UnderPinned

Small Business Commissioner

Poor Payment Practice in the Creative Sectors: Actions for Change

April 2020

Foreword

Albert Azis-Clauson, CEO and Co-Founder, UnderPinned

Our creative industries are a world-leading beacon for the UK's economy – they are a sector to champion and a sector to support and invest in as we redefine our place in the world post-Brexit.

But, a culture of late payments to freelancers and SMEs in the UK is undermining their growth and preventing the industry from reaching its full potential.

This is a systemic issue that stretches beyond the creative industries and in 2019, 39% of invoices issued by UK SMEs were late. Indeed, the value of late payments made to SMEs in 2019 were greater than those paid on time, totalling £34,286 compared with £24,646.

While clearly not unique to the sector, it is particularly challenging for creative businesses. The sector is driven by dynamic and entrepreneurial freelancers and SMEs, with over 95% of the industry employing fewer than 10 people. This means that they tend to have limited reserves to draw upon when waiting on late payments. As a result, a late or delayed payment has a very real impact on how businesses operate, and we regularly find freelancers telling us that it limits their growth, leads to bankruptcy, and even impacts their health and wellbeing.

Concerningly, the evidence shows that the late payment trend is only getting worse.

As the CEO of a platform that supports freelancers to build and manage their careers, perhaps the single most significant set of challenges our members face are around poor payment practices. Far too often, our members report feeling a lack of control in their client relationship, pressure to work without a contract, and difficulties getting paid.

This absolutely has to change, and fast. Freelancing enables people to live fulfilling careers in a manner that fosters creativity, and the UK economy has benefited significantly through this kind of work. But the creative sector is nonetheless being held back by poor payment practices, preventing it from reaching anything like its full potential. We have both an economic and moral imperative to ensure these changes.

We are delighted to work alongside the Small Business Commissioner in this important piece of work to drive the conversation around how we constructively secure the changes the industry needs. Effective solutions will require a far-reaching conversation and partnership working with all relevant stakeholders, from businesses, to industry bodies to the Government. This paper should help provide the foundations for this.

Thanks to the Office of the Small Business Commissioner

Launched in December 2017 the Small Business Commissioner leads an independent office aimed at empowering small businesses in resolving disputes around late and unfair payment issues and provides advice, including on how to act if a payment is overdue.

The Commissioner urges small businesses affected by late or unfair payment practices to use the SBC's complaint investigation service and promises to take action to tackle the worst examples of supply chain bullying

The Small Business Commissioner (SBC) is an independent public body set up by government under the Enterprise Act 2016 to tackle late payment and unfavourable payment practices in the private sector. The SBC covers the whole of the UK - England, Wales, Scotland and Northern Ireland.

"*As Interim Small Business Commissioner my role is to promote a culture change in payment practice across every region and business sector in the UK. Within this role I have and will continue to keep the spotlight on late payment and call out incidences of poor payment practice when I find them. The UK Government and I share the mission to make the UK the best place in the world for small business to flourish.*

"One of the sectors we have been actively engaged with is creative industries, including the use of self-employed and freelance workers. The UK Creative sector is an economic and cultural success, with the UK having a reputation for innovation and excellence.

"This paper invites a wider discussion on what more could be considered to provide the environment for the creative sector to continue to grow, which is essential to the UK economy."

Philip King, Interim Small Business Commissioner

1. Introduction

The creative sectors in the UK are a genuine world leading force. From music, film, publishing, design, immersive technologies, cultural institutions and fashion, British creativity is thriving and in high demand across the globe. As the UK looks to redefine itself following Brexit, the creative sector offers a beacon for the future growth and success of global Britain.

Employing over 3.2 million (CIF, 2018), jobs in the creative sectors are growing at three times the national average. However, the impact of late payments in the creative sector with its high proportion of self-employed or freelance workers employed through micro businesses, has a disproportionately adverse effect. In addition to late payment, creative sector businesses and freelancers are subject to a huge variety of payment terms and conditions that negatively affect their businesses.

This paper pulls together research from across the sector, drawn from detailed consultation responses and a series of roundtable events with industry stakeholders. The research outlines the current impact of late payments on the creative sectors and why they present such a challenge. The paper also puts forward a series of suggested actions for what could be done to tackle these challenges and support the creative industries to reach their full potential.

The paper includes a number of evidence submissions from industry experts in the annex.

2. About the creative sectors

This section provides an overview of the creative sectors and outlines its position and impact in the context of the UK economy, as well as its future potential.

What does a creative sector business look like?

The creative sector is overwhelmingly (95%) made up by micro businesses – organisations that employ less than 10 people – while almost half of the workforce (47%), is freelance. Female freelancers are at the forefront of the self-employed revolution, growing 57% in the last 10 years.

Size and impact of the creative sectors:

In 2018, the creative industries contributed a gross value added (GVA) in excess of £111bn, which is more that the automotive, aerospace, oil and gas and life sciences combined. In addition to GVA added to the UK economy, the creative sector is an enabler for the wider economy stimulating business in other sectors and driving demand in the supply chain.

