set up to specify, for instance, what data will be extracted, from where, by whom, at what time, the processes by which it will be quality assured and signed off, etc.

89. In the survey conducted in 2016, around two thirds of respondents estimated the cost of changing processes to be zero (although some respondents gave estimates of several thousand pounds). The figure used in cost assessment in 2016 was the first non-zero estimate, and we have increased this with inflation.

90. Given that there are 4 additions/changes to the original reporting requirements out of the original 12 and that some of the processes of quality assurance etc. have been established, we expect the cost to businesses to be no more than a third of the 2016 estimated costs. For construction businesses there are 9 additions, so we expect the cost to be no more than three-quarters of the 2017 estimate.

Summary of transition costs

91. The tables below indicate estimated transition costs per firm (construction and not construction), modelled on the median estimates given in the original interviews with firms, adjusted for inflation and the extra reporting standards. Low and high estimates are simply 10 per cent below or above the central estimate (and rounded to the nearest pound).

Option 3			
Transition Costs for Non-Construction Businesses (Scored in Year 1 only) – Per Business Costs	Low	Central	High
Familiarisation	£187	£208	£229
Adapting IT systems	£89	£98	£108
Gathering information needed	£49	£55	£60
Changing Processes	£30	£33	£37
Total	£355	£394	£434

Option 3			
Transition Costs for Construction Businesses (Scored across Years 1 and 2) – Per Business Costs	Low	Central	High
Familiarisation	£421	£468	£514
Adapting IT systems	£354	£394	£433
Gathering information needed	£131	£146	£160
Changing Processes	£68	£75	£83
Total	£974	£1,082	£1,191

Ongoing costs

Maintaining systems and processes

92. Internal procedures must be kept under review, communicated to the personnel who carry them out and updated where necessary. Any changes to the purchasing and accounts payable system could have a knock-on effect on the reporting requirements that would necessitate modification. IT systems could require software licenses and system support purchased from external suppliers on an annual basis or provided by an in-house team (incurring an opportunity cost).

93. Over 50% of respondents to the 2016 survey felt there would be no cost associated with maintaining systems and processes once the initial systems and processes had been set up. The figure used in cost assessment in 2016 was the first non-zero estimate, and we have increased this with inflation.

Preparing reports biannually

94. The key reporting requirements in the policy are the requirements to report on the metrics of payment performance, including metrics on average time of payment and proportions and values of invoices paid beyond agreed terms, and paid within 30 days; between 31 and 60 days and paid beyond 60 days. The reports will need to also reflect any changes in dispute resolution policy or payment terms. For construction businesses, the proposed further reporting of various details relating to retention payments is also likely to increase costs.

95. Estimates of costs associated with preparing reports depend on the amount of manual work involved versus the extent to which the company could automate the report using its IT systems. Tasks range from simply running an automated report, to extracting data to Excel and preparing the report from there, and/or generating varying amounts of manual data for transactions and suppliers that for whatever reason are not covered by the routine systems.

96. A number of respondents claimed there would be no ongoing costs associated with preparing the reports once systems had been established, with others estimating costs of a few hundred or a few thousand pounds. For construction businesses, there are four additions, so we expect this ongoing cost to increase by one third for businesses in construction.

Collating, approving and submitting reports biannually

97. Costs of collating the information required into a suitable format depend on the number of separate systems involved: for one integrated system there may be no collation, whereas organisations with multiple, unintegrated systems incur larger costs.

98. A director in the reporting company or a designated member in an LLP will be responsible for approving the data every time it is to be published. The costs of approving reports depend on the complexity of the underlying data and the confidence managers have in their internal systems.

99. Businesses will be required to provide their data to a central location, to ensure data is presented in a standard format and that it is easily accessible. They will also be required

to upload the reports to a portal provided by the Department for Business and Trade. Non-statutory guidance will be made available to help businesses to provide the information.

100. Estimated costs of collating, approving and submitting reports ranged between zero, a few hundred and a few thousand pounds. Based on the addition of one requirement which requires more time for collation and approval, we expect an increase of around one twelfth to the cost of collating reports for all businesses. Based on the addition of five further reporting metrics for retention payments, each requiring specific reference in reports, we expect an increase of around one half to the cost of collating reports for construction businesses.

Option 2 – Estimated ongoing costs

101. The table below indicates estimated costs per firm; the central estimates are based on the median estimates given in the 2016 survey, adjusted for inflation. Low and high estimates are 10 per cent below or above the central estimate.

