



# For Business

REASONS TO BE CHEERFUL

Although there are plenty of areas for concern, such as what will happen over Brexit negotiations and the strength of our economy, at Birkett Long we always like to remain positive.

We have therefore found some reasons to be cheerful, which will hopefully be useful to you in the management of your business. We also feature something that made all at Birkett Long cheerful: our new client, Navigator Terminals. A further example of a client moving away from London lawyers for a more personal service but with the same level of expertise.

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## Tackling late payments

Every small business owner knows the importance of being paid on time. Cynthia Beesoon brings news that might just help.

## Paying for litigation

There are various ways to pay your legal bill, not all of them well known. Which could work best for you?

## Post Brexit U-Turns

Worries about an increase in business rates may be alleviated - at least in part - as David Rayner outlines in this article.

# Tackling late payments

could dramatically help small businesses

A common and recurring problem for small businesses is that they are not always paid on time by larger businesses, leading to difficulties with cash-flow. In the most extreme cases, this can result in insolvency and all that entails. However, as Cynthia Beesoon reports, there is good news on the horizon that could offer small businesses greater financial stability.

From 6 April 2017, under the Small Business Enterprise and Employment Act 2015, businesses which are considered to be 'medium-sized' according to the Companies Act 2006, will be required to report their payment practices - and their performance against those practices - every six months from the start of their financial year (this will differ if the accounting reference date is lengthened or shortened); with the exception of the first financial year.

In order to classify as a medium-sized business it must exceed two or more of the following criteria:

- a £36 million annual turnover
- an £18 million balance sheet total
- 250+ employees

These figures are updated intermittently and should be applied accordingly. Where a business has subsidiaries, which also

meet two of the criterion, then both the parent and the subsidiaries must submit reports.

The reports relate to 'qualifying contracts' which must satisfy the following conditions:

- the contract must be between a minimum of two businesses (as opposed to a business and a consumer);
- the contract must have a significant connection with the UK (e.g. subject to its laws);
- it must be for goods, services or intangible property, including intellectual property; and
- it must not be a contract for financial services.

"Larger businesses will be held accountable"

For each reporting period, businesses must compile detailed reports with narrative, statistics and statements. These narratives have to include a comprehensive breakdown of the standard payment terms and dispute resolution process. The statistics should show the percentage of the volume of invoices paid in accordance with their stated practices (as opposed to the value) and the statements must include:

There are various ways to pay litigation costs. We try to be completely open and transparent with our fees in order that clients can budget accordingly. Here is an outline of the options.

## Paying for litigation

which method is right for you?

### By the hour

The most common, and usually - in the long run - the cheapest arrangement. There is no success fee to be paid but the down side is that you have to pay whether you win or lose!

### Fixed fees

Some clients prefer to discuss fixed fees at the outset of a case. The fee applies irrespective of the amount of work we do and can help clients to control their budget.

### Third party funding

We have arrangements with funders, including Augusta, who are willing to provide funding for litigation. If you are unsuccessful you do not have to repay the money provided but if you win then the funder will receive a percentage of what is recovered

### Conditional fee agreements

Often referred to as 'no win, no fee' arrangements, put simply, you are not charged if you lose your case. However, if

- whether suppliers are offered electronic invoicing;
- whether supply chain finance is available to suppliers;
- whether suppliers are offered electronic invoicing;
- whether supply chain finance is available to suppliers;
- whether the business' practices and the policies cover deducting sums from payments as a charge for remaining on a supplier's list and whether they have done this in the reporting period; and
- whether the business is a member of a payment code and the name of the code.

The reports are to be submitted to a web service that will be part of the gov.uk website. The intent is that by having this information publicly available, it will spur these larger businesses to regulate their payment practices and performance, and minimise financial difficulties for the small businesses who are owed money.

This is great news for small businesses, as larger businesses will be held accountable for their payment and performance. This should, in turn, help to improve cash flow and secure greater financial stability for the smaller business owner.

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# Major win

## Navigator Terminals

We are delighted to have been chosen to provide legal services to a major UK-wide fuel and chemical storage provider, Navigator Terminals, the UK's largest independent bulk liquid storage provider, with over 1.5 million cubic metres of storage capacity. The company operates four terminals, strategically located in major UK ports.

Dennis Cheek, Business Planning Manager for Navigator Terminals, said: "We chose Birkett Long because of the depth and breadth of coverage they offered us across employment, contract issues and land matters, and their level of experience in each field."

Lawyers from our commercial, construction, disputes, real estate and environmental, and employment teams will be involved, and will be led by Head of Commercial and Corporate Finance, Tracey Dickens.

For further information about our business advice services

**call the team on**  
**01206 217326**

you win, you will have to pay the normal fee for your solicitor plus a success fee, which can be up to 100% of your solicitor's normal hourly rate charges.

### Damages based agreements

You and your solicitor will agree up front that you will pay a percentage of what you're awarded to your solicitor. If you are unsuccessful, there is no charge. But be aware that damages based agreements can be up to 50% of your winnings.

### Before the event insurance

You may have legal expenses insurance as part of another policy, such as your home or car insurance. If you are able to make

a claim your insurers would pay your legal costs. Policies can be restrictive though, and your insurers will try to make you use their panel solicitors rather than your own choice of adviser.

### Community legal services scheme

This is available on a very limited basis. Eligibility depends not only on the type and merit of the case but also your personal financial circumstances. Birkett Long is not on the community legal services scheme panel.

### Conclusion

At Birkett Long we are very happy to discuss the various forms of funding at

the outset of litigation and help you to examine the pros and cons of each. For more advice, please get in touch.



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# commercial real estate

## Raise a glass to post-Brexit U-turns

Commercial real estate partner, David Rayner, comments that in the wake of the Chancellor's U-turn on National Insurance contributions and the intense publicity that surrounded it, there is another U-turn that may have been overlooked.

The budget announced a series of measures to help businesses cushion the blow of business rate rises this year. These included a £300M relief fund to be distributed to Local Authorities, a proposed £50 per month cap on bill increases for businesses coming out of small business relief – estimated to be likely to assist 16,000 businesses – and the widely publicised £1,000 reduction on business rates bills for small pubs – expected to help about 36,000 pubs. These announcements have all been picked up and commented on in the national press.

Unsurprisingly, less widely noticed was the announcement made with far less fanfare by the Department for Communities and Local Government, that draft regulations for businesses appealing their rating valuation have been changed. Despite the lack of publicity, it has been estimated that this change could save businesses £2.5 billion over the next 5 years, and so is something of which we would like our clients to be aware.

Under the previous draft proposals, businesses could only appeal against a business rates assessment if that assessment was 'above the bounds of reasonable professional judgment'.

Many commentators had taken that to mean above a 15% margin of error, which would have thus made it exceptionally difficult to launch an appeal.

The new proposals merely state that the appeal can be made if the rating valuation is 'above a reasonable valuation'. Although this won't 'open the flood gates' for business rating assessment appeals, it will make them more likely, and there is no escaping the fact that the Government has bowed to intense lobbying over this issue from businesses and pressure groups – including the Confederation of British Industry (CBI) and the Federation of Small Businesses (FSB). Several business rates specialists have hailed this as 'a victory for common sense'.

The business rates revaluations, combined with policy to allow Local Authorities to keep the business rates raised within their area, are likely to lead to some interesting policy decisions over the coming few years.

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## STOP PRESS

We are delighted to announce that David Rayner has been elected Chair of the Greater Essex Business Board. Our congratulations go to David and we look forward to hearing more about his work with local and regional businesses.

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