

**DIRECTIVE 2011/7/EU
ON COMBATING LATE PAYMENT
IN COMMERCIAL TRANSACTIONS**

Consultation

SEPTEMBER 2012



Contents

Contents	2
1. Proposal for implementing a Directive on combating late payment in commercial transactions	3
2. Executive Summary	5
3. How to respond	6
4. Additional copies	7
5. Confidentiality & Data Protection	7
6. Help with queries	8
7. The proposals	8
8. Consultation questions	11
9. What happens next?	12
Annex 1: Consultation Principles	13
Comments or complaints.....	13
Annex 2: List of Individuals/Organisations consulted	14
Annex 3: Late Payment Directive: Consultation response form	24
Annex 4: Impact Assessment	28

1. Proposal for implementing a Directive on combating late payment in commercial transactions

This consultation seeks views for implementing the European Directive 2011/7/EU on combating late payment in commercial transactions (the Directive). It is issued jointly with the Scottish Government as legislation on late payment in commercial transactions are a devolved matter in Scotland.

The UK is considered to be an exemplar across Member States in its approach to challenging the long-standing culture of late payment because of its early adoption of legislation and its wider strategy for improving business awareness and capability. Government has contributed to and supported the new Directive as it extends existing UK legislation and practice and creates a level playing field for UK suppliers trading across European Member States.

In considering the impact of legislation in this area, it is important to note that regulation is not the remedy for late payment.

Most supplier relationships are long-standing and resorting to legal action is therefore not a practical option except as a final alternative. Legislation is intended to create an environment for driving payment on time and best practice dictates that suppliers reference the costs of missing the due payment date in all written contracts and invoices, setting a clear expectation from the outset.

Legislation is also only useful where invoicing is accurate and timely and where terms have been clearly identified before transactions take place. All too often there is an assumption on the part of both the supplier and customer that their standard terms apply and the evidence suggests that over half of all transactions take place with no prior agreement on payment terms. Research also shows that invoicing is often inaccurate and late. That is why Government has promoted advice and guidance on how to manage customer relationships and cash flow – see:

<http://www.creditmanagement.org.uk/bisguides.htm> .

Finally, it is important to check that the customer is capable of making payment by undertaking a credit check. Research indicates that only one in ten suppliers regularly credit check customers.

A copy of the Proposal can be downloaded at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:048:0001:0010:en:PDF>

A copy of the Commission's Impact Assessment on the Directive can be downloaded at:

<http://www.fecma.eu/documents/Late%20Payment%20in%20B2B%20Directive%20Impact%20Assessment%20-%20Executive%20Summary%20April%202009.pdf>

The UK Government's Transposition Guide (<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/t/11-775-transposition-guidance.pdf>) recommends that those affected by any new legislation should be consulted and that new legislation is implemented with minimal burdens to business, and especially small business. A similar approach is taken in the Scottish Government's guidance on handling EU obligations: (<http://www.scotland.gov.uk/Topics/International/Europe/Legislation/EU-Obligations>)

The main points that you need to be aware of in the Directive are that:

- **public authorities** will be required to pay suppliers within 30 calendar days of receipt of an undisputed invoice, with limited exceptions such as in the healthcare sector - this matches Government's current best practice for the public sector;
- for **business to business** payments, the period for payment fixed in the contract should not exceed 60 days, unless otherwise expressly agreed and provided such terms are not grossly unfair;
- it retains current UK practice where terms have not been agreed, of a **default payment period of 30 days** and;
- there is minimum €40 (approximately £31) for the **compensation element** - current UK legislation sets three levels of compensation payment according to the value of the payment. Suppliers are not prevented from seeking to claim additional recovery costs as now.

Issued: 20 September 2012

Respond by: 19 October 2012

Enquiries to: Andy Harrison, Policy and Strategy Team, Enterprise Directorate, Department for Business, Innovation & Skills; 1 Victoria Street, London, SW1H 0ET, Tel 020 7215 6032 E-mail andy.harrison@bis.gov.uk

This consultation is relevant to all businesses plus businesses that have transactions with public authorities.

2. Executive Summary

Late payments constitute a major obstacle to the free movement of goods and services and can substantially distort competition. The resulting administrative and financial burdens impede trade and increase costs. Small and medium-sized enterprises (SMEs) are most vulnerable. The new Directive is a strengthening of the current Directive that essentially extends the protections already enjoyed by UK businesses across the Union. The key difference is that the Directive provides for a minimum compensation of €40 (approximately £31) - current UK law provides for a three tiered payment depending on contract value. The legislation is aimed at creating an environment where paying on time is the norm and late payment is seen to be unacceptable across the business community - it can never be a substitute for effective customer relationships and cash flow management and will always be the option of last resort for suppliers (many of which are in established and mutually beneficial relationships with their customers). The European Commission believes that, once introduced by all EU member states, the new rules could mean an extra £150 billion being made available to businesses across Europe, helping to relieve cash flow problems.

The Directive is based upon UK legislation and the UK is recognised as an exemplar across Member States, including for the measures it has introduced to drive a culture of paying according to agreed terms (the Prompt Payment Code, improved guidance for suppliers and speedy public sector payment). Evidence suggests that the best way of securing timely payment is to agree terms in advance of the transaction and to invoice timely and accurately - effort therefore needs to be focussed upon managing customer relationships and managing cash flow.

The UK will transpose (implement) the EU Directive 2011/7/EU by 16 March 2013. There has been some interest in early transposition (implementation) of the Directive and our position has always been clear: our first step will be to consult on transposition with those affected. We will listen to what UK business says and follow the guidance laid out in the Coalition Government's guide to transposition and the Scottish Government's guidance¹. Whilst we have already consulted on the draft Directive, we are committed to listening to business.