Almost 1 in 8 UK businesses are creative businesses, and the sector is responsible for over 3 million jobs.

Growth and potential of the creative sectors:

The CBI recently reported that the creative sectors are the fastest growing in the country, growing twice as fast as the rest of the economy. The sector created £50bn in export sales in 2017 with a commitment made by the Creative Industries Trade and Investment Board (CITIB) to increase export levels by 50% by 2023 with a new export strategy and a focus on small businesses.

The creative sector's growing impact extends across the UK, with every area and region demonstrating an increase in GVA. Expansion has been strong outside of London and accelerated in recent years through the creation of dynamic regional hubs.

3. Assessing the impact of late payments

The importance of the creative sectors cannot be understated, and their continued growth is an essential component of the economic well-being of the UK. However, a host of evidence from across the creative sectors indicates that business suffer from significant issues around late payments. This section highlights the key statistics on the scale and consequences of late payments for the creative sectors.

The scale of late payments

- **Late payments are systemic** – The systemic scale of the problem is underlined by creative businesses and freelancers reporting that 41% are consistently paid late, and 43% to 55% have not been paid at all for work carried out.
- Underlining the scale of late payments, almost half (48%) report being affected by late payments at any one time, while invoices are paid on average 23 days past contractual terms, and workers spend an average of 77 minutes every day chasing late payments.
- **The cost is significant** – The average invoice to creative SMEs is worth £38,137, meaning that late payments leave the industry £1.1bn out of pocket at any given time (Market Finance, 2019).
- **Late payments are increasing** – Worryingly, late payments are becoming more frequent, almost doubling for freelancers in 2019 from an average of 12 days in 2018 to 23 days past the contract terms.

Economic impact of late payments

Not only are the figures outlined above deeply concerning, but their impact is also more significant in the creative sectors than elsewhere. This reflects that because of the small average size of businesses in these sectors, late payments can bring business activity to an effective standstill. Late payments:

- **Hamper business growth:** The impact of late or non-payments on a freelancer's business is clear to see, with 44% reporting that late payments are the main barrier to business growth and 63% admitting having turned down work due to concerns around unfavourable payment terms. Equally, research by the Creative Industries Council in 2017 found that 72% of creative businesses feel they are currently under-capitalised and 62% felt a lack of finance had restricted their growth in the past.

- These challenges have a very real impact, with research by the FSB showing that 50,000 SMEs go out of business every year as a result of late payments, at a cost of £2.5bn to the economy.
- **Encourage sub-optimal business practices:** The spectre of late payments has seen many creative businesses forced to adopt unfavourable business solutions, with 66% having used invoice factoring to mitigate against late payment. 60% of creative businesses offer trade credit with 32% offering trade credit to larger organisations (those with more than 50 employees). Equally, to avoid late or no payments, freelancers or small businesses often discount or reduce their fees for their services to secure their future business relationships. This harms the productivity of the creative sectors.

Wider impact of late payments

Beyond the direct economic costs, late payments have a wide range of secondary effects, including negative knock on effects on other industries, causing personal financial strife for workers in the creative sectors, and causing significant health and wellbeing challenges. Key stats include:

- **A late payment encourages more late payments:** Late payments also have a clear knock on impact on the wider industry, with 21% reporting that they then pay their supply chain late as a result of late payment to themselves. Equally, 40% found themselves competing with other freelancers to work for free.
- **The personal financial impact is significant too:** With 40% finding themselves without enough money to cover basic living costs as a result of late payments.
- **Late payments negatively impact health and wellbeing:** The impact goes well beyond the financial though, with three-quarters (76%) of freelancers saying that late payments have had a detrimental impact on their mental health. In addition, 11% have been diagnosed with a clinical condition directly related to the issues caused by late payments.

4. What drives late payments?

To understand what actions may help to alleviate the negative impact of late payments, this next section looks at what is driving them.

Research shows that on the supply side, the issue is driven by larger companies, with 51% of such organisations paying late. These problems are amplified by a general lack of awareness and understanding of the rules.

In the Annex, readers will find an in-depth paper by The University of Sussex and Creative Industries Policy and Evidence Centre (PEC), that provides an in-depth analysis of the infrastructure challenges, particularly around the use of trade credit that results in the current culture of late payments. Below, provides a short overview of some of the key issues.

Lack of understanding of rights and rules

One of the key challenges for creative sector businesses and freelancers is that they often don’t know or understand the rules and their rights. Underlining this point, key stats include:

- Research found that over half (53%) were not aware of their rights when clients don't pay, with 34% stating that they do not understand how late payment charges work or what to charge.
- Only 15% of freelancers are aware that they can take clients to the small claims court for non- payment.
- The issue is driven by larger companies, with 51% of such organisations paying late.

Lack of a forum for redress

With no standard terms, operating models or service level agreements, disputes can frequently arise in work that has been commissioned in respect of agreed fees. The delays encountered from submission to remuneration of work exacerbate the imbalance of power between parties.

