

Matthew Lester  
Chairman: The 100 Group Investor Relations and Markets Committee  
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## Investor Relations and Markets Committee

**By email: [latepayment@bis.gsi.gov.uk](mailto:latepayment@bis.gsi.gov.uk)**

30 January 2015

Dear Sir/ Madam

### **Duty to report on Payment Practices and Policies**

I am writing in my capacity as Chairman of The 100 Group Investor Relations and Markets Committee to share with you our views on the Department of Business, Innovation and Skills' (BIS's) above named Consultation Document.

A response to individual questions in the format prescribed is attached. However, I wanted to also make clear the relative strength of views on different areas of the consultation, and this letter is intended to provide the overall context for our views on this topic.

### **Who we are**

The 100 Group 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 FTSE 100, collectively employing over 7% of the UK workforce and in 2014, paid, or generated, taxes equivalent to over 14% of total UK Government receipts. Our overall aim is to promote the competitiveness of the UK for UK businesses, particularly in the areas of tax, reporting, pensions, regulation, capital markets and corporate governance.

### **Our views**

We fully support the need for suppliers to be paid promptly to agreed terms and support the appropriate disclosure of companies' practices. However, we believe that aspects of the proposals discussed in the Consultation introduce a disproportionate burden on some companies. The aspects of the proposals that are, in our view, particularly onerous are the proposed frequency of reporting and the proposed scope of the proposals.

#### Quarterly reporting is an unnecessary burden on UK companies

We strongly believe that the quarterly reporting proposed places an administrative burden on large companies that is excessive compared to expected benefits. We believe that the aims of the reporting requirement could be met with an annual requirement.

#### The level of aggregation of reporting should be re-considered for large groups

We also believe that the reporting requirement should not be applied to each large UK company within a group. Such an approach increases the burden for groups with large UK operations operated through various companies. Accordingly, we recommend providing such companies with the alternative of consolidating the information relating to their UK activities.

#### Other comments

I would also note that we are supportive of the proposal that any such reporting should be outside of the annual report. We believe that this is particularly important in the context of the UK Financial Reporting Council's Clear & Concise Reporting initiative, aimed at clear, relevant annual reports that exclude excess 'clutter' or boilerplate information.

The Consultation poses questions, notably on the information to be reported, for which we have not included many particular comments. That is not to say that we agree with the reporting requirements, but rather this reflects our desire to focus on the aspects of the proposals that result in dis-proportionate reporting burdens. Having said that, we do include some comments where we think that experiences in practice for our members are relevant for your consideration of the details of the matters to be reported.

Further, as we represent a number of different organisations, we have not included comments in relation to the impact assessment in this response.

Please feel free to get in touch at the email address below if you would like to discuss this letter or any of our responses to the Consultation questions further.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Matthew Lester', with a long horizontal flourish extending to the right.

**Matthew Lester**

*Chairman, The 100 Group: Investor Relations and Markets Committee*



## Department for Business, Innovation & Skills

### Duty to Report on Payment Practices and Policies consultation: response form

The closing date for this consultation is 02/02/2015

Name: **Matthew Lester**

Organisation (if applicable): **The 100 Group of Finance Directors, Investor Relations and Markets Committee**

Address: **Care of Royal Mail Group, 100 Victoria Embankment, London, EC4Y 0HQ**

Please return completed forms to:

Business Finance and Tax  
Spur 1, 3rd floor  
Department for Business, Innovation and Skills  
1 Victoria Street  
London  
SW1H 0ET

Telephone: **020 7449 8103**

Fax: **n/a**

email: **matthewlester100groupfd@kpmg.co.uk**

Please tick the box that best describes you, your company or organisation. Business representative organisation/trade body	
Central government	
Charity or social enterprise	
Individual	
Large business (over 250 staff)	
Legal representative	
Local Government	
Medium business (50 to 250 staff)	
Micro business (up to 9 staff)	
Small business (10 to 49 staff)	
Trade union or staff association	
Other (please describe)	<b>The 100 Group represents the views</b>



## Department for Business, Innovation & Skills

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 FTSE 100, collectively employing over 7% of the UK workforce and in 2014, paid, or generated, taxes equivalent to 14% of total UK Government receipts. Our overall aim is to promote the competitiveness of the UK for UK businesses, particularly in the areas of tax, reporting, pensions, regulation, capital markets and corporate governance.

Question 1: Do you agree that the reporting requirement set out in this document is clear and easy to understand?

We understand that the reporting requirement relates to a power in the Small Business, Enterprise and Employment Bill (SBE), currently before Parliament, to impose a requirement on some companies to publish prescribed information about payment policies and practices. We understand that the aim of this requirement, as stated in the Consultation, is to bring greater transparency on payment practices. To that extent, the requirement is clear.

