

Philip King, Interim Small Business Commissioner, Office of the Small Business Commissioner—supplementary written evidence (FOJ0094)

Update to the oral evidence given at the House of Lords Committee meeting held on 2 June 2020 (Select Committee on Communications and Digital)

The future of journalism inquiry

This response sets out to answer the questions raised during the Committee meeting that the Small Business Commissioner has insufficient power and would benefit from being given additional powers in this area.

I therefore offer my response:

1) What powers you have relating to late payments and unfavourable payment practices and how effective these are in protecting freelance journalists

The Small Business Commissioner's principal functions are:

- to provide general advice and information to small businesses in connection with their supply relationships with larger businesses, including signposting small businesses to existing services and;
- to consider complaints from small businesses relating to payment matters in connection with the supply of goods and services to larger businesses and make (non-binding) decisions and recommendations.

Following investigation and consideration of the complaint, the Commissioner can make non-binding recommendations as to how the parties could resolve their disputes.

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

In order for the OSBC to carry out investigations we need freelance journalists to bring their concerns and complaints to us in order that we can investigate these.

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.

2) Whether being given further powers or resources would allow you to fulfil your role more effectively (and, if so, which powers or resources)

The Government is completely focussed on fulfilling its manifesto commitment to clamp down on late payment and strengthen the powers of the Small Business Commissioner (SBC) to support small businesses who are least able to cover financial shortfalls and find temporary finance more difficult and more expensive to obtain.

In June 2019 BEIS published a package of policy measures to tackle late payment, which included:

- consulting on the merits of strengthening the Commissioner's existing powers, to assist and advocate for small businesses in the area of late payments; and
- strengthening and reforming the Prompt Payment Code and moving its administration to the Office of the SBC.

BEIS are planning to consult on extending those powers, to allow the SBC to advocate for and support small businesses, as soon as they are able to. They are keen to capture as many views as possible to ensure the policy response is the right one and, in light of businesses having furloughed staff and other priorities due to the Covid crisis, consulting now is not the right thing.

The Prompt Payment Code was transferred to the OSBC in March and BEIS will engage with signatories on reforms to strengthen the Code as soon as the time is right.

BEIS Officials work closely, and meet myself and my team regularly, and share any relevant policy developments, as set out in the Small Business Commissioner Framework Document.

2 July 2020