The lack of a standard code of practice or minimum service level agreements across the creative and freelance sectors increases confusion and reduces real flexibility and choice.

A weak bargaining position

The unique nature of the creative and freelance sector with a high proportion of self-employed workers engaged through micro businesses creates an imbalance of power and a disadvantage when negotiating payment terms with large businesses, publishing houses or commissioning editors. The impact of this imbalance is that workers often agree to poor contract terms, reducing their payment security and hampering business growth.

The individual, creative or freelancer has little or no power to negotiate their own terms and are forced to accept the terms on offer from their client or lose the commission

An array of contract formats

The vast variety of terms of conditions and agreements applied across the creative and freelance sectors creates a culture of uncertainty and inconsistencies in the use of contracts. As a result, the conditions are rife for misunderstandings and the failure to honour agreements, with the larger employer in a hugely favourable position if a disagreement ensues.

5. The challenge

The creative sectors have flourished in the UK due to the diversity and flexibility of the talent that they have attracted. The flexibility of self-employment or freelance working offer potential lifestyle and wellbeing benefits for individuals, making the creative sector accessible and diverse. It provides the financial and creative freedom to innovate. Freelancing or self-employment provides choice while providing favourable tax regimes that support SME growth. The CBI anticipates, based on research undertaken by Nesta, that creative industry jobs will grow by 30-40% by 2030 with jobs in this sector being resilient to automation. However, it is important not to rest on the laurels of a currently thriving creative sector and become complacent that growth will continue. Improving payment security, reducing late payment and increasing self-worth needs to be incorporated into policy making with government working in partnership with business. Being paid fairly, to terms and within a reasonable time is not only morally and economically essential, but key to attracting the very best and securing the future of Global Britain.

6. Payment Terms

While setting limits on the maximum legal payment terms might address the problem of lengthy payment periods in some commercial contracts between the purchaser and supplier, government believes the disadvantages are of greater significance.

Accepted payment terms vary across the economy from sector to sector and a ‘one size fits all’ approach is not the best way to deliver a culture change. If we were to take a sectoral approach to this policy, there would be significant variation in structures for payment terms for retail, design, media, technology, etc. This would only complicate the landscape even further for small businesses.

Furthermore, government would be restricting businesses’ ability to negotiate business to business contracts, which carries a risk of a negative impact on the UK economy of making business more difficult to do.

UK legislation already establishes maximum 30-day payment terms for transactions with public authorities and 60-day payment terms between businesses, unless they agree longer terms and those terms are not grossly unfair to the supplier.

7. Suggested actions

This next section looks at what some of the first steps should be to alleviate the burden of late payments on the creative sectors. In collating evidence from key industry stakeholders, we have been careful to bring forward suggestions that tackle late payments in a manner that doesn’t curtail the business flexibility that is equally so important.

Action 1: Creating and delivering an awareness campaign outlining creative businesses statutory rights and building visibility for existing support mechanisms.

While there are challenges and flaws with the current legal framework around late payments, one of the most significant issues is a lack of awareness of the current rules. Even if new legislation were to be brought into tackle late payments, this would only be fully effective if creative sector workers were aware of them. To help creative sector workers make more of existing support, and to better understand their rights, The Office of the Small Business Commissioner would look to deliver this awareness campaign in partnership with the Department for Business Energy and Industrial Strategy, Department for Media Culture and Sport, industry representatives, financial service providers and the Office of the Small Business Commissioner. The campaign would include:

- A fact sheet with guides and links to available support – this would help to build awareness of both statutory rights and an understanding of what support is available.

- Education pieces around how to get paid on time – this would link into the first element of the campaign, maximising awareness for the fact sheet with key audiences.
- The introduction of legal requirements for contracts/Service Level Agreements, statutory late payment interest and compensation.

Action 2: Developing a standard code of practice for business payments.

The diverse nature of the sector has resulted in a wide range of different contract agreements and a myriad of terms and conditions for engagement of commissioning work. While it may be impractical to develop a standard agreement, there should be a standard code of practice and service level agreement across the creative sector, which details the minimum standards expected in relation to payment practices.

Action 3: Highlight Poor Payment Practices

The Office of the Small Business Commissioner will continue to highlight poor payment practices including the continuing trend of non-payment within the creative sector. We will champion good practice and encourage companies to sign up to the Prompt Payment Code and will publicly name and shame those companies who fail to pay their suppliers within the agreed terms.

The Government is committed to clamping down on late payment more broadly and to strengthen the powers of the Small Business Commissioner, to support small businesses who are least able to cover financial shortfalls and find temporary finance more difficult and more expensive to obtain.

The Office of the Small Business Commissioner is committed to:

- build the confidence and capabilities of small businesses to assert themselves in contractual disputes, and negotiate more effectively by accessing information and advice
- raise awareness among small businesses of existing support, including alternative dispute resolution providers (which is under-utilised by small businesses) as well as appropriate sector ombudsmen and other appropriate regulators
- encourage larger businesses to improve their payment practices regarding their small suppliers; and
- help small businesses resolve payment disputes in ways that preserve business relationships.