This consultation seeks views on implementing the Directive.

The provisions of the new Directive include, among others:

- **public authorities** will be required to pay suppliers within 30 calendar days of receipt of an undisputed invoice, with the option to extend this period for certain sectors such as healthcare to 60 days - this matches Government's current best practice for the public sector

¹ <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/t/11-775-transposition-guidance.pdf>

- for **business to business** payments, the period for payment fixed in the contract should not exceed 60 days, unless otherwise expressly agreed and provided such terms are not grossly unfair
- it retains current UK practice of a **default payment period of 30 days** where terms have not been agreed,
- there is provision for a fixed **compensation** of at least €40 (approx. £31) - current UK legislation sets three levels of compensation payment according to the value of the payment. Suppliers are not prevented from seeking to claim additional recovery costs as now.

The Directive is designed to combat late payments in commercial transactions within the European Union by laying down common minimum requirements consistent with the principles of subsidiarity and proportionality. These minimum requirements should be complied with in all of the Member States without prejudice to existing national measures.

The Directive covers all debts incurred in commercial transactions. It applies to businesses and public authorities.

3. How to respond

Please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

A copy of the Consultation Response form is enclosed or available electronically at <http://www.bis.gov.uk/assets/biscore/enterprise/docs/d/12-1131rf-directive-combating-late-payment-commercial-transactions-form>

If you decide to respond this way, the form can be submitted by letter or email to:

Andy Harrison,
Policy and Strategy Team,
Enterprise Directorate,
Department for Business, Innovation & Skills;
1 Victoria Street, London, SW1H 0ET,
E-mail andy.harrison@bis.gov.uk

All responses will be forwarded to the Scottish Government. However, you may wish to send a copy directly to:

Andrew McConnell,
Business Directorate,
Scottish Government,

5 Atlantic Quay, 150 Broomielaw. Glasgow G2 8LU
E-mail Andrew.McConnell@scotland.gsi.gov.uk

A list of those organisations and individuals consulted is in Annex 2. We would welcome suggestions of others who may wish to be involved in this consultation process.

If you have any concerns about the way the consultation is being run please refer to the contact given in Annex 1.

If you wish to respond to this consultation in hard copy you may submit your response using the detachable Consultation Response Form (there is an optional generic copy of this form at Annex 4 below).

4. Additional copies

You may make copies of this document without seeking permission. Further printed copies of the consultation document can be obtained from:

BIS Publications Orderline:
ADMAIL 528
London SW1W 8YT
Tel: 0845-015 0010
Fax: 0845-015 0020
Minicom: 0845-015 0030
www.bis.gov.uk/publications

An electronic version can be found at
<http://www.bis.gov.uk/assets/biscore/enterprise/docs/d/12-1131-directive-combating-late-payment-commercial-transactions-consultation>

Other versions of the document in Braille, other languages or audio-cassette are available on request.

5. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Freedom of Information (Scotland) Act 2002, the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

6. Help with queries

Questions about the policy issues raised in the document can be addressed to:

Andy Harrison,
Policy and Strategy Team,
Enterprise Directorate,
Department for Business, Innovation & Skills;
1 Victoria Street, London, SW1H 0ET,
E-mail andy.harrison@bis.gov.uk

A copy of the Government's Consultation Principles can be found at Annex 1.

7. The proposals

Government supports the revision of the Directive as it seeks to introduce a number of improvements to the original, saving business money and creating a level playing field for UK suppliers trading across Member States.

Business to business payment terms

Member States shall ensure that the period for payment fixed in the contract does not exceed 60 calendar days, unless otherwise expressly agreed in the contract and provided it is not grossly unfair to the creditor. It should therefore remain possible for parties to agree on payment periods longer than 60 calendar days provided such extension is not grossly unfair to the creditor.

Public sector payment terms

Government recognises that the public sector should set a strong example by paying promptly. Over time it has been improving its payment times to assist the cash flow of businesses.

In 2010, Government introduced a more onerous target that goes beyond this and previous versions of the Late Payment Directive, in committing central Government Departments to aim to pay 80% of undisputed invoices within 5 days. By adopting this measure, it seeks to ensure that the benefits of prompt payment to main contractors are felt through the supply chain and benefit smaller businesses.

It has also looked to improve payment times within the supply chain. All Departments are required to include a clause in their contracts that requires prime contractors to pay their suppliers within 30 days. In its procurement of construction works Government continues to increase its use of Project Bank Accounts, which provide both certainty and speed of payment to suppliers down to tier 3 of supply chains. The Cabinet Office has introduced a “Mystery Shopper” service that investigates issues of poor procurement practices, including prompt payment both from public bodies and in public procurement supply chains. Suppliers can use this service anonymously to escalate issues about problems in Government supply chains to the Cabinet Office².

The Directive proposes that Member States shall ensure that in commercial transactions where the debtor is a public authority the payment period does not exceed 30 calendar days following receipt by the debtor of the invoice, with limited exceptions where the period can be extended. **This matches Government’s current best practice for the public sector.**

The Directive also proposes that, for transactions in the healthcare sector (acknowledging the funding arrangements which may be unique in many Member States) and, where the public authority carries out economic activities of an industrial or commercial nature, by offering goods or services on the market and is subject to certain transparency requirements, Member States **may** extend time limits to a maximum of 60 days (extensions of this nature must be reported to the Commission by 16 March 2018). Given the need for the public sector to lead by example, Government sees no reason to adopt this proposal as it would be **a retrograde step because it lengthens payment times and delays payment to business.**

Statutory interest rate

Simple interest is calculated as equal to the sum of the Bank of England reference rate plus at least eight percentage points

Compensation for recovery costs

The creditor is entitled to obtain from the debtor, as a minimum, a fixed sum of €40, as compensation for recovery costs, plus reasonable additional costs incurred.

