



Ministry of JUSTICE

Ministry of Justice

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Gareth Mitchell
Pierce Glynn
By email gmitchell@pierceglynnc.co.uk

08 November 2011

Dear Mr Mitchell

Thank you for your letter of 31 October 2011, which was received here on 1 November 2011. I am responding as the policy official with responsibility for the matters covered by your letter.

You have raised concerns about clause 24(1)(b) of the Bill and its interaction with situations where a supplier receives an inter partes costs order resulting in payment by opponents at market rates.

I would like to make it clear that we have no intention of altering the existing position that operates in cases where inter partes costs orders are made and a claim is made against the fund by a supplier. We intend that the current position that pertains in those cases will remain exactly the same when we implement the provisions in Part I of the Legal Aid, Sentencing and Punishment of Offenders Bill (subject to Parliamentary approval of the Bill). We fully recognise that market rates costs payments where inter partes costs are ordered represent an important source of income for legal aid providers and nothing in the Bill is intended to interfere with the present position in respect of such payments.

Specifically, 'legal aid only costs' will continue to be payable to providers where a supplier recovers inter partes costs, to the same extent as is currently provided for in paragraphs 6.46 – 6.55 of the LSC Standard Civil Contract Specification (General Provisions). The existing position in respect of claims for legal aid only costs where inter partes costs are awarded (your second example on page 3 of your letter) and claims in partial costs order cases (your first example on page 3 of your letter), which is in reality a species of 'legal aid only costs' (see 6.53 of the Specification) will therefore remain as at present.

Clause 24 of the Bill does not represent a change of policy and will not result in any change to current practice. Clause 24 in fact reflects current practice by protecting the interests of the legal aid fund in the same way that those interests are currently protected by the provisions of the Community Legal Service (Costs) Regulations 2000.

We can confirm that, in the specific context of inter partes costs, we intend to exercise the regulation-making powers at clause 24 of the Bill so that it is clear that 'legal aid only' costs (including in partial costs order cases) remain payable to suppliers. This will make the position clearer than it actually is at present, given that the entitlement to payment for 'legal aid only' costs currently appears only in the LSC Contract.

We are grateful to you for raising your concerns on this matter, thereby providing us with the opportunity to explain our intentions. I hope that this letter provides you with the reassurance that you seek.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Lyndsey Lancaster".

Lyndsey Lancaster
Legal Aid Eligibility