What is less clear to us is how the proposals meet the stated aim in a proportionate way. We have comments on the scope, intervals and prescribed information proposed that we discuss in our responses to this Consultation.

Question 2: Do you agree that the reporting requirement should effectively only cover effectively payments related to business to business contracts?

We would not support extending the scope of any requirement to consumer contracts.

Question 3: Do you agree that we should be excluding financial services contracts? If yes, which financial services should we exclude; and how should we define them?

Yes, we agree that financial services contracts should not be included. The stated aim of the reporting requirement does not support the inclusion of contracts such as repayments of loans to banks.

We have no specific comments on the definition of such financial services contracts, but would note that principles-based approaches to regulation and reporting can often be effective.

Question 4: Do you agree that the reporting requirement should extend to (a) large UK companies, (b) large LLPs and (c) all quoted companies?

We support appropriate disclosure of companies' practices. However we do not agree that the reporting requirement should apply to all large UK companies in the same way. While we acknowledge that the definition excludes companies defined as small or medium under the Companies Act, we believe that the proposals introduce a disproportionate burden on some companies in group structures. We address this concern and our proposed solution in our response to question 6.

Question 5: Do you agree that the Companies Act provides an appropriate threshold of whether a private company or LLP qualifies for an exemption from reporting?

We have no particular comments on this proposal.

Question 6: Do you agree that businesses should be required to provide individual and non-consolidated reports on their payment practices?

We don't agree that companies should always be required to provide individual and non-consolidated reports. We do not believe that the reporting requirements should always be applied to each large company within a group. Such an approach increases the burden for groups with large UK businesses operated through various companies.

We recommend providing such companies with the alternative of consolidating information relating to their UK activities.

We note the following factors that contribute to this recommendation:

- Groups with a large UK presence through a number of UK companies will be disproportionately affected by the requirement as the administrative burden will fall on each of the companies.
- As the supply structure in a group may not be on the basis of legal entity then there may be more work to disaggregate (or aggregate) the information requires into legal entity form.
- In some cases, as businesses and legal entities will not always align, consolidated information may be more relevant and clearer to suppliers and potential suppliers than disaggregated information.
- Aggregated information for an international group as a whole may not be meaningful for UK suppliers, hence we recommend the option to consolidate UK activities.
- Group companies often have suppliers that include other group companies. The payment terms for such suppliers may, for various reasons, differ from those to external suppliers. This will have an impact on the information and averages disclosed, reduce the relevance to external suppliers.
- One potential side-effect in extreme cases of additional burden of regulation on UK companies may be to force groups to contract with suppliers through non-UK entities to avoid excessive costs and remain efficient.

We urge you to reconsider the proposed approach and allow for the option to consolidate information.

As an additional observation, we note that consultation gives as a reason for requiring information for each company a need for suppliers to 'assess the health of the individual customer' (rather than a group). This differs from the stated aim of the reporting requirement to bring greater transparency on payment practices in the context of addressing late payment. We caution against expansion of scope to try to achieve other aims unless the context and other relevant regulations around reporting financial health are also taken into account.

Question 7: Do you agree that businesses should report on (a) their standard (b) their maximum payment terms, and (c) any changes to these over the last reporting period? Should the report require information on whether suppliers had been notified or consulted on this change in advance<sup>1</sup>?

We have no specific comments on the terms to be disclosed.

Question 8: Do you agree that this report should be a mandatory requirement for all companies in scope?

Please see our response to Question 6 discussing which companies are in scope.

Question 9: Do you agree that the reporting requirement should specify when the clock starts on the payment period? Do you agree that date of invoice is a suitable point to start the clock on payment?

We note that the draft legislation sets the 'start of the clock' from invoice date. It is very possible, and it does happen in practice, that invoice date and receipt date can vary quite significantly – that would affect the metrics through no fault of the reporting company. Therefore, we believe that if there is a mandatory 'start the clock' date then it should be receipt date rather than invoice date.

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<sup>1</sup> Not yet included in the suggested reporting template



Question 10: Do you agree that a metric of invoices paid beyond terms should be included in this report? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices?

We have no particular comments on this proposal, other than to note that the approach to the inclusion/ exclusion of disputed invoices in calculations is not clear. Disputed invoices should not be included where the supplier is in error as that would distort the information produced.

Question 11: Should a business have to report on the average time taken to pay invoices? Does this add a valuable counter balance to the proportion of invoices paid to terms?

We have no particular comments on this proposal, other than to note that the approach to the inclusion/ exclusion of disputed invoices in calculations is not clear. Disputed invoices should not be included where the supplier is in error as that would distort the information produced.

Question 12: Would metrics demonstrating how many invoices are paid in (i) 30 (ii) 60 and (iii) 120 (iv) over 120 days be valuable to suppliers? If yes, should this be for (a) proportion of invoices (b) value of invoices (c) both the proportion of invoices and the value of invoices?