Application

Member States shall decide whether to exclude contracts concluded before 16 March 2013.

Verification periods

Member States should ensure that the maximum duration of a procedure of acceptance or verification does not exceed, as a general rule, 30 calendar

² <http://www.cabinetoffice.gov.uk/content/cabinet-office-mystery-shopper-scheme>

days. Nevertheless, it should be possible for a verification procedure to exceed 30 days where agreed and not grossly unfair to the creditor.

8. Consultation questions

1. Should UK public sector payment terms involving healthcare or where the public authority carries out economic activities of an industrial or commercial nature by offering goods or services on the market be extended beyond 30 calendar days to up to 60 days?

2. To transpose (implement) the Directive should we should repeal the existing Late Payment of Commercial Debts (Interest) Act 1998 and replace it with secondary legislation (statutory instruments) or amend the Late Payment of Commercial Debts (Interest) Act 1998?

3. Compensation for recovery costs (Article 6): The current Late Payment of Commercial Debts (Interest) Act 1998, suggests a fixed charge of £40, £70 or £100 depending on the size of the debt (under £1,000, under £10,000, and higher) as compensation for recovering costs. The revised directive propose a creditor is entitled to obtain from the debtor, as a minimum, a fixed sum of €40, as compensation for recovery costs, plus additional costs incurred.

Should the three tiered approach be retained or changed to a minimum compensation?

4. When the Directive is transposed (implemented) on 16 March 2013, our proposal is to exclude contracts concluded before 16 March 2013 from being subject to the Directive, given the changes introduced are not sufficiently substantive to warrant retrospective application and that retrospective application will incur a costly process of contract review – is this the correct choice?

5. An Impact Assessment (IA) can be found at Annex 3 that also includes a number of questions that we would be grateful for you to answer:

IA Q1: Do you have any further evidence about problems created by late payments, particularly where this potentially impacts on business survival/insolvency?³

IA Q2: Do you have any further evidence about the incidence or magnitude of write-offs associated with late payment debts?⁴

IA Q3: Do you have any further evidence about the incidence of firms chasing late payments outside of existing legislation?⁵

IA Q4: Do the assumptions underpinning the estimates of costs and benefits in the IA seem sensible? Do you have any evidence that could help to refine these estimates?⁶

³ See page 5 of the Impact Assessment

⁴ See page 5 of the Impact Assessment

⁵ See page 11 of the Impact Assessment

IA Q6: Do you agree with the assumptions in the IA regarding the calculations of written off debt? Do you have any further evidence that could help to refine the estimates about the potential reduction in administrative costs associated with chasing late payments?⁷

IA Q5: Do you agree with the assumptions in the above calculations? Do you have any further evidence that could help to refine the estimates about the potential reduction in write-offs?⁸

7. Any other comments? Should you have any comments on the Impact assessment, please include them in your response.

9. What happens next?

After the closing date the responses will be collated and summarised. These will be published on the BIS website. The Government will aim to publish the results of this consultation and provide a response by December 2012.

The Better Regulation Executive Code of Practice on consultation states that decisions in the light of the consultation should be made public promptly with a summary of views expressed and reasons given for decisions finally taken. This should be on the BIS website, including a link from the central BIS consultation web pages, with paper copies of the summary of responses made available on request. The Scottish Government will take similar actions.

⁶ See page 11 of the Impact Assessment

⁷ See page 12 of the Impact Assessment

⁸ See page 13 of the Impact Assessment

Annex 1: Consultation Principles

The Civil Service Reform Plan commits the Government to improving policy making and implementation with a greater focus on robust evidence, transparency and engaging with key groups earlier in the process.

As a result the Government is improving the way it consults by adopting a more proportionate and targeted approach, so that the type and scale of engagement is proportional to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focussing on real engagement with key groups rather than following a set process.

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

The new Consultation Principles are now in force and replaces the Code of Practice on Consultation issued in July 2008 on the BIS website.

Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway
BIS Consultation Co-ordinator
Department for Business Innovation and Skills
1 Victoria Street,
London
SW1H 0ET
Telephone 020 7215 6402
or e-mail to: john.conway@bis.gsi.gov.uk

Annex 2: List of Individuals/Organisations consulted

ACAS	Association of Master Upholsterers and Soft Furnishers
Access Risk Management Group	Association of Recognised English Language Services
Accord	Association of Teachers and Lecturers
Advancing UK AeroSpace, Defence & Security Industries	Association of Welding Distributors
Aegis	Automatic Vending Association
AEP	Automotive Distribution Federation
Agricultural Industries Confederation	Bakers, Food and Allied Workers Union
APCO Worldwide	Bank of England
Ariadne Capital	Barclays Business
Asian Business Federation	Barclays Private Equity Limited
Asian Trades Link Association	Bathroom Manufacturers Association
Aspect	BDA
Associated Society of Locomotive Engineers and Firemen	Bingo Association of Great Britain
Association for Consultancy and Engineering	Bio Industry Association
Association for Financial Markets in Europe	Black Business Association
Association for Instrumentation, Control, Automation and Laboratory Technology	Booksellers Association of UK & Ireland
Association for Road Traffic Safety & Management	Bristol & Western Engineering Manufacturers' Association
Association of Accounting Technicians	Britannia Staff Union
Association of British Fire Trades	British Adhesives and Sealants Association
Association of British Furniture Manufacturers	British Aerosol Manufacturers' Association
Association of British Health-Care Industries	British Aggregates Association
Association of British Insurers	British Agrochemicals Association/ Crop Protection Association UK
Association of British Theatre Technicians	British Air Line Pilots' Association
Association of British Travel Agents	British Allied Trades Federation
Association of Chartered Certified Accountants	British Association for Chemical Specialities
Association of Colleges	British Association of Colliery Management
Association of Convenience Stores	British Association of Removers
Association of Cycle Traders	British Association of Toy Retailers
Association of Exhibition Organisers	British Association of Women Entrepreneurs
Association of Flight Attendants	British Bankers' Association
Association of Independent Financial Advisers	British Beer and Pub Association
Association of Independent Music	British Cables Association
Association of Learned and Professional Society Publishers	British Cement Association
Association of Manufacturers of Domestic Appliances	British Ceramic Confederation
Association of Manufacturers of Power Generating Systems	British Chambers of Commerce
	British Chemical Engineering Contractors Association
	British Cheque Cashers Association
	British Christmas Tree Growers Association
	British Coatings Federation
	British Compressed Gases Association
	British Contract Furnishing Association
	British Dental Trade Association
	British Educational Suppliers Association

