



## Statement

8 December 2010

### Re: Bank charges - Sharp v Bank of Scotland

A spokesperson for the Board stated, "We're surprised and disappointed that Govan Law Centre (GLC) has publicised this case in its press release, in view of the fact that the Board only received their latest letter yesterday, which raised fresh issues and asked us to consider additional information not previously given to us.

The Board has not yet had the opportunity to fully consider these new issues nor to provide a substantive response.

When the initial application for legal aid was lodged it had to be rejected as necessary information was not provided.

Solicitors undertaking civil legal aid work are aware from our guidance what information is needed to allow an application to be considered.

Following receipt, the application was considered but refused as it did not meet the reasonableness test for civil legal aid. No mention was made of wider public interest by Govan Law Centre at this time.

A review application was then made asking us to re-consider our refusal of civil legal aid.

The review application indicated that the case could be of relevance to