Option 2 Ongoing Costs for All Businesses – Per Business Costs	Low	Central	High
Maintain systems and processes	£106	£118	£130
Prepare reports twice yearly	£630	£700	£770
Collate, approve and submit reports twice yearly	£339	£377	£414
Total	£1,076	£1,195	£1,315

102. To estimate the overall cost burden across all businesses in scope of the regulations, the estimates above have been multiplied by the estimated number of businesses estimated to be in scope, as set out in paragraphs 44 to 4646.

Option 2 Ongoing Costs for All Businesses – Total Business Costs	Low	Central	High
Maintain systems and processes	£1,099,219	£1,221,354	£1,343,490
Prepare reports twice yearly	£6,518,368	£7,242,632	£7,966,895
Collate, approve and submit reports twice yearly	£3,506,508	£3,896,121	£4,285,733
Total	£11,124,096	£12,360,106	£13,596,117

Option 3 – Estimated ongoing costs

103. The table below indicates estimated costs per firm; the central estimates are based on the median estimates given in the 2016 survey, adjusted for inflation and then with an additional proportion added as needed. Low and high estimates are 10 per cent below or above the central estimate. It may be noted that the ongoing costs for Non-construction Businesses are almost equal to those in Option 2, with a slight increase under preparing and collating reports.

104. Importantly, the additional ongoing costs that apply to construction businesses, relating to retention payments, start being in incurred in Year 2. This is because the additional

requirements, relating to retention payments, will come into effect in 2025, 1 year after the other additional requirements.

Option 3			
Ongoing Costs for Non-Construction Businesses – Per Business Costs	Low	Central	High
Maintain systems and processes	£106	£118	£130
Prepare reports twice yearly	£683	£759	£835
Collate, approve and submit reports twice yearly	£367	£408	£449
Total	£1,157	£1,285	£1,414

Option 3			
Ongoing Costs for Construction Businesses – Per Business Costs	Low	Central	High
Maintain systems and processes	£106	£118	£130
Prepare reports twice yearly	£946	£1,051	£1,156
Collate, approve and submit reports twice yearly	£480	£534	£587
Total	£1,532	£1,702	£1,873

Option 3 – costs across all businesses in scope

105. To estimate the overall cost burden across all businesses in scope of the regulations, the estimates above have been multiplied by the estimated number of businesses in scope, as detailed in paragraphs 44 to 46.

Option 3			
Transition Costs for Non-Construction Businesses (Scored in Year 1 only) – Total Business Costs	Low	Central	High
Familiarisation	£1,806,099	£2,006,777	£2,207,455
Adapting IT systems	£855,161	£950,179	£1,045,196
Gathering information needed	£474,614	£527,349	£580,084
Changing Processes	£290,755	£323,061	£355,367
Total	£3,426,629	£3,807,365	£4,188,102

Option 3			
Transition Costs for Construction Businesses (Scored across Years 1 and 2) – Total Business Costs	Low	Central	High
Familiarisation	£289,184	£321,315	£353,447
Adapting IT systems	£243,421	£270,467	£297,514
Gathering information needed	£90,066	£100,073	£110,080
Changing Processes	£46,554	£51,727	£56,900
Total	£669,224	£743,582	£817,940

Option 3

Ongoing Costs for Non-Construction Businesses – Total Business Costs	Low	Central	High
Maintain systems and processes	£1,026,193	£1,140,214	£1,254,236
Prepare reports twice yearly	£6,592,434	£7,324,926	£8,057,419
Collate, approve and submit reports twice yearly	£3,546,351	£3,940,390	£4,334,429
Total	£11,164,978	£12,405,531	£13,646,084

Option 3

Ongoing Costs for Construction Businesses – Total Business Costs	Low	Central	High
Maintain systems and processes	£73,026	£81,140	£89,254
Prepare reports twice yearly	£649,568	£721,742	£793,916
Collate, approve and submit reports twice yearly	£330,017	£366,686	£403,355
Total	£1,052,611	£1,169,568	£1,286,525

Summary of costs

106. The overall Transitional Costs and Ongoing Costs given for Option 3 below are sums of the central estimates for the Construction and Non-construction businesses given above.

107. The NPV (Net Present Value) gives an estimate for the total value of the costs across the full appraisal period of 10 years, with values for costs in future years discounted at a rate of 3.5% per year to reflect the greater value society attaches to present rather than future consumption.

108. The Equivalent Annual Net Direct Cost to Business (EANDCB) gives an estimate for a constant annual cost that would give the same NPV over the 10-year appraisal period if costs were constant in every year.