British Electrotechnical & Allied
 Manufacturers' Association
 British Equestrian Trade Association
 British Florists' Association
 British Fluid Power Association
 British Footwear Association
 British Franchise Association
 British Frozen Food Federation
 British Fur Trade Association
 British Furniture Manufacturers
 British Gear Association
 British Healthcare Trades Association
 British Holiday & Home Parks Association
 British Hospitality Association
 British Hospitality Association, Hotel and
 Catering
 British Incoming Tour Operators
 Association
 British Industrial Truck Association
 British Institute of Innkeeping
 British Insurance Brokers' Association
 British International Freight Association
 British Jewellers' Association
 British Leather Confederation
 British Lubricants Federation
 British Marine Industries Federation
 British Metals Recycling Association
 British Nuclear Industry Forum
 British Orthoptic Society Trade Union
 British Pest Control Association
 British Precast Concrete Federation
 British Printing Industries Federation
 British Property Federation
 British Retail Consortium
 British Rubber Manufacturers Association
 British Security Industry Association
 British Shops & Stores Association
 British Textile Machinery Association
 British Toy & Hobby Association
 British Valve and Actuators Manufacturers
 Association
 British Vehicle Rental and Leasing
 Association
 British Video Association
 British Wood Preserving & Damp-Proofing
 Association
 British Woodworking Federation
 Broadcasting, Entertainment,
 Cinematograph and Theatre Union
 Builders Merchants Federation
 Business & Accounting Software Developers
 Association
 Business in Sport and Leisure Association
 Business in the Community
 Business Services Association
 Business Services Organisation Procurement
 and Logistics Services
 Capital for Enterprise Board
 Catering Equipment Suppliers Association
 Central Procurement Directorate
 Chartered Accountants Ireland
 Chartered Institute of Taxation
 Chartered Society of Physiotherapy
 Chemical Industries Association
 Cheshire Pre-School Learning Alliance
 CIG NI
 Cleaning & Hygiene Suppliers Association
 Cleaning and Support Services Association
 Combined Heat & Power Association
 Commercial Horticultural Association
 Commonwealth Business Council
 Confederation of Aerial Industries
 Confederation of British Industry
 Confederation of British Metalforming
 Confederation of UK Coal Producers
 Construction Employers Federation
 Construction Equipment Association
 Construction Industry Council
 Construction Products Association
 Consumer Credit Trade Association
 Convention of Scottish Local Authorities
 Cosmetic, Toiletry & Perfumery Association
 Council of Mortgage Lenders
 CPD NI
 DARD NI
 DCAL NI
 DE NI
 DEL NI
 Dental Laboratories Association
 Direct Marketing Association
 Direct Selling Association
 Domestic Appliance Service Association
 DSD
 DSD NI
 Educational Institute of Scotland
 EEF
 Electrical Contractors Association of Scotland
 Electrical Distributors Association
 Energy and Utilities Alliance
 Energy Industries Council

Energy Systems Trade Association
 Energy UK
 E-Net Computers
 Engineering Equipment & Materials Users Association
 English Association of Self Catering Operators
 Equity
 Facilities Management Association
 Factors & Discounters Association
 Faculty and Institute of Actuaries
 Faculty of Advocates
 FDA
 Federation of Bakers
 Federation of Environmental Trade Associations
 Federation of Manufacturing Opticians
 Federation of Master Builders
 Federation of Piling Specialists
 Federation of Small Businesses
 Fergus Gilligan & Partners
 Finance & Leasing Association
 Fire Brigades' Union
 Food Storage & Distribution Federation
 Forestry Contracting Association
 Fork Truck Association
 Forum for Private Business
 Forum of Private Business
 Founders Forum
 Galvanizers Association
 Garage Equipment Association
 Garden Industry Manufacturers Association
 Gardenex: The Federation of Garden & Leisure Manufacturers
 GFC Diagnostics
 Glass and Glazing Federation
 GMB
 Guild of Architectural Ironmongers
 Gun Trade Association
 H&J Martin Ltd
 Hairdressing Employers Association
 Halifax Bank of Scotland employees in the Lloyds Banking Group
 Hasson & Sons Ltd
 Health Estates
 Hospital Consultants and Specialists Association
 Hotel & Catering International Management Association
 House Builders Federation
 HSBC Bank plc
 Ian Houston Surgical Systems
 Independent Footwear Retailers Association
 Independent Healthcare Association
 Institute of Business Consulting
 Institute of Certified Book-Keepers
 Institute of Chartered Accountants in England & Wales
 Institute of Consulting
 Institute of Credit Management
 Institute of Directors
 Institute of Family Business
 Institute of Practitioners in Advertising
 International Association for Soaps, Detergents and Maintenance Products
 International Underwriting Association of London
 International Union of Aviation Insurers
 Invest NI
 Irish Congress of Trade Unions
 Kingfisher
 Kitchen Specialists Association
 Lancashire Textile Manufacturers' Association
 LAPADA the Association of Art and Antique Dealers
 Law Society of Northern Ireland
 Law Society of Scotland
 Lifting Equipment Engineers Association
 Lighting Industry Federation
 Lloyds Banking Group Commercial
 London Underwriting Centre
 Maltsters Association of Great Britain
 Management Consultancies Association
 Metal Packaging Manufacturers Association
 Mining Association of the United Kingdom
 Momentum
 Morrow's Socks
 Motor Schools Association of Great Britain
 Music Industries Association
 Music Publishers Association
 Musicians' Union
 Napo
 National Association of British and Irish Millers
 National Association of Colliery Overmen, Deputies and Shotfirers
 National Association of Co-operative Officials
 National Association of Estate Agents
 National Association of Master Bakers