Next Steps

We recognise that changing payment culture in a diverse set of sectors such as the creative industries is challenging. There is a fine balance between restrictive regulation and maintaining the choice and flexibility that benefits all parties when self-employed or freelance. This paper has sought to make the case for why change is important if we are to create an environment that allows the UK’s creative industries to reach their full world-leading potential.

Contributors and References

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CBI – Centre Stage – Keeping the UK's creative industries in the Spotlight – October 2019

Hitachi Capital (UK) PLC – Late Payments: The cost to Business and our Health – October 2019

Lecture in Progress – The State of Work – Insight Report: Issues Affecting Creative Careers in 2019

Appendix One

Key Issues Affecting Payment Security in the Creative and Freelance Sectors

Evidence from informal consultation request between SBC and the Department for Culture, Media and Sport to the Creative and Freelance Trade Associations

SBC have been working with the Department of Culture, Media and Sport (DCMS) on the payment issues affecting the creative sector and the impact that late payment and non-payment has in terms of cash flow, business growth, time spent chasing late payments and the impact on mental well- being. We approached a number of creative and freelance trade associations on an informal consultation basis to collate evidence on the main concerns from the sector from surveys they have conducted with their members, along with ideas/actions they may have for effective solutions to encourage earlier payment of invoices and fairer payment practices.

Industry Specific Data

These issues were most prolific in the businesses presented by **the Design Business Association and British Fashion Council**, in addition to the statistical data responses:

- Sell through Guarantees of 85% have become standard in contract terms with all department stores and established multi-brand Ecommerce
- Increase in chargebacks relating to in store promotions
- Retailers requesting designers to contribute to their buy – example given of young designer asked to contribute 30% on a £100K order in addition to the Guaranteed Sell through of 80%
- Increase in department stores paying late – even though payment terms have already been extended (typically 60- or 90-day terms)
- Concern that the British fashion Industry which contributes £32.3 billion to the UK GDP and supports 890,000 jobs is experiencing considerable concern around retailers' payment terms and late payments affecting cashflow and business operations

The Musicians' Union report that their members do levy late payment interest charges, but this has not proved to be a big enough deterrent to the larger companies who are still paying late. Their members however are experiencing a significant increase in business to consumer (B to C) late and unpaid fees, which falls outside of the scope of the Office of the Small Business Commissioner.

The Producers Alliance for Cinema and Television report that the imbalance of power means that producers are very much beholden to broadcasters' payment procedures and state that it is the behaviours and culture in this industry that are the biggest determinants of late payments. The dependency of producers on having a good working relationship with broadcasters makes it extremely difficult to rely on and enforce statutory legislation on late payment and many producers feel inhibited from applying this from fear of damaging future commissions. Their smaller members struggle with delayed payment tactics which can impact on loss of IP rights.

The Crafts Council report that they have seen a significant increase in the high- end retail sector discounting invoice values to pay suppliers on time. This is severely affecting the already traditionally low profit margins in this sector.

In addition to approaching Trade bodies as part of our informal consultation, we approached **The University of Sussex and Creative Industries Policy and Evidence Centre (PEC**) who agreed to review the evidence on this topic. They have reviewed, analysed and collated data from 3 databases and here is their report:

Late Payments in the Creative Industries: A Review and Additional Evidence

A Response to the Informal Consultation on Late Payments in the Creative Industries

Dr Josh Siepel (University of Sussex and Creative Industries PEC)

Dr Jorge Velez Ospina (University of Sussex and Creative Industries PEC)

Dr Roberto Camerani (University of Sussex and Creative Industries PEC)

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24 January 2019

This response contains results and analysis that will be published in February 2020 as a Creative Industries PEC Discussion Paper. The final published paper will contain more complete analysis. This work contains statistical data from ONS which is Crown Copyright. The use of ONS statistical data in this work does not imply the endorsement of the ONS in relation to the interpretation or analysis of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates.

About the Creative Industries Policy and Evidence Centre

The Creative Industries Policy and Evidence Centre (PEC) works to support the growth of the UK's Creative Industries through the production of independent and authoritative evidence and policy advice.

Led by Nesta and funded by the Arts and Humanities Research Council as part of the UK Government's Industrial Strategy, the Centre comprises of a consortium of universities from across the UK (Birmingham; Cardiff; Edinburgh; Glasgow; Work Foundation at Lancaster University; LSE; Manchester; Newcastle; Sussex; Ulster). The PEC works with a diverse range of industry partners including the Creative Industries Federation.

For more details visit http://www.pec.ac.uk and [@CreativePEC](https://twitter.com/CreativePEC)

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Highlights

- Creative industries businesses are significantly more likely to offer trade credit, with 60% of creative SMEs offering trade credit and 32% offering trade credit to larger organisations (those with more than 50 employees).
- Creative industries businesses are significantly more likely to report having been paid late by a larger customer.
- These businesses are less likely to challenge late payments from larger organisations.
- Late payment is reported in multiple studies to be among the biggest challenges or barriers to growth faced both by freelancers and SMEs more broadly.

