



Statement

13 December 2010

Statement re Sharp v Bank of Scotland

A spokesperson for the Board said:

“Mr Dailly’s statements ignore the fundamental issue that the initial application submitted did

- not address the issue of public interest in the application itself
- nor did it address the wider public interest guidance published by the Board.

Quite simply there were gaps in the application which did not allow the Board to consider the issue of wider public interest in detail.

Mr Dailly states that the Board’s statement is inaccurate because he included one sentence on public interest in the statutory statement.

The statutory statement is not the application. It is separate to the application.

Whilst the statutory statement may be read by the Board, any issues in relation to the statutory tests must be raised in the application form and any supporting statements. The need to do this is stated in our guidance.

The purpose of the statutory statement is to give a brief outline of the nature of the case and the interest of the applicant in it.

This statement is sent to the opponent to inform them about the application. It is not used to provide the Board with information addressing the statutory tests.

The brief, passing reference in the statutory statement that we received does not constitute the information necessary to consider a grant of legal aid to be made.

As most solicitors who do legal aid work will be aware, where the statutory statement mentions some specific part of an action (crave) that is not included in the application form itself, we will not consider any aspect of that part of the action in assessing the application.

Mr Dailly’s response to the opponent’s representations commented on public interest issues. These were not included in the initial application nor did it amount to the provision of detailed information on wider public interest requirements - as set out in our guidance.

Even in the review application, as the Board made clear in its previous statement, where the issue of wider public interest was mentioned in a covering letter, we were still not provided with the level of information the Board needs (as stated in our guidance) to determine whether it was reasonable to grant civil legal aid.

If Mr Dailly has a complaint about a press statement issued by the Board, he can write to the Chief Executive and we will follow the Board’s published complaints procedure in the normal way.

As per our previous statement, as a result of new and additional information provided in the GLC letter of 7 December, which was sent after the refusal of the review application, we have decided on cost-effectiveness grounds to re-open the application. However, we will still require to be addressed fully on the wider public interest aspects as set out in our published guidance.”

Ends

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Notes for editors

Legal aid is help towards the costs of legal advice and representation, for those who qualify, paid for out of public funds. It is designed to help individuals on low and modest incomes gain access to the legal system. There are two main types of legal assistance: advice and assistance and legal aid. Together these are called legal assistance. Legal aid may be free, or someone may have to pay towards the cost of their case, for example through paying a contribution or from the money or property that they win or keep as a result of their legal action. Legal aid is accessed through a solicitor. Unlike most public expenditure, the legal aid fund is not cash limited. The Scottish Government will provide the Board with the funds required to meet the cost of cases which have been granted.