National Association of Paper Merchants	Pricewaterhouse Coopers LLP
National Association of Specialist Computer Retailers	Processing & Packaging Machinery Association
National Association of Stable Staff	Procurement Board Member - external observer
National Association of Steel Stockholders	Producers Alliance for Cinema & Television
National Bed Federation	Professional Footballers' Association
National Caravan Council	Professional Lighting & Sound Association
National Council of Building Material Producers	Prospect
National Farmers' Union	Provision Trade Federation
National Federation for Retail Newsagents	Public Relations Consultants Association
National Federation of Enterprise Agencies	Publishers Association
National Federation of Fish Fryers	Quarry Products Association
National Federation of Roofing Contractors	Quoted Companies Alliance
National Federation of Terrazzo Marble & Mosaic Specialists	Radio, Electrical & Television Retailers Association
National Hairdressers Federation	Railway Industry Association
National Housing Federation	RBS Group
National Market Traders Federation	Recruitment & Employment Confederation
National Pharmaceutical Association	Regional Director QPANI
National Tyre Distributors Association	Roads Service NI
National Union of Journalists	Rotary Ltd
National Union of Mineworkers	Royal Institute of Chartered Surveyors
National Union of Rail, Maritime and Transport Workers	Safety Assessment Federation Limited
National Union of Teachers	Sales Institute of Ireland, Northern Branch
Nationwide Group Staff Union	Santander Business Banking
Nautilus International	Scottish & Northern Ireland Plumbing Employers Federation
NI Council of Voluntary Action	Scottish Council Development and Industry
NI Housing Executive	Scottish Dairy Association
NI Water	Scottish Legal Aid Board
NI Water	Scottish Print Employers Federation
NI Water	Scottish Salmon
NIHE	Shipbuilders & Shiprepairers Association
Northern Offshore Federation	Shop & Display Equipment Association
NSCC	SIB
One Union for Regional Staff	Snack and Crisp Manufacturers Association
Outdoor Advertising Association	Social Enterprise UK
Outdoor Industries Association	Society of British Water Industries
Packaging Federation	Society of Chiropodists and Podiatrists
PCS	Society of Event Organisers
Pencro	Society of Motor Manufacturers and Traders
Periodical Publishers Association	Society of Radiographers
Pet Care Trust	Southern Education & Library Board
Pet Food Manufacturers Association	Strategic Investment Board
Philatelic Traders Society	Supplies & Services Division, Central Procurement Directorate
Photo Marketing Association International	Surface Engineering Association
PICON	SURGE
Policy & Performance Division, Central Procurement Directorate NI	Telecommunications Industry Association

Textile Services Association
 The Anti - Counterfeiting Group
 The Asset Based Finance Association
 The Association of Licensed Multiple Retailers
 The Association of Colleges
 The Association of Consulting Engineers
 The Association of Independent Tour Operators
 The Association of Investment Trust Cos
 The British Phonographic Industry
 The Building Societies Association
 The Chamber of Shipping
 The Communications Union
 The Construction Plant Hire Association
 The Electrical Contractors' Association
 The Environmental Services Association
 The Event Supplier and Services Association
 The Federation of Communication Services
 The Gas Forum
 The Giftware Association
 The Grain and Feed Trade Association
 The Horticultural Trades Association
 The Incorporated Society of British Advertisers
 The Information Technology, Telecommunications and Electronics Association
 The Institute of Direct Marketing
 The Institute of Payroll and Pensions Management
 The International Marine Contractors Association
 The International Transport Society for the United Kingdom
 The Law Society
 The Lift and Escalator Industry Association
 The Lighting Association
 The London Bullion Market Association
 The Machine Tool Technologies Association
 The Management Consultancies Association
 The Mid Yorkshire Chamber of Commerce & Industry
 The National Caravan Council
 The National Federation of Meat & Food Traders
 The Newspaper Society
 The Paper Federation of Great Britain
 The Professional Trades Union for Prison, Correctional and Secure Psychiatric Workers
 The Salt Manufacturers' Association
 The Scotch Whisky Association
 The Sports Industries Federation
 The Teachers' Union
 The Tile Association
 The Union for Life
 The Yacht Harbour Association
 Thermal Insulation Contractors Association
 Timber Trade Federation
 Timber Trade Federation
 Trade Association Forum
 Translink
 Transport Salaried Staffs' Association
 UCATT
 UK Cleaning Products Industry Association
 UK Steel Association/ EEF Engineering Employers Federation
 Undeb Cenedlaethol Athrawon Cymru
 Union of Construction, Allied Trades and Technicians
 Union of Shop, Distributive and Allied Workers
 Union of Shop, Distributive and Allied Workers
 UNISON
 Unite
 United Kingdom Offshore Operators Association
 United Kingdom Petroleum Industry Association
 United Kingdom Quality Ash Association
 United Kingdom Warehousing Association
 United Kingdom Weighing Federation
 United Road Transport Union
 Unity
 University and College Union
 USDAW
 Visit England
 Water UK
 WDR & RT Taggart
 WGGB
 Wholesale Markets Brokers' Association
 Wine and Spirit Association of Great Britain and Northern Ireland
 Wood Panel Industries Federation
 Woodworking Machinery Suppliers Association