Framing the Issue of Late Payments in Creative Industries

Many businesses use trade credit, the process of invoicing customers upon delivery of goods or services and being paid subsequently after a set time. Trade credit theoretically eases demands on cash flow through businesses' supply chains by giving them longer to pay bills. Trade credit is very common in some sectors, and while trade credit theoretically should help SMEs to strengthen their cash flow, in practice it often does the opposite as customers boost their own cash positions by paying invoices late. This is particularly the case when the customer has high levels of bargaining power over the supplier.

Late payments are not a new issue, having been frequently studied[1] and have been subsequently addressed by numerous policy initiatives. Among work on this topic, rather less is known about late payments in the creative industries. There is extensive anecdotal evidence that late payments are common in the creative industries, but direct, published evidence is both rare and dispersed. This response aims to address this issue by collating data from several relevant datasets to provide some framing of the issues regarding late payments in creative industries.

In considering the context of creative industries, there are a number of framing issues that must be understood. Firstly, the 'creative industries' are a vastly heterogeneous range of sectors, with varying business models, industry structures and ways of working. In light of this, it is important to attempt to understand the extent to which the issue of late payment in creative industries reflects an issue with 'creative industries' themselves, or whether the issues around late payment are more reflective of business models and industry structures. For instance, while many products are paid for upon, or prior to, delivery, many services are delivered and are subsequently invoiced. Because of the prevalence of services activities in the creative industries (for instance in software and IT, advertising and marketing and

[1] A valuable review of the literature on trade credit and late payment by Prof. Salima Paul and Prof. Rebecca Boden for the British Business Bank: https://www.british-business-bank.co.uk/wp-content/uploads/2015/02/Annex-2-TCEFG-Evaluation-Literature-Review-Final.pdf

architecture), it could be expected that these sectors might see greater issues with late payment. Likewise, the creative industries have large numbers of freelancers. There is a substantial body of evidence that late payments are associated with disparities in bargaining power, and individual freelancers have very little bargaining power against organisations.

In light of these issues, this review aims to shed some light on the issues around late payment in creative businesses. We note that our analysis here is largely descriptive; while we have done some more advanced econometric analysis that we hope to publish soon as part of our discussion paper, we have focussed on collecting relevant descriptive findings in the first instance.

This review contains evidence from three different datasets. The first is the Longitudinal Small Business Survey[2], which is a longitudinal study of approximately 14,000 small businesses. The data we use includes both a panel (annual surveys of firms) as well as a series of cross-sections (discrete annual surveys, including the firms in the panel). The data available to us includes waves from 2015, 2016 and 2017. For our purposes we consider either data pooled from the 2015, 2016 and 2017 studies (in which case we use the most recent observation – so for a business surveyed in each of the three years we would only count the 2017 observation), or else from a single year, namely 2016 as this version of the survey had some unique questions.

The second dataset used is the Creative Industries Council Access to Finance survey[3]. This survey was collected on behalf of the Creative Industries Council in 2017 by BDRC, a research company that specialised in surveys on small business finance. The survey includes approximately 575 responses from businesses in the creative industries only. Respondents were asked to present the extent to which cash flow and late payments were barriers to growth.

The third dataset used is the Brighton FUSE Freelancer study[4], which was carried out in 2014 from a sample of over 300 freelancers based in Brighton. The study involved online and telephone interviews with freelancers and asked them about a range of issues facing freelancers including business models, ways of working, barriers to growth, and well-being. Among the issues addressed in the study were late payments.

1. Who gets trade credit and who has late payments?

2.1 Trade credit

Not all firms use trade credit, and therefore any exploration of late payment must begin by considering trade credit first. Therefore Table 2.1 shows the percentage of all firms that use trade credit, considering the sub population of creative industries firms. The data used includes pooled observations from the 2015, 2016 and 2017 waves; where firms are

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2 Department for Business, Innovation and Skills. (2017). *Longitudinal Small Business Survey, 2015-2017: Secure Access*. [data collection]. UK Data Service. SN: 8261, http://doi.org/10.5255/UKDA-SN-8261-2

3 Creative Industries Council (2018) Access to Finance http://www.thecreativeindustries.co.uk/media/471225/cic-access-to-finance-research-report-june-2018.pdf

4 Sapsed, J. et al (2015). The Brighton FUSE Freelancer Report. University of Brighton and University of Sussex. http://www.brightonfuse.com/wp-content/uploads/2015/01/brighton_fuse2_online.pdf

observed more than once (e.g. because they are in the panel), only the most recent survey response is counted. Results are unweighted due to the pooling of observations. Table 2.2

identifies businesses that offer trade credit to large businesses (in this defined as businesses with more than 50 employees)

Table 2.1: Firms using trade credit (Data: LSBS; bold indicates significance at the 1% level)

