

The Rt Hon Greg Clark MP
Secretary of State
Department of Business, Energy and Industrial Strategy
1 Victoria Street
London
SQ1H 0ET

6 April 2018

Dear Secretary of State

Duty to report on payment practices and performance

The Regulations came into force on 6 April 2017 and Businesses within the scope of the Regulations are required to report for the financial year after the Regulations come into force (that is, their financial year that starts on or after 6 April 2017). For the majority of our members this results in the reports for the first reporting period being due in July or October 2018.

Prior to the Regulations coming into force we wrote to Margot James, the then Minister for Small Business, Consumers and Corporate Responsibility, and yourself numerous times. We expressed our support for the Small Business Commissioner but felt that the Duty To Report may be unnecessary reporting burden. For example:

- The 100 Group's letters to Corinne Brook (then BEIS policy lead) dated 19 September 2016 and 19 October 2016, which were copied to you.
- The 100 Group's letter to Margot James dated 4 November 2016, which was copied to you
- Our attendance at the *'stakeholder group meeting on our policies related to prompt payment'* held at BEIS on 1 December 2016.
- The 100 Group's letter to Tinu Fagbayi dated 6 December 2016 in relation to the Small Business Commissioner Policy for Secondary Legislation Consultation

Once it was clear that BEIS was keen to press ahead with the Duty To Report notwithstanding our concerns, we tried to work with BEIS to make the reporting burden more manageable and more meaningful. At each interaction with BEIS we extended the offer of our members meeting with Ms James, or members of the policy team, to discuss our concerns with a view to ensuring that the Regulations are fit for purpose and focus on the underlying issue, rather than creating unmanageable reporting burden.

Subsequent to the Regulations and initial guidance notes being published in January 2017 we, again, wrote to Ms James, on 8 March 2017, to express our concern at the lack of consideration given to our recommendations and concerns in relation to certain provisions included in the 'Duty to Report' Regulations, which, in our view, remained open to unhelpful interpretation that undermine the aim of the Regulations. In addition to these formal communications we have also sought to engage with the policy leads, throughout development of the Regulations and guidance notes and subsequent to their issuance, with a view to developing an open dialogue in which meaningful insight to the challenges faced by preparers applying the Regulations could be used to make helpful amendments to the guidance notes. Despite our repeated attempts to engage, our offers have either gone unanswered or been turned down. As such the current guidance notes issues in October 2017 remain unclear.

Our initial view, that the proposed requirements are disproportionate, will be costly for businesses, and remain open to unhelpful misinterpretations, unfortunately remain valid.

In light of the lack of engagement from BEIS and absent clear guidance in relation to application of the Regulations, which remain unaddressed in the guidance notes, businesses are now forced to make a number of assumptions in order to be able to report in line with the assumed intent of the Regulations. FTSE100 companies, which we represent, will therefore now rely on BEIS, or any other relevant part of UK Government, to work with individual companies or the 100 Group as needed to clarify the Regulations and/or guidance if, in your view, inappropriate assumptions have been made by some companies, rather than adopting a punitive approach.

We remain open to a discussion to make the guidance fit for purpose if you would find this helpful.

Yours sincerely,



Russ Houlden
Chairman, Financial Reporting Committee
The 100 Group

Who we are

The 100 Group of Finance Directors represents the views of the finance directors of FTSE 100 and several large UK private companies. Our member companies represent almost 90% of the market capitalisation of the UK FTSE 100 Index. Our aim is to contribute positively to the development of UK and international policy and practice on matters that affect our businesses, including taxation, financial reporting, corporate governance and capital market regulation. Whilst this letter expresses the views of The 100 Group of Finance Directors as a whole, those views are not necessarily those of our individual members or their respective employers

Please feel free to contact us through the 100 Group's website, www.the100group.co.uk, should you wish to discuss our comments.