Yorkshire Independent Staff Association

Local Enterprise Partnerships

Buckinghamshire
Cheshire and Warrington
Coast to Capital
Cornwall and Isles of Silly
Coventry and Warwickshire
Cumbria
Derby Derbyshire Nottingham and Nottinghamshire
Dorset
Enterprise M3
Enterprise M4
Gloucestershire
Greater Birmingham and Solihull
Greater Cambridge and Greater Peterborough
Greater Manchester
Heart of the South West
Hertfordshire
Hertfordshire
Humber
Lancashire
Leeds City Region
Leicester and Leicestershire
Lincolnshire
Liverpool City Region
London
New Anglia
North Eastern
Northamptonshire
Oxfordshire
Solent
South East Midlands
Stoke and Staffordshire
Swindon and Wiltshire
Tees Valley
Thames Valley Berkshire
The Marches
West of England
Worcester
York and North Yorkshire

Councils and Local Authorities

Aberdeen Council
Adur District Council
Allerdale Borough Council
Amber Valley Borough Council
Angus Council

Antrim Borough Council
Ards Borough Council
Argyll and Bute Council
Armagh City and District Council
Arun District Council
Ashfield District Council
Ashford Borough Council
Aylesbury Vale District Council
Babergh District Council
Ballymena Borough Council
Ballymoney Borough Council
Banbridge District Council
Barking and Dagenham London Borough Council
Barnet Council
Barnsley Metropolitan Borough Council
Barrow-in-Furness Borough Council
Basildon District Council
Basingstoke and Deane Borough Council
Bassetlaw District Council
Bath and North East Somerset Council
Bedford Borough Council
Belfast City Council
Bexley Council
Birmingham City Council
Blaby District Council
Blackburn with Darwen Borough Council
Blackpool Council
Blaenau Gwent County Council
Bolsover District Council
Bolton Metropolitan Borough Council
Borough of Poole
Boston Borough Council
Bournemouth Borough Council
Bracknell Forest Borough Council
Bradford Metropolitan District Council
Braintree District Council
Breckland District Council
Brent Council
Brentwood Borough Council
Bridgend County Borough Council
Brighton and Hove City Council
Bristol City Council
Broadland District Council
Bromley Council
Bromsgrove District Council
Bromsgrove District Council
Broxbourne Borough Council
Broxtowe Borough Council
Buckinghamshire County Council

Burnley Borough Council
 Bury Metropolitan Borough Council
 Caerphilly County Borough Council
 Calderdale Metropolitan Borough Council
 Cambridge City Council
 Cambridgeshire County Council
 Camden Council
 Cannock Chase District Council
 Canterbury City Council
 Cardiff Council
 Carlisle City Council
 Carmarthenshire County Council
 Carrickfergus Borough Council
 Castle Point Borough Council
 Castlereagh Borough Council
 Central Bedfordshire Council
 Central Procurement Directorate
 Ceredigion County Council
 Charnwood Borough Council
 Chelmsford Borough Council
 Cheltenham Borough Council
 Cherwell District Council
 Cheshire East Borough Council
 Cheshire West and Chester Council
 Chesterfield Borough Council
 Chichester District Council
 Chiltern District Council
 Chorley Borough Council
 Christchurch Borough Council
 City of London Corporation
 City of York Council
 Clackmannanshire Council
 Colchester Borough Council
 Coleraine Borough Council
 Comhairle nan Eilean Siar
 Conwy County Borough Council
 Cookstown District Council
 Copeland Borough Council
 Corby Borough Council
 Cornwall County Council
 Cotswold District Council
 Council of the Isles of Scilly
 Coventry City Council
 Craigavon Borough Council
 Craven District Council
 Crawley Borough Council
 Croydon Council
 Cumbria County Council
 Dacorum Borough Council
 Darlington Borough Council
 Dartford Borough Council
 Daventry District Council
 Denbighshire County Council
 Derby City Council
 Derbyshire County Council
 Derbyshire Dales District Council
 Derry City Council
 Devon County Council
 Doncaster Metropolitan Borough Council
 Dorset County Council
 Dover District Council
 Down District Council
 Dudley Metropolitan Borough Council
 Dundee City Council
 Dungannon and South Tyrone Borough Council
 Durham Council
 Ealing Council
 East Cambridgeshire District Council
 East Dorset District Council
 East Hampshire District Council
 East Hertfordshire District Council
 East Lindsey District Council
 East Northamptonshire District Council
 East Riding of Yorkshire Council
 East Staffordshire Borough Council
 East Sussex Council
 Eastbourne Borough Council
 Eastleigh Borough Council
 Eden District Council
 Edinburgh City Council
 Elmbridge Borough Council
 Enfield Council
 Epping Forest District Council
 Epsom and Ewell Borough Council
 Erewash Borough Council
 Essex County Council
 Exeter County Council
 Fareham Borough Council
 Fenland District Council
 Fermanagh District Council
 Forest Heath District Council
 Forest of Dean District Council
 Fylde Borough Council
 Gateshead Metropolitan Borough Council
 Gedling Borough Council
 Gloucester City Council
 Gloucestershire County Council
 Gosport Borough Council
 Gravesham Borough Council