Option 2

Summary	
Transition Costs	£0
Ongoing Costs	£12,360,106
Present Value of Business Costs	£106,391,921
EANDCB	£12,360,106

Option 3

Summary	
Transition Costs	£4,550,947
Ongoing Costs	£13,575,099
Net Present Value of Business Costs	£121,098,395
EANDCB	£14,068,634

Types of benefit

109. The benefits of the policy are more difficult to quantify than the costs. However, as part of the Statutory Review of the Regulations, qualitative evidence was gathered on how

successful the policy was and what benefits businesses felt they had received due to the policies implementation.

110. The benefits of a continuation of the policy (Option 2) relate directly to the benefits looked at under the review, which were as follows:

- Greater transparency.
- Rebalancing of the asymmetry of information.
- Increased availability of information for businesses.
- Incentivisation for businesses to improve payment practices.
- Ability to place commercial and reputational pressure on businesses to pay promptly.

111. Option 3 aims to learn from the Statutory Review by adding to reporting metrics to better achieve the desired benefits.

Greater transparency

112. There was largely positive feedback from respondents that the Regulations had brought greater transparency on payment practices and performance, with 92% either agreeing or strongly agreeing.

113. There was a consensus from several respondents that the Regulations have brought greater transparency as, prior to their introduction, there was simply no option to allow businesses to look at the payment performance of their customers. Further, it was noted that the visibility of a businesses' payment practices over time has enabled supply chain partners and competitors to make key decisions about with whom they do business. This in turn has created an incentive for in-scope businesses to review and improve their payment practices in order that they remain attractive to potential suppliers.

114. Several respondents noted that the Regulations, in conjunction with other Government initiatives such as the Small Business Commissioner and the Prompt Payment Code, have improved transparency and hold to account those large businesses with the greatest financial power. They considered this to have provided suppliers with leverage to improve their commercial performance.

115. Respondents from the construction sector were generally positive about the impact of the Regulations, with some calling them an 'essential catalyst for changing the culture around payment in the construction sector' and that they 'underpin the recognition that large businesses are as strong or as fragile as their supply chains'.

116. Some respondents highlighted concerns that the reports only capture the volume of transactions paid within terms, and not the value, and the inability to distinguish between high-value supply chain payments and small low-value payments means that there is only transparency on the volume of payments rather than their true value. This is why we are introducing metrics on the value of payments in addition to volume.

Rebalancing of the asymmetry of information

117. Feedback from respondents on whether the Regulations have helped overcome the asymmetry of information regarding payment practices and performance between large businesses and their suppliers was mixed, with 46% of respondents agreeing, while 33% disagreed, and 17% neither agreed nor disagreed.

118. There was positive feedback from several respondents that having payment performance data publicly available in an easily accessible way on gov.uk has made it easy for suppliers to obtain information on payment performance, helping to overcome the asymmetry of information that previously existed. Others commented that the accessibility of information has provided some support in their decision making when bidding for work and provided some clarity to make comparisons between businesses' payment practices and performance, providing a 'temperature test' as to whether a business will meet their expected standards of payment.

Increased availability of information for businesses

119. The Regulations aim to help businesses better understand what to expect from their customers and therefore be in a better position to:

    - Make an informed judgement on whether to enter a commercial relationship.
    - Negotiate fair terms.
    - Have information making it easier to challenge late payment.

120. Stakeholder views for this objective were mixed, with 37% of respondents either agreeing or strongly agreeing, 25% either disagreeing or strongly disagreeing, and 33% neither agreeing nor disagreeing.

121. Several respondents agreed that the Regulations have provided transparency and a consistent means of comparing performance, which are essential to changing the culture around payment. It was also stated that the explicit visibility of average payment terms and percentage of invoices paid within terms helps businesses to make an informed judgement of whether to enter a commercial relationship, and therefore puts them in a better negotiating position.

Incentivisation for businesses to improve payment practices

122. 62% of respondents either agreed or strongly agreed that the Regulations provide incentives to improve business practices, while 17% either disagreed or strongly disagreed, and 21% neither agreed nor disagreed.

123. Several respondents agreed that having their payment practices and performance data in the public domain encourages businesses to improve. It was suggested that public awareness of how a business treats its smaller suppliers can create a strong reputational incentive to improve performance and conduct.

124. It was also noted that the Regulations have provided a 'catalyst enabler' for other initiatives in the payment landscape, for example the Prompt Payment Code, payment

league tables and open-source platforms such as those provided by the Good Business Pays campaign and Build UK (discussed in the section on Option 3's additional benefits).