It seems that this metric is referring to the payment of invoices in these specific time periods, regardless of whether those invoices are overdue or not. We believe that this could be misleading. For example, terms may be negotiated sensibly, in line with practice for a given industry or country, at, say, 90 days. Reporting a high proportion of invoices paid after 90 days could appear to be bad payment practice, while in fact this could represent invoices paid promptly.

Additionally, the aim of the reporting requirement is to give transparency on payment practices in the context of late payment. Accordingly we believe that the focus should be on paying to agreed terms, rather than setting out details of what payment terms are. Details of the length of payment terms may not address late payment and could harm businesses' commercial confidentiality.

Question 13: Do you agree it that it would be useful for the report to include additional information, in narrative form, to give suppliers an understanding of a firm's wider payment?

We do not believe that this should be considered a mandatory reporting requirement.

Question 14: Do you agree that it would be beneficial for a business to report on their existing dispute processes?

We do not believe that this should be considered a mandatory reporting requirement.

Question 15: Would it be helpful for the Government to provide a definition of a disputed invoice in the report?

We have no particular comments on this proposal.

Question 16: Have you experienced companies disputing invoices as a way of delaying payments? Do you see a role for Government intervention on this issue, and if so, what is it?

We have no particular comments on this proposal.

Question 17: Do you agree that a business should report on whether they offer e-invoicing? Should this disclosure include any further information or simply be a 'tick box' disclosure?

We do not believe that this should be considered a mandatory reporting requirement.

Question 18: Should businesses report on whether they offer supply chain finance? Should this disclosure also include the payment terms and average cost of this finance, or simply be a 'tick-box' disclosure?

We do not believe that this should be considered a mandatory reporting requirement.

Question 19: Do you agree that a business should disclose whether it is a signatory of a Code and which code they belong to, if any?

We do not believe that this should be considered a mandatory reporting requirement.

Question 20: Do you have concerns about the practice of some suppliers having to pay to be included on supplier lists? If yes, why?

We have no particular comments on this proposal.

Question 21: Do you think that Government should take any action with respect to supplier lists, through this reporting requirement or otherwise? If so, what?

We have no particular comments on this proposal.

Question 22: Do you agree that companies should report every three months covering at least the whole three month period?

We strongly disagree with this proposal. In our view, this proposal is unnecessarily onerous for companies. It adds to the administrative burden on large companies.

In our view, this information should be provided annually at most. We find it difficult to envisage that for a large proportion of companies the information would change frequently enough to justify requiring this reporting more frequently than that. We also note that most UK companies do not report financial information in general on a quarterly basis and it could be a particular burden to report this that often.

We do not agree that annual reporting would make the information unusably out-of-date, particularly as policies are unlikely to change frequently enough to justify quarterly reporting. We also do not agree that a quarterly approach would necessarily align with internal reporting mechanisms, particularly as internal reporting for managing the business will not necessarily contain the relevant information in the form mandated.

We note that the options considered in the impact assessment document do not include reporting on an annual basis, other than through the annual report. That means that the discussion of the benefits of the annual reporting option in the impact assessment focuses on the time-lag between the period end and reporting, rather than considering the merits of reporting on an annual rather than quarterly basis.

Question 23: Is a 30 day period enough time after the end of a quarter to provide a report of this nature?

On the basis that this should be an annual reporting requirement, and that companies should determine the reporting timeline as per our response to question 24, we would suggest that reporting should be within around 60 days of the period end on which reporting is based.

Question 24: Do you agree that companies reporting dates should be aligned with their financial reporting cycle?

We do not agree that the reporting date should necessarily be aligned with the financial reporting cycle. In fact, pressures on time and resources at the time of the annual report, for example, mean that for many companies a timetable aligned with reporting date could be unnecessarily onerous.

If reporting is required on a regular timetable, and there is clarity on the date of the next report, then we believe it could be appropriate for companies to be able to determine the reporting date themselves, while still providing transparency to suppliers.

For the avoidance of doubt, non-alignment with the annual reporting process is a suggestion as a way to reduce the burden on large companies. We do not feel so strongly on this point as to override our main concern on the frequency of reporting and would continue to support an annual reporting approach, even if this were tied to the financial reporting cycle.

Question 25: Do you agree that this reporting requirement should not be included in a company's annual accounts but instead have to publish it on their website? If yes, do you think it would be useful for the information to also be released alongside the publication of a company's annual accounts?

We strongly agree that this reporting requirement should not be included in annual accounts. We support the UK Financial Reporting Council's Clear & Concise reporting initiative which aims to ensure that annual reports clearly communicate relevant information to investors that is free of 'clutter' and which avoids the use of boilerplate or immaterial disclosures. Inclusion of this reporting requirement is at odds with the aims of that initiative.