Great Yarmouth Borough Council
Greater London Authority
Greenwich Council
Guildford Borough Council
Hackney Council
Halton Borough Council
Hambleton District Council
Hammersmith and Fulham Council
Hampshire County Council
Harborough District Council
Haringey Council
Harlow District Council
Harrogate Borough Council
Harrow Council
Hart District Council
Hartlepool Borough Council
Hastings Borough Council
Havant Borough Council
Havering Council
Herefordshire County Council
Hertfordshire County Council
Hertsmere Borough Council
Hertsmere District Council
High Peak Borough Council
Hillingdon Council
Hinckley and Bosworth Borough Council
Horsham District Council
Hounslow Council
Huntingdonshire District Council
Hyndburn Borough Council
Isle of Wight Council
Kent County Council
Kettering Borough Council
King's Lynn and West Norfolk Borough Council
Kingston upon Hull City Council
Kingston upon Thames Council
Kirklees Council
Knowsley Metropolitan Borough Council
Lambeth Council
Lancashire County Council
Lancaster City Council
Larne Borough Council
Law Society of Northern Ireland
Leeds City Council
Leicester City Council
Leicestershire County Council
Lewes District Council
Lewisham Council
Lichfield District Council

Limavady Borough Council
Lincoln City Council
Lincolnshire County Council
Lisburn City Council
Liverpool City Council
Lloyds Banking Group Commercial
London Assembly
London Borough of Barking and Dagenham
London Borough of Barnet
London Borough of Bexley
London Borough of Brent
London Borough of Bromley
London Borough of Camden
London Borough of Croydon
London Borough of Ealing
London Borough of Hackney
London Borough of Hammersmith and Fulham
London Borough of Haringey
London Borough of Harrow
London Borough of Havering
London Borough of Hillingdon
London Borough of Hounslow
London Borough of Islington
London Borough of Lambeth
London Borough of Merton
London Borough of Newham
London Borough of Redbridge
London Borough of Richmond upon Thames
London Borough of Southwark
London Borough of Sutton
London Borough of Waltham Forest
London Borough of Wandsworth
Luton Borough Council
Magherafelt District Council
Maidstone Borough Council
Maldon District Council
Malvern Hills District Council
Manchester City Council
Mansfield District Council
Medway Council
Melton Borough Council
Mendip District Council
Merthyr Tydfil County Borough Council
Merton Council
Mid Devon District Council
Mid Suffolk District Council
Mid Sussex District Council
Middlesbrough Council
Midlothian Council

Milton Keynes Council	Reading Borough Council
Mole Valley District Council	Redbridge Council
Monmouthshire County Council	Redcar and Cleveland Borough Council
Moyle District Council	Redditch Borough Council
Neath Port Talbot County Borough Council	Reigate and Banstead Borough Council
New Forest District Council	Ribble Valley Borough Council
Newark and Sherwood District Council	Richmond Upon Thames Council
Newcastle-under-Lyme Borough Council	Richmondshire District Council
Newcastle-upon-Tyne City Council	Rochdale Metropolitan Borough Council
Newham Council	Rochford District Council
Newport City Council	Rossendale Borough Council
Newry and Mourne District Council	Rother District Council
Newtownabbey Borough Council	Rotherham Metropolitan Borough Council
Norfolk County Council	Royal Borough of Kensington and Chelsea
North Devon Council	Royal Borough of Kingston upon Thames
North Dorset District Council	Royal Institute of Chartered Surveyors
North Down Borough Council	Rugby Borough Council
North East Derbyshire District Council	Runnymede Borough Council
North East Lincolnshire Council	Rushcliffe Borough Council
North Hertfordshire District Council	Rushmoor Borough Council
North Kesteven District Council	Rutland County Council
North Lincolnshire Council	Ryedale District Council
North Norfolk District Council	Salford City Council
North Somerset District Council	Sandwell Metropolitan Borough Council
North Tyneside Council	Scarborough Borough Council
North Tyneside Metropolitan Borough Council	Sedgemoor District Council
North Warwickshire Borough Council	Sefton Council
North Warwickshire Borough Council	Sefton Metropolitan Borough Council
North West Leicestershire District Council	Selby District Council
North Yorkshire Council	Selby District Council
Northampton Borough Council	Sevenoaks District Council
Northamptonshire County Council	Sheffield City Council
Northumberland County Council	Shepway District Council
Norwich City Council	Shetland Islands Council
Nottingham City Council	Shropshire Council
Nottinghamshire County Council	Shropshire County Council
Nuneaton and Bedworth Borough Council	Slough Borough Council
Oadby and Wigston Borough Council	Solihull Metropolitan Borough Council
Oldham Metropolitan Borough Council	Somerset County Council
Omagh District Council	South Buckinghamshire District Council
Orkney Islands Council	South Cambridgeshire District Council
Oxford City Council	South Derbyshire District Council
Oxfordshire County Council	South Gloucestershire Council
Pendle Borough Council	South Hams District Council
Peterborough City Council	South Holland District Council
Plymouth City Council	South Kesteven District Council
Portsmouth City Council	South Lakeland District Council
Preston City Council	South Norfolk District Council
Purbeck District Council	South Northamptonshire Council
	South Oxfordshire District Council

