



Dr Elizabeth Gibby  
Access to Justice  
Justice Policy Group  
4.38 4<sup>th</sup> Floor  
102 Petty France  
London  
SW1H 9AJ

13 July 2012

Dear Elizabeth,

The Bar Council is aware that the Late Payment of Commercial Debts (Interest) Act 1998 (LPCDIA) was amended in 2002 by the Late Payment of Commercial Debts (Scotland) Regulations 2002 (SSI 2002/335). This amending legislation provided for the application of the Act to the Faculty of Advocates in Scotland by inserting the following clause:

**2A Application of the Act to Advocates**

The provisions of this Act apply to a transaction in respect of which fees are paid for professional services to a member of the Faculty of Advocates as they apply to a contract for the supply of services for the purpose of this Act

This provision has been successfully used to enforce interest payments on late payments of advocates' legal aid fees in Scotland. *Smith v Scottish Legal Aid Board* [2012] CSIH 14 has also confirmed that the 30 days for payment begins from when the Scottish Legal Aid Board receives a claim for fees.

The Bar Council believes that a similar provision should be inserted to provide for the application of the legislation to the Bar of England and Wales. There is no reason why members of the Bar of England and Wales should be excluded from the application of the Act simply on the grounds of where they are qualified to provide legal services.

We are also aware that the EU Directive 2011/07/EU on late payment (the Directive) must be transposed into national law by EU Member States by 16 March 2013. The Directive supersedes the previous Directive (2000/35/EC), which was transposed into UK law through the amendment of the LPCDIA.

In light of necessary forthcoming changes, we would appreciate the opportunity to meet with yourself and other relevant officials to discuss interest on late payments being made available to members of the Bar. I am stepping down as Chairman of the Remuneration Committee in order to take up a new position as a Circuit Judge, however, the Secretary of

**THE BAR COUNCIL**

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the Committee, Adrian Vincent, will be able to arrange another representative from the Committee to take this matter forward with you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'pp Mark Lucraft', written in a cursive style.

Mark Lucraft QC  
Chairman, Bar Council Remuneration Committee