



## Statement

7 January 2011

### Media coverage of cases adjourned in Wick Sheriff Court

“We have an important role in protecting taxpayers’ interests and only grant legal aid to those who are financially eligible. To show that an applicant is entitled to legal aid, which is a public service, we ask solicitors to provide proof of income and capital. In July 2010, we advised solicitors that the best way of doing this is to provide the applicant’s bank statement.

There has been recent media coverage of cases adjourned in Wick Sheriff Court on 5 January. Of the 18 cases that called in Wick Sheriff Court on 5 January, we have been notified by the sheriff clerk that 5 were adjourned for legal aid reasons, although, we understand that at least one of these was initially adjourned for other reasons. We checked the status of these legal aid applications and there was no delay on the part of the Board:

- one application was granted on 15 December 2010 - we received this on 13 December and sent the decision to the solicitor on 16 December. It is a case that can be accessed by the solicitor through Legal Aid Online (our online applications and accounts system) which can be checked at any time.
- two applications were refused in November 2010 because the applicant had too much income. One re-applied and this was refused because their personal circumstances had not changed. The other applicant also re-applied without supplying bank statements or explaining a change in their employment and we asked for this information on 6 December 2010. This information had not been sent to the Board as at 5 January 2011.
- two applications were continued in November 2010 for bank statements and personal information that was missing from the application and this information had not been sent to the Board as at 5 January 2011.

Therefore, of these five cases, legal aid had actually been granted in one of the cases. It is unclear why the case had to be adjourned for a legal aid reason. Legal aid was refused in two cases because the applicant had too much income, and two were continued because a bank statement and other verification of income had not been provided and had still not been provided a number of weeks after we had requested it.

In these cases there has been no delay on the part of the Board. The Board does not consider a bank statement to be a level of detail which is unreasonable and indeed is the quickest way to verify an applicant’s financial circumstances. Sometimes there can be delays by solicitors and applicants in supplying the information required. However, this information is important to verify an applicant’s financial circumstances and that they are eligible to receive public funding through legal aid.

We have received no feedback from sheriffs or the Crown Office Procurator Fiscal Service that this is causing delays in the court process and the Crown yesterday stated they are not aware of delays to proceedings due to the processing of legal aid applications. However, we will continue to communicate with justice agencies to clarify the position. If legal aid is not granted by the date of a summary trial, a solicitor can use special urgency procedures and obtain cover from the Board to ensure that they are paid for the work done. There is no reason why a trial should have to be adjourned because legal aid is not in place.

The Board took over responsibility for granting solemn legal aid on 25 November 2010. The process is operating well. In the first three weeks we received 461 applications. 285 were granted, 5 refused and the remainder continued for a copy of the petition or for proof of income. In solemn cases, automatic legal aid is available to any applicant who is prosecuted under solemn procedure until the applicant is bailed or fully committed, or we have determined an application for legal aid, whichever first occurs and the special urgency provisions were extended to cover all circumstances. Automatic legal aid is available regardless of the applicant's financial circumstances. There is no reason why a solicitor should have to delay doing work on a solemn case."

ENDS

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