South Ribble Borough Council	Trafford Council
South Somerset District Council	Trafford Metropolitan Borough
South Staffordshire Council	Tunbridge Wells Borough Council
South Tyneside Council	Uttlesford District Council
South Tyneside Metropolitan Borough Council	Vale of White Horse District Council
Southampton City Council	Wakefield Council
Southend-on-Sea Borough Council	Walsall Metropolitan Borough Council
Southwark Council	Waltham Forest Council
Spelthorne Borough Council	Wandsworth Council
St Albans City and District Council	Warrington Borough Council
St Edmundsbury Borough Council	Warwick District Council
St Helens Metropolitan Borough Council	Warwickshire County Council
Stafford Borough Council	Watford Borough Council
Staffordshire Moorlands District Council	Waveney District Council
Stevenage Borough Council	Waverley Borough Council
Stockport Metropolitan Borough Council	Wealden District Council
Stockton-on-Tees Borough Council	Wellingborough Borough Council
Stoke-on-Trent City Council	Welwyn Hatfield District Council
Strabane District Council	West Berkshire Council
Stratford-on-Avon District Council	West Devon Borough Council
Stroud District Council	West Dorset Council
Suffolk Coastal District Council	West Lancashire District Council
Suffolk County Council	West Lindsey District Council
Sunderland City Council	West Oxfordshire District Council
Surrey Heath Borough Council	West Somerset District Council
Sutton Council	West Sussex District Council
Swale Borough Council	Westminster Council
Swindon Borough Council	Weymouth and Portland Council
Tameside Metropolitan Borough Council	Wigan Council
Tamworth Borough Council	Wiltshire County Council
Tandridge District Council	Winchester City Council
Taunton Deane Borough Council	Windsor and Maidenhead Royal Borough Council
Teignbridge District Council	Wirral Metropolitan Borough Council
Telford and Wrekin Borough Council	Woking Borough Council
Tendring District Council	Wokingham District Council
Test Valley Borough Council	Wolverhampton City Council
Tewkesbury Borough Council	Worcester City Council
Thanet District Council	Worcestershire Council
Three Rivers District Council	Worthing Borough Council
Thurrock Council	Wrexham County Borough Council
Tonbridge and Malling Borough Council	Wychavon District Council
Torbay Council	Wycombe Council
Torfaen County Borough Council	Wyre Borough Council
Torrige District Council	Wyre Forest Council
Tower Hamlets Council	York City Council

Annex 3: Late Payment Directive: Consultation response form

The closing date for this consultation is **19 October 2012**

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

Andy Harrison,
Policy and Strategy Team,
Enterprise Directorate,
Department for Business, Innovation & Skills;
1 Victoria Street,
LONDON, SW1H 0ET,

Tel : 020 7215 6032

E-mail : andy.harrison@bis.gov.uk

Please tick a box that best describes you as a respondent from the list of options below:

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1

1. (Article 4 para b) Should UK public sector payment terms involving healthcare or where the public authority carries out economic activities of an industrial or commercial nature by offering goods or services on the market, be extended beyond 30 calendar days to up to 60 days?

Government feels that adopting this measure would be a retrograde step, and would significantly weaken current UK practice of paying within 30 days.

Comments:

2. To transpose (implement) the Directive should we should repeal the existing Late Payment of Commercial Debts (Interest) Act 1998 and replace it with secondary legislation (statutory instruments) or amend the Late Payment of Commercial Debts (Interest) Act 1998?

Comments:

3. Compensation for recovery costs (Article 6): The current Late Payment of Commercial Debts (Interest) Act 1998, suggests a fixed charge of £40, £70 or £100 depending on the size of the debt (under £1,000, under £10,000, and higher) as compensation for recovering costs. The revised directive propose a creditor is entitled to obtain from the debtor, as a minimum, a fixed sum of €40, as compensation for recovery costs, plus additional costs incurred.

Should the three tiered approach be retained or changed to a minimum compensation?

Comments:

4. (Article 12 para 4) If the Directive is transposed (implemented) on 16 March 2013, our proposal is to exclude contracts concluded before 16 March 2013 from being subject to the Directive, given the changes introduced are not sufficiently substantive to warrant retrospective application and that retrospective application will incur a costly process of contract review – is this the correct choice?

Comments:

5. An Impact Assessment is shown at Annex 3 that also includes a number of question that we would be grateful for you to answer:

IA Q1: Do you have any further evidence about problems created by late payments, particularly where this potentially impacts on business survival/insolvency?⁹

IA Q2: Do you have any further evidence about the incidence or magnitude of write-offs associated with late payment debts?¹⁰

IA Q3: Do you have any further evidence about the incidence of firms chasing late payments outside of existing legislation?¹¹

IA Q4: Do the assumptions underpinning the above estimates of costs and benefits seem sensible? Do you have any evidence that could help to refine these estimates?¹²

IA Q6: Do you agree with the assumptions in the above calculations? Do you have any further evidence that could help to refine the estimates about the potential reduction in administrative costs associated with chasing late payments?¹³

⁹ See page 5 of the Impact Assessment

¹⁰ See page 5 of the Impact Assessment

¹¹ See page 11 of the Impact Assessment

¹² See page 11 of the Impact Assessment

¹³ See page 12 of the Impact Assessment

IA Q5: Do you agree with the assumptions in the above calculations? Do you have any further evidence that could help to refine the estimates about the potential reduction in write-offs?¹⁴

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

Annex 4: Impact Assessment

Checklist for analysis on EU proposals

Title of EU proposal: Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating Late Payment in Commercial Transactions	Lead policy official: Andy Harrison, Policy and Strategy Team, Enterprise Directorate, Department for Business, Innovation & Skills; 1 Victoria Street, London
Lead dept/agency: Department for Business, Innovation & Skills	
Other depts/agencies with an interest:	

¹⁴ Seep page 13 of the Impact Assessment

Cabinet Office and all Whitehall Depts, plus
the Devolved Administrations
Date: 20 September 2012

SW1H 0ET,
E-mail andy.harrison@bis.gov.uk

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1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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