	All firms	Creative
No Trade Credit	45%	**40%**
Used Trade Credit Any Time 2015-2017	55%	**60%**
Observations	18,220	1,618

Table 2.2: Percentage of Firms Offering Trade Credit to Large Businesses (with more than 50 employees) (Data: LSBS 2016; weighted figures, n= 3738)

	All firms	Creative
Give trade credit to larger businesses	63%	74%
Do not give trade credit to larger businesses	37%	26%
Observations	3180	429

Table 2.1 above shows that creative industries firms are significantly more likely to use trade credit than the industry average, which is significant at the 1% level. The sample presented above includes firms that had offered trade credit at some point in the 2015-2017, however among the firms that were surveyed multiple times in the panel, some firms chose to stop offering trade credit. Of the population of firms in the sample 10.1% (n=18,220) had used trade credit but had subsequently stopped, while 13.4% of creative industries firms (n=1,618) had subsequently stopped offering trade credit, which is significant at the 1% level. Of the firms that do offer trade credit, we can see from Table 2.2 that creative industries businesses are substantially more likely to offer trade credit to larger firms, with 74% of creative firms offering this facility, as opposed to 63% among all firms. This figure equates to 32% of all firms in the sample, including those that do not offer trade credit. This figure is significant at the 5% level.

2.2 Problems with late payment

Among firms that use trade credit, some have problems with late payment. The LSBS survey asks firms if they have had issues with late payment. Tables 2.3 and 2.4 show the results of the question, considering all late payments, and specifically late payments from larger businesses, respectively.

Table 2.3: Percentage of Firms Having Problems with Late Payment (Data: LSBS; unweighted pooled observations from 2015-2017)

Late payments from customers are...	All firms	Creative
No problem	44%	43%
A small problem	41%	40%
A big problem	15%	17%
Observations	10127	972

Table 2.4 Percentage of firms offering trade credit to larger customers reporting late payment from these customers (with 50 or more employees) in the last year (Data: LSBS; weighted figures from 2016, n= 2722; bold indicates significance at the 1% level)

	All firms	Creative
Experienced late payments from a larger business customer	52%	**66%**
Did not experience late payments from a larger business customer	48%	**34%**
Observations (weighted)	1,998	318

We see here that while half of all businesses who give credit to large customers had late payments, the figure rose to nearly two-thirds for firms in the creative industries. This is significant at the 1% level.

The information gleaned from the tables above show that while the percentage of creative industries businesses reporting late payments as an issue is roughly similar to the general population of businesses, there is a substantial disparity between when we consider late payments from larger customers. This suggests that this may be a different, and more pronounced issue than late payments more broadly.

2.3 Responses to late payment

When firms face a dispute over late payment, there are a range of options that firms can take to resolve these disputes. We now consider whether firms feel that they are able to satisfactorily resolve a dispute with a larger firm. Here we only have responses from 2016 and 2017, and again where firms are surveyed both years, we use the most recent response.

Table 2.5: Ability to resolve late payment disputes (Data: LSBS; unweighted figures).

	All firms	Creative
Can resolve payment disputes	73%	72%
Cannot resolve payment disputes	27%	28%
Observations (unweighted)	6324	498

In the figure above we can see again that there are a very similar percentage of creative industries firms that feel they cannot resolve payment disputes with firms with which they have. The difference between creative firms and the larger firm population is not significant. However, given the power disparities between small and larger businesses, it is possible that the ability to resolve disputes may be lower for businesses who have a payment dispute with a large customer.

Table 2.6 Percentage of firms who raised a dispute with a late paying large customer (Data: LSBS; weighted figures, n =1029; bold indicates significance at the 1% level)

	All firms	Creative
Raised a dispute	34%	**25%**
Did not raise a dispute	66%	**75%**
Observations (weighted)	1,034	208

The tables above show that while creative industries businesses appear on average to feel that they are able to resolve disputes over late payment, when the customer is a large business, many creative businesses chose not to raise a dispute. This latter result, which is significant at the 1% level, points to issues and power imbalances in place around creative businesses' interactions with larger businesses.

1. Late payment as a barrier to growth

From the figures above we can see that late payment is a substantial issue in the creative industries, although the evidence available suggests that the preponderance of creative industries businesses facing late payment may be reflective more of size and business model effects, rather than particularities of the creative industries themselves. We now consider the impact of late payments, both in terms of barriers to growth, as well as associations between firms perceiving issues with late payment and other issues.

3.1 Late payment as a barrier to growth

For some businesses, late payment may keep them from growing, either by introducing cashflow issues or by discouraging businesses from seeking growth. To understand the magnitude of these issues, Table 3.1 compares barriers to growth presented in the LSBS data, with observations pooling the three waves of the data. The data below presents creative industries as a whole and in three broad subsectors – software firms, creative services firms (e.g. architecture, design, and advertising/marketing) and creative content firms (e.g. music, performing arts, publishing etc).