125. It was reported that, while the collection of accurate and timely data (in order to comply with the Regulations) has been a challenge, many businesses have seen it as an opportunity to replace outdated payment systems and intelligently analyse their payment data to ensure they can keep on top of regulatory compliance and improve the efficiency and speed of payments. They noted that there has also been evidence of large businesses providing guidance to their SME suppliers in areas such as how to submit invoices correctly to ensure prompt payment.

Ability to place commercial and reputational pressure on businesses to pay promptly

126. 67% of respondents either agreed or strongly agreed that the regulations have helped with placing pressure on businesses, while 17% either disagreed or strongly disagreed, and 13% neither agreed nor disagreed.

127. Several respondents agreed that the increased transparency provided by the Regulations has made it easier for representative bodies to apply reputational pressure on late paying businesses to improve their practices, thereby putting data in the hands of those who have more substantive power than individual suppliers alone. This has allowed business representative bodies to actively promote contracting opportunities to their members where the customer has demonstrated good payment performance and, likewise, refuse promotion to customers with poor performance.

128. It was noted by respondents that small suppliers generally do not have accounts departments and are extremely busy running their day-to-day business, therefore are not able to sufficiently pressure big business customers for faster payment. They reported that the Regulations have therefore been invaluable in helping to identify those businesses with poor payment performance and allowing business representative organisations to open a dialogue with those businesses and, failing this, to 'name and shame' and widely publicise that those businesses have poor payment performance.

129. The Federation of Small Businesses stated in their evidence that they have also enabled member organisations to work directly with large businesses which have historically poor payment performance to establish programmes to turn this around. They state this collaborative approach has been their preferred method of use of the payment reporting data, rather than simply inciting commercial and reputational pressure on any one business at a time.

130. In addition, the Office of the Small Business Commissioner, which administers the Prompt Payment Code on behalf of DBT, uses reporting data where appropriate to measure the compliance of its signatories against the requirements of the Code.

131. Some respondents noted that the Regulations have enabled Government to monitor the payment performance of its suppliers and challenge performance where it needs to improve. It has also enabled Government buyers to easily assess whether businesses are meeting the minimum payment performance standards expected when bidding for Government contracts above £5 million per annum.

Additional benefits of Option 3 compared to Option 2

132. Option 3 addresses the problems raised regarding transparency (lack of a value metric), as the new reporting metrics include figures detailing the value of payments made over specific periods, as well as the value of those payments which are made late.

133. The additional metrics relating to the value of payments further address issues relating to the asymmetry of information as raised in the Statutory Review, as they significantly mitigate the risk that companies could mask issues of high value late payments by rapidly carrying out large numbers of low-value payments, thereby providing statistics that, while accurate, do not fully represent a company's payment practices.

134. With the goal of further addressing the asymmetry of information, respondents to the Statutory Review suggested that legislation should be amended to make it a legal requirement for businesses in scope to include their payment performance information their annual report, with the goal of making businesses more aware that this information exists in the public domain. This may be included in the proposed changes, as detailed in section on 'Changes proposed to the information required in relation to qualifying contracts'.

135. Additionally, it was suggested that with the reputation and responsibility being not only with the business, but also with board members held accountable and individual directors carrying personal legal liability if the reporting is not accurate or complete, there is greater incentivisation for businesses to improve their practices. This would also be significantly aided by the requirement to include payment reports in the company annual reports.

136. The proposals to report on disputed invoices also address risks raised in the Impact Assessment for the initial Regulations, namely that there is a risk that businesses falsely dispute invoices to ensure that their 'paid on time' figures are positive. If disputed invoices were reported in addition to other payments this issue would be negated.

137. The construction industry has historically suffered from high levels of late payment. Organisations in this sector have used the Duty to Report data to 'provide the transparency needed to empower the supply chain and to apply peer pressure on contractors and clients to make the changes required'. For example, the reporting information has enabled Build UK, a leading representative body in the construction industry, to benchmark its members and the wider industry in a payment table, made available on its website, that enables comparisons of large companies in the construction sector. Issues of late payment remain, however, particularly with regard to retention payments.

138. The Build UK model has been widely praised by wider business representative bodies and Government as a good model for trade organisations across other sectors to adopt. This would not be possible without the Regulations as they stand, but would also be significantly aided by further, targeted reporting metrics aimed at retention payments.

139. Proposals set out in the 'Changes proposed to the information required in relation to qualifying contracts' section are intended to directly combat issues with the construction sector's retention payments. They will provide greater transparency and improved information to suppliers on what percentage of retention is deducted on construction contracts, return mechanisms, and timescales. They will also provide information on payment performance for retentions.

140. These proposals will expand the example laid out by the Regulations as they stand and allow suppliers to make informed decisions about with whom they trade, to negotiate

fairer terms and to challenge late payment, in a way that is more directly targeted at the construction industry.

