

## Keeping commercial interest on the radar

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It is important to make sure (particularly from a payee's perspective) commercial payments are made on time, and this article explains why.

Commercial contracts typically contain provisions for the consequences of late payment and will include a contractual interest provision. However, many businesses are unaware that if business to business contracts for the sale of goods and services are silent about interest, there is a statutory right under the Late Payment of Commercial Debts (Interest) Act 1998 to claim interest at 8% above the Bank of England base rate, plus certain costs, if a payment is overdue (even by a few days).

As the Bank of England base rate is presently the highest it has been since October 2008 (4.5% as at 11 May 2023), interest can really add up. Both suppliers and receiving parties should have contractual and statutory interest arrangements on their radar, so as not to be caught out by unpleasant interest or compensation charges.

### **What is the starting point for accrual of interest and compensation?**

If a credit period has been agreed, interest is payable from the end of that period. If no credit period is agreed, interest becomes payable 30 days after either the date of supply or the date the buyer is informed of the amount due, whichever is later.

Where interest arises, compensation to cover the costs of recovering the interest due (even if nominal) can also be claimed. As set out in the Late Payment of Commercial Debts (Interest) Act, compensation can be claimed at the following fixed rates:

- For invoices up to £999.99, £40 per invoice.



- For invoices ranging from £1,000 to £9,999.99, £70 per invoice.
- For invoices over £10,000.00, £100 per invoice.

Where there is an ongoing supply relationship compensation can be claimed against each invoice paid late, and compensation costs themselves can quickly mount up, alongside interest.

## For suppliers

It is important to notify customers about your right to claim interest on overdue payments. By highlighting this right on invoices, within terms & conditions, and by informing customers as soon as interest starts to accrue, prompt payment can be encouraged. The decision as to whether to insist on interest payments being made may depend on the impact it could have on the customer relationship, however, while small amounts may not be worth pursuing, claiming interest on larger amounts can establish a beneficial precedent and discourage customers from consistently paying late. Notably, the limitation period for claiming interest is 6 years from the date it was incurred, so unpaid interest on invoices that themselves have been paid, may be claimed at a later date.

## For paying/receiving parties

You should be aware that a supplier has up to six years to bring a claim for interest, even where these interest amounts are nominal and run to only a few pounds. The importance of identifying the applicable term for payment of a supplier's invoice incorporated into the contract (usually that of the supplier) is paramount. Where an invoice is payable within 30 days but the paying party's usual process is 30 days 'at the end of the following month', interest can still accrue. We have seen liquidators and debt collectors pursue former customers of the business for 'interest' on late payments, going back up to six years, even where payment of the invoice itself was made, albeit a few days later than stipulated in the agreed terms. The fixed compensation element applied to each invoice, and nominal interest amount, can itself total thousands of pounds! The only way to ensure avoidance of such an unpleasant surprise (even some years after a contractual relationship has ended) is to pay sums due before they become overdue.

## Disputes

In the event of a dispute, the paying party has a vested interest in promptly resolving the matter to avoid accumulation of interest plus fixed compensation, which could amount to a substantial sum. It is worth noting that interest typically serves as a point of negotiation in a dispute.

If you have any queries regarding commercial contracts, interest provisions, or compensation rates please do not hesitate to contact the [commercial disputes team](#).



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