For the reasons discussed in our response to Question 24, we do not believe that reporting on the same timetable as the annual report is necessary.

Question 26: Is The Gazette an appropriate online resource for companies without a website to use for reporting? If no, are there more suitable alternatives?

We have no particular comments on this proposal.

Question 27: Do you agree companies should be asked to report consistent with open data principles, if so what should these be?

We have no particular comments on this proposal.

Question 28: How could we make this data as accessible and useful as possible?

We have no particular comments on this proposal.

Question 29: Do you agree that a company director should be responsible for signing off each report?

In our view, this is not a necessary measure.

Question 30: Do you agree that breach of this requirement should be sanctionable by a criminal offence?

We have no particular comments on this proposal.

Question 31: Would you find guidance in complying with this reporting requirement helpful? If yes, who should produce this guidance?

We have no particular comments on this proposal.

Question 32: What comments do you have on our draft Regulations?

Any comments on the draft regulations are encompassed in our responses to the other Questions in this Consultation.

## Impact Assessment Questions

Do you agree with the assumption that your organisation, and firms that would fall into the scope of this measure, has the technical capability to capture data on your invoices?

Do you have any evidence that could help to refine this assumption?

Where firms do not currently have the capability to fulfil this requirement, at all or currently only for some invoices, do you have any evidence in relation to potential set-up costs?

Do you agree with the assumption that the cost of collecting required information on payment term is low burden?



Do you have any evidence on the costs that could help to refine this assumption?

Do you agree with the assumption that there are no barriers to data collection for your organisation?

What do you estimate would be the cost of data collection for your organisation?  
~~What employee level would perform the work needed for data collection?~~ How many hours of this employees time do you think data collection will take?

Do you have any evidence on the costs that could help to refine this assumption?

Do you have any evidence on the costs that could help to refine this assumption?

What do you estimate would be the cost of providing text explaining the process for dispute resolution for your organisation? What employee level would perform the work needed to provide the narrative? How many hours of this employees time do you think providing the narrative will take?

Do you agree with the assumption that the information needed for the narrative section is easily accessible?

What do you estimate would be the cost of providing text for the narrative section for your organisation? What employee level would perform the work needed to provide the text for the narrative section? How many hours of this employees time do you think providing the text for the narrative section will take?

Approximately how much do you estimate it would cost your organisation to produce the (draft) prompt payment report set out in Annex A? Who in your organisation would complete the report? How much of that employee's time do you think it would take to complete the produce the report? Do you have any evidence that could help to refine these estimates?

Do you agree with the assumption that it will take a finance director approximately 1 hour to sign off the first report? Do you have any evidence that could help to refine this estimate?

Do you agree with the assumption that it will take a web design and development professional approximately 1 hour to place report on a website? Do you have any evidence that could help to refine this estimate?

Do you agree with the assumption that it will take a corporate manager approximately 3 hours to become familiar with the new requirement? Do you have any evidence that could help to refine these estimates?

Do you agree with the assumption that the costs of on-going data collection will be negligible?

What do you estimate would be the cost of on-going data collection for your organisation? What employee level would perform the work needed for on-going data collection? How many hours of this employees time do you think on-going data collection will take?

Do you have any evidence that could help to refine these estimates?

Approximately how much do you estimate it would cost your organisation to update the report as described by the draft report in Annex A? Who in your organisation would update the report? How much of that employee's time do you think it would take to update the report? Do you have any evidence that could help to refine these estimates?

Do you agree with the assumption that it will take a finance director approximately 1 hour to sign off the updated report? Do you have any evidence that could help to refine this estimate?

Do you agree with the assumption that it will take a web design and development professional approximately 1 hour to place the updated report on a website? Do you have any evidence that could help to refine this estimate?

Do you agree that the assumptions made in the above cost section accurately reflect the costs potentially faced by your organisation? Do you have any evidence that could help to refine these estimates?

Would you use the prompt payment report of a company that you supply or potentially supply? How would you use the information? What benefits do you think this information will have for your organisation?

Do you agree with the identified benefits? Do you have any evidence that could help to inform the estimates of benefits?

Do you agree that the cost of producing the report, sign off by Finance Director and publishing will be significantly reduced for your organisation if you are required to provide this report within other reporting requirements as included in the Companies Act 2006?

Do you have any evidence that could help to refine these estimates?

Do you agree with the assumption that the costs of on-going data collection will be negligible? Do you have any evidence that could help to refine these estimates?

Do you agree the cost of updating the report would not significantly increase due to the inclusion of the two metrics? Do you have any evidence that could help to refine these estimates?

Do you agree that the cost of the actual task of sign off will be the same under this option? Do you have any evidence that could help to refine these estimates?

Do you agree that the cost of the actual task of placing the report on the website will be the same under this option? Do you have any evidence that could help to refine these estimates?

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