Benefits for reporting businesses

141. Beyond the benefits looked at as part of the Statutory Review, there may be benefits to the reporting businesses themselves.

142. The underlying market failure of asymmetric information has a negative effect on some of the businesses that come into scope of the reporting requirements – namely, those with better payment performance.

143. The absence of clear information to compare with rivals means that they often do not have the means to signal their good payment performance to gain an advantage in the market.

144. Businesses could voluntarily incur the costs of reporting and publishing, but the information provided would be less meaningful when it was not published alongside the performance of other businesses for comparison.

145. Shareholders and investors will be able to use the information to better judge the general cashflow health of a company; while a company's liabilities are visible from annual financial statements, the information on payment performance will allow investors to see how quickly a business fulfils trade debts.

146. This could lead to better internal accountability and corporate governance and provide a positive signal to potential investors of the quality of a company that has a record for good payment performance.

Risks and assumptions

147. Businesses that already have a good record of prompt payment may not realise how their performance compares to others'. Once more of this information is available and accessible, they may use this to their advantage in negotiating a better price: suppliers may have to offer a discount premium when dealing with the fastest paying customers. However, as suppliers can compare the payment speeds of different customers before agreeing any contract, the level of discount they offer would reflect the value the supplier places on prompt payment. Over time this could result in the value of prompt payment being reflected in contract prices and thus create a further incentive for prompt payment.

148. There is some risk that, because of the nature of the power imbalance between small and large businesses in any given market (i.e., large businesses hold significantly more market dominance), businesses fail to negotiate better terms. That is, even when the asymmetry of information is robustly combatted, small and medium businesses still may not be able to improve their situation because they lack market power.

149. The estimated aggregate cost to UK businesses of chasing late payments includes cases where late payers are small and medium-sized businesses. This policy proposal only directly affects large companies, and although research cited in this Impact Assessment suggested large companies were the worst offenders, it should be acknowledged that the measure will potentially reduce costs only in relation to large late-paying companies.[1]

[1] There is a possibility that by encouraging improvements to payment times amongst larger companies, there may be a consequent improvement amongst small and medium-sized businesses due to better general norms of payment culture.

150. In the section on the costs to businesses, the estimate of the number of construction businesses affected by the new regulations on retention payments should be considered an upper bound. It is generated as a proportion of large businesses which are in the construction sector, thus assumes that 100% of businesses in construction use retention payments. Although this is an overestimate, it is considered appropriate as a majority of large construction companies use retention payments in a given year, and so must understand the new regulations.

Wider impacts

Impact on small and micro businesses

151. Under the Government's Better Regulation Framework guidance, the default option for new regulatory measures is for small and micro businesses to be exempted from new regulatory measures. The requirement to report on payment practices and performance does not apply to small or medium-sized businesses and so there would be no direct costs to small and micro businesses as a direct result of these proposals.

152. Small and micro businesses are particularly vulnerable to the costs associated with late payment, especially with regard to liquidity constraints. They should benefit from the ability to access information on the payment practices and performance of larger businesses that are required to publish their payment information.

Equalities impact

153. The Regulations apply to large businesses only. Improved transparency around payment practices and performance (resulting from the Regulations) is expected to predominantly benefit small businesses. Individuals and protected groups are therefore not directly impacted by the regulations. There could however be an indirect positive impact on individuals or groups differently represented across small businesses.

154. Importantly, all small businesses are expected to benefit from the regulations, regardless of whether small business owners / leaders share a protected characteristic.

Families Test

155. The costs and benefits of the policy would not be expected to affect families or their formation.

Monitoring and evaluation

156. Monitoring and evaluation of the Regulations will take a light-touch approach, largely revolving around pre-existing monitoring data and a Post Implementation Review (PIR) after 5 years. This approach is proportionate and appropriate given that the measures are not high-profile, contentious, or novel – they renew existing regulations.

157. The PIR will review the original policy objectives, the extent to which the measure is achieving its intended effects / meeting its objectives, whether there have been any unintended consequences, how well it is working and the reasons for this. It will also assess whether the objectives could be achieved with a system that imposes less regulation.

158. Monitoring data used to support the PIR will largely include payment practices and performance data submitted by businesses in scope of the Regulations. This details businesses' average payment times and the proportion of payments made outside agreed terms. Proposed changes to the Regulations mean that the data will additionally capture the value of payments by reporting businesses and the value of payments made outside agreed terms.

159. This dataset helps to answer whether the Regulations have achieved their primary objectives, namely normalising prompt payment and reducing instances of late payment between businesses.