Table 3.1 Percentage of firms reporting barriers to growth[5] (data LSBS 2015-2017, unweighted)

Barrier to growth	All firms	All Creative Industries	Software Firms	CI Services Firms	CI Content Firms
Obtaining finance	25%	25%	23%	22%	33%
Late payment	**20%**	**44%**	**37%**	**55%**	**40%**
Taxation	47%	39%	39%	43%	35%
Staff recruitment	45%	40%	43%	43%	29%
Regulations	56%	41%	42%	42%	38%
Availability and cost of premises	23%	22%	20%	23%	27%
Competition	60%	60%	60%	61%	58%
Workplace pensions	26%	16%	17%	17%	14%
Observations	16409	1115	529	345	241

The table above shows the magnitude and scope of late payment as an issue in creative sectors. Whereas late payment was the least common barrier to growth for all SMEs in the sample, it was the second most commonly reported barrier among creative industries firms, second only to competition. More strikingly, more than half of creative services SMEs reported late payments as a barrier to growth. These results are significant at 1% level and show the magnitude of the issue among parts of the creative industries.

Among businesses that report late payment as a major barrier, there are substantial variations by sector. For instance, Table 3.2 shows a summary of respondents to the CIC Access to Finance survey who indicated late payment was a major problem.

Table 3.2: Businesses reporting late payment and cashflow as a barrier to growth (Data: CIC Access to Finance Survey; n=575)

Advertising and Marketing	38%
Architecture	37%
Crafts	34%
Design and designer fashion	57%
Film, TV, video, radio and photography	35%
IT, software, computer services and com	49%
Publishing and translation/interpretation	57%

[5] This figure will appear in a forthcoming blogpost on the PEC website on barriers to growth in the creative industries

Museums, galleries and libraries	35%
Music, performing and visual arts	32%

These figures show more issues with late payment in design, publishing and IT and software, although there are other figures that we have seen (but have not been able to include in this report) that point to other sectors where late payment is an issue.

We have conducted additional analysis on businesses reporting late payment as a barrier to growth in the CIC Access to Finance Survey. Our econometric analyses, which are not shown in full here, suggest:

- Late payment is a major issue for micro firms (<10 employees) and not only for freelancers
- B2B businesses are far more likely to report this as an issue than B2C businesses
- Companies reporting late payment were more likely to have sought finance in the past year

1. Late payment and freelancers

The figures above capture creative businesses and SMEs as a single group. Now we consider specifically the issue of late payments to freelancers.

In the Brighton FUSE Freelancers study, late payment appeared as a major issue. In the survey, creative industries freelancers were asked about a number of barriers and challenges they faced. Of the respondents to the survey, 40% said that getting paid on time was an important challenge, 14% were indifferent, and 46% said it was not a challenge. This was the second most common challenge identified by survey respondents, after unstable incomes associated with freelancing.

The full results are presented in Table 4.1

Table 4.1 Challenges and Barriers for Freelancers (Data: Brighton FUSE2)

Barriers and Challenges	Mean (/5)	Not important	Indifferent	Important
The current economic climate	3.62	49.0%	16.5%	34.5%
Technical skills gaps	2.77	69.1%	12.2%	18.8%
Creative skills gaps	2.33	79.9%	7.6%	12.5%
Managerial skills gaps	2.73	66.8%	17.4%	15.8%
Too much competition	3.21	58.2%	13.5%	28.3%
Irregular income	3.88	45.4%	14.1%	40.5%
Lack of bargaining power	3.42	54.9%	14.8%	30.3%
Excessive workload	3.40	53.6%	18.1%	28.3%
Lack of benefits (pension, sickness pay, maternity/paternity leave)	3.78	46.4%	13.2%	40.5%
Difficulties in getting paid promptly	**3.86**	**46.1%**	**13.8%**	**40.1%**
Lack of recognition of the self-employed status	2.88	65.8%	7.2%	27.0%

Legislation penalizing self-employed work (e.g. IR35, taxes)	3.12	61.2%	11.2%	27.6%

We can also see the sectors in which freelancers are more likely to report late payments as a barrier or challenge. These are presented in Table 4.2

Table 4.2 Sectors of freelancers reporting late payment as a barrier or challenge (Data: Brighton FUSE Freelancers)

		Late payments as a barrier are:	
Sector	Mean (/5)	Not important/ indifferent	Important
Content	4.07	56.0%	44.1%
Design services	4.03	55.6%	44.4%
Digital technologies	3.33	72.9%	27.1%
KIBS	3.33	63.6%	36.4%
Marketing services	4.21	58.3%	41.7%
Other	3.71	71.4%	28.6%

These figures are slightly different from Table 3.2 but show that content-based businesses, design and marketing were found to be the areas where freelancers faced the biggest issues.

