Money trouble

Small firms have long found themselves struggling to get paid on time, and Covid-19 has only made matters worse. ***Alex Wright*** explores the latest measures to tackle the issue, and practical steps to help those struggling

LATE PAYMENTS HAVE been the scourge of small businesses almost since time immemorial. Around 50,000 SMEs go bust every year as a result, according to FSB research, with more than £23.4 billion in late payments currently owed.

The problem has been exacerbated by the onset of the Covid-19 pandemic and our exit from the European Union, with clients delaying payments as they rein in their finances. A staggering 62 per cent of small businesses surveyed by FSB said that they have experienced either an increase in late payments and/or had payments frozen completely as a direct result of the pandemic. The knock-on effect for small businesses has been crippling, with many being driven to the wall.

"From the start of the first lockdown, businesses have been trying to retain their cash for as long as they feasibly could to help mitigate the uncertainty around these unprecedented times," says Mark Rankin, head of commercial services at Markel Law, which provides FSB's Debt Recovery service. "This has put a massive strain on the supply chain and has inevitably had the most significant effect on those small businesses at the end of the supply chain."

The matter has been brought to the fore by FSB, which has called on the Government to mandate that any large companies receiving significant financial aid should commit to a small business supplier charter, including the provision that all payments are made within 30 days (currently the limit is 30 days for public sector bodies and 60 days for the commercial sector).

Vast problem

Such is the scale of the issue that the Government has introduced the Prompt Payment Code, alongside the EU Late Payment Directive. The Government has even appointed a Small Business Commissioner specifically to deal with the issue.

Despite all this, however, many SMEs don't feel the deterrents go nearly far enough. According to Creditsafe, around 40 per cent of all invoices are paid late, putting increased strain on small businesses, which rely on regular cashflow to pay their staff, rent and suppliers.

Aside from the financial cost, chasing up money can be a drain on a company's time and resources; small business owners spend one-and-a-half hours per day chasing late payments, mobile-first banking service provider Tide has found. "The scale of the problem is vast," says Billhop's CFO and co-founder Ingemar Sjogren. "And it is causing a considerable amount of financial strain on SMEs."

Under the Late Payment Interest Act 1998, businesses which have been paid late can claim interest of eight per cent above the Bank of England prevailing rate on the overdue amount. That was extended in 2002 to add compensation for businesses that have made claims against their suppliers for late payments.

"Delaying or withholding payment may provide some temporary respite for a large business," says the Small Business Commissioner Philip King. "But it can be the difference between survival or death for a small business." The Commissioner's casework team has resolved and unlocked more than £680,000 in late payments during the pandemic. The Commissioner operates a complaints scheme for investigating late or unfavourable payment practice disputes, with the power to make non-legally binding recommendations and publish reports naming and shaming offenders.

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The number of minutes small businesses spend chasing up late payments each day

Talk about it

Currently, small businesses have three main options for chasing late payments: negotiation with the debtor, civil court action, and statutory demand and steps to wind up the debtor. But all are only effective to a certain degree.The county courts are chronically underfunded and understaffed, while civil courts are an intimidating place with archaic rules; cases heard there are often both lengthy and costly, taking, on average, 12-15 months to reach final hearing. Under Covid-19, the situation has worsened, with claims piling up. Similarly, moratoriums have been imposed on winding up and bankruptcy processes in the wake of the pandemic. That often leaves negotiation as the most viable alternative.

"Ultimately, the most effective means of securing payment often tends to be through direct discussions with the debtor," says Mr Rankin. "These can come with the added bonus of preserving ongoing commercial relationships that might otherwise be adversely affected by the adversarial litigation process involving solicitors."

Even negotiation is fraught with challenges, with SMEs treading a fine line between being forceful enough to demand their payment and maintaining goodwill. To overcome this, small businesses should be upfront about their credit terms, communicate regularly with their client and follow up swiftly if no payment is forthcoming.

"We recommend that new customers complete a simple credit application form, which, at the base, above the signature, appears a standard phrase clearly stating the terms," says The Credit Protection Association's Managing Director David Baber. "Within those terms it should stipulate when payment is required and that late payment compensation and interest may be applied if they fail to pay on time."

Top tips on dealing with late payment

1. Before you enter into an agreement with a company, carry out a credit check to see its financial position and track record of paying on time
2. Clearly set out and agree your terms of payment in writing at the start of your new working relationship, including the amount, a set payment date and that late payment interest and compensation may be applied
3. If you don't receive payment within a week of the agreed date, chase up the company
4. If you still haven't received payment after 14 days, engage a debt recovery service to deal with it, or, as a last resort, take legal action
5. If problems persist, strongly consider withholding services or deliveries, or stopping doing business with that company altogether
6. Contact the Small Business Commissioner for free advice and support. Visit **smallbusinesscommissioner.gov.uk**

Digital developments

Tools have also emerged to help firms get paid on time. "The business banking market is taking this issue very seriously," says Tide CEO Oliver Prill. "For a small cost, small businesses can set up a direct debit with their customer when they issue an invoice, and the payment is then taken from the customer when the invoice is due."

Another solution is the adoption of day-one invoice payment. By using algorithms to look at the data, predictive analytics can identify problematic invoices, enabling the rest to be paid instantly. "We need every small business in the UK to have the option of day-one payment if we are going to avoid a catastrophic number of bankruptcies and the inevitable rise of unemployment that follows," says Paul Christensen, co-founder and CEO of online payment platform Previse. "The technology is available to make these payments a reality."

Companies receiving financial support from the Government should also be obliged to use it to pay small business contractors or suppliers immediately, argues Philipp Siedel, head of communications at Holvi. "There should also be some form of back-up loan or relief fund that small businesses could turn to when cashflow is restricted because payment is delayed."

Small businesses can play their part by helping to identify companies with poor payment records and alerting others. Lower-risk companies can be rewarded with extension of credit. "We encourage businesses to share how customers are paying them, to encourage customers to pay invoices on time or negotiate extended terms when needed," says Creditsafe's UK & Ireland CEO Chris Robertson.

'Delaying or withholding payment can be the difference between survival or death for a small business'

"If you paid your mortgage or credit card late, this would appear as a red flag on your personal credit report – the same should be true for businesses consistently paying their suppliers late."

FSB Debt Recovery can help you navigate the debt recovery process and give you the tools to take control of your debt. For more information visit **fsb.org.uk/benefits**

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Lessons learnt

Rebecca Todd, owner of social media marketing firm Social Vine, is no stranger to late payments. The entrepreneur, who helps independent hospitality and tourism firms with online strategies and campaigns, had one particular client that she had to chase repeatedly.

After agreeing a monthly set fee for managing its social media accounts, the client paid for the first three months before a new manager took over. Having chased for a month with no success, she called the owner, who informed her that the terms of payment were now 30 days.

"As I had just started up, the business in question knew my vulnerability and naivety when it came to running a business," says Ms Todd. "I didn't have a contract or service-level agreement in place, so I didn't have a leg to stand on."

Ms Todd received the next two payments late again and had to chase the next payment, only to be told the invoice hadn't been seen, despite her management app showing the contrary. To compound matters, the company told her that the staff member dealing with it was on holiday for a month.

"They told me that the payment was going to be chased up and someone would call me," says Ms Todd. "So I sent them a final email threatening further action and received an auto-response saying that the manager had left the company."

She did, however, eventually receive her payment. Now she always ensures there is a contract in place, and regularly follows up to make sure that payment is in hand.