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Mark Lucraft QC  
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Your ref:  
Our ref: Late Payments

5 September 2012

Dear Mark

Thank you for your letter of the 13 July 2012, concerning the payment of interest on late payments to Barristers undertaking legal aid work through the Late Payment of Commercial Debts (Interest) Act 1998 (Late Payment Act) and the EU Directive 2011/07/EU on late payment (the Directive).

I apologise for the delay in responding to your letter, however it has taken some time to confirm the position on the Late Payment Act and the Directive with the Department of Business Innovation and Skills (BIS) who are responsible for the administration of both. You had asked whether an amendment to the Late Payments Act could be considered, to enable a similar position for advocates in England & Wales to that which exists for advocates in Scotland, on the payment of interest for late payments received.

Having considered your request, BIS officials have advised that a change along the lines of your suggestion would likely go against the Governments transposition guidance on how to implement Directives effectively, so they do not currently intend to make any amendments to the Act beyond those that will be necessary to transpose the Directive.

BIS will shortly be launching a consultation on transposing the recast Directive, on which they would welcome your views, but that consultation will focus on the few elements of the Directive where Member States have a choice on implementation.

If you would like to discuss this matter further, I suggest that you contact Andy Harrison at BIS who is leading on the transposition of the Directive. Letters can be sent to BIS at 1 Victoria Street, London, SW1H 0ET or if you would prefer you can contact Andy on 0207 215 6032 or at andy.harrison@bis.gov.uk.

Yours sincerely,

Dr Elizabeth Gibby

Deputy Director, Legal Aid (Remuneration and Provider Strategy), Access to Justice