In the Brighton FUSE study, a number of interviews were conducted with freelancers in addition to the quantitative survey. In the Brighton FUSE Freelancer report, two freelancers reported:

"The other challenge is money, has always been challenge, not as far as earning it, but getting it out of people. That's always, always been a challenge, because people don't like talking about money, especially English, we just don't like talking about it; it's an embarrassing subject. But people continually abuse that by not paying you, and hope that you just won't ask for it, you know". (Interview, 06/11/2014)

"Quite a few large companies have started putting in processing fees for their invoices. So if you invoice them, and they promise to settle it within 90 days, but if you want it paid within 28 days, you have to pay, like, a 3.5% fee or something, processing fee. So obviously, for big companies, that's a problem but it's not a horrendous problem. But for a freelancer, you know, if you do ten grand's worth of work and then discover you're not going to get paid for 90 days, that's quite a big problem. So yes, late payment is probably the biggest ongoing one, I'd say." (Interview, 01/04/2014)[6]

Analysis for the report found a strong association between freelancers' perceptions of barriers and lower levels of subjective well-being (more widely known as happiness). The high percentage of freelancers reporting late payment as an issue led to the conclusion that late payments were a contributor to the lower levels of well-being among freelancers.

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[6] Brighton FUSE Freelancer Report, p. 48

1. Conclusion and possible solutions

This report has presented evidence around the issue of late payment in creative industries. We show in this report that creative industries businesses are, on average, more likely to offer trade credit and are more likely to have issues with late payment from larger businesses. Creative industries businesses are also less likely to challenge late payments than other similar firms. The higher frequency of creative industries businesses facing these issues may partially be explained by business models in the sector, which rely on delivery of complex services, followed by invoicing.

We also find that freelancers are disproportionately affected by late payment, although the issue continues across SMEs. We find that creative industries freelancers and SMEs more broadly perceive late payment to be among the most important barriers they face and indicate some evidence that late payment is also linked to lower well-being of freelancers as well, although the link is unclear.

5.1 Policy responses

It is outside the scope of this report to advocate for a particular policy response, although it may be useful to review options that have emerged in our review[7] in the process of preparing this document.

One approach to the issue, across sectors, would be to legislate fixed payment terms. As indicated in the literature review cited above, successive governments have chosen not to go down this route and have opted instead for more voluntary measures. It is worth noting, anecdotally, that during the recession in the late 2000s some local authorities cut its standard payment time to 20 days as a means to help support suppliers' cash flow[8] and since the recession have continued these payment terms for SMEs located within their areas, while maintaining payment terms of 30 days for other businesses. These types of voluntary approaches seem, anecdotally, to be successful.

An alternate approach is that used in the construction sector. The Construction 2025 Strategy[9] highlighted trade credit and late payments as major issues in the construction sector, and identified a range of measures, such as supply chain finance that could address this. It is our understanding that the issues around late payments have been addressed largely voluntarily in the sector, and with some degree of success.

One approach, recommended in in the Brighton FUSE Freelancer report, was the establishment of freelancer-specific bank accounts. There appears to date to be relatively few products on the market specific to freelancers, but the availability of such products could conceivably be combined with a version of the Enterprise Finance Guarantee scheme run by the British Business Bank to address cash flow issues among these businesses. A variant of the EFG was piloted as part of the Construction 2025 strategy to support supply chain finance (although we don't know details or how successful it was). Nonetheless, it is conceivable that such a product might have use to smooth cash flow among creative industries businesses. For instance, using the EFG as a model, banks could provide short-term invoicing finance on the basis of unpaid invoices, with the default risk covered by the

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[7] In particular, the review by Professors Paul and Boden is particularly insightful, especially Chapter 6 on policy.

[8] http://www2.westsussex.gov.uk/ds/cttee/ses/ses160211i4a.pdf

[9] https://www.gov.uk/government/publications/construction-2025-strategy; we are grateful to Dr Rebecca Vine for providing insights on this process

public sector, funded by charging an additional point or two of interest on the loan. As a means of ensuring that freelancers are not overly penalised, such interest payments could be made fully or partially tax-deductible, then ensuring the scheme is funded by interest payments. Notably, the EFG model generates a surplus as the income generated from interest exceeds losses from defaults[10], which indicates that an adjusted model could potential be employed to help freelancers at not net cost to the taxpayer.

Another approach to this issue could come through the use of factoring instruments. Factoring is where businesses sell their unpaid invoices, at a discount, to companies that then collect on the unpaid amount. Factoring is generally an expensive form of finance, and tends not to be appealing to small businesses and freelancers given the high costs. Public intervention into factoring markets (either as a substitute for or complement to private sector factoring businesses) could substantially help freelancers to address late payments. The introduction of a public sector factoring facility (again funded by charging an interest rate on payments), or underwriting private sector factoring agreements to make them less costly to freelancers and another businesses (likewise funded by an additional interest rate charge) could ease these credit issues whilst still likely not adversely affecting public finances.

[1] This is captured in our work on the Small Firm Loan Guarantee programme (the precursor to EFG) in Cowling, M. and Siepel, J. (2013) Public intervention in small firm credit markets: Value-for-money or waste of scarce resources? Technovation 33(8-9) 265-275. https://doi.org/10.1016/j.technovation.2012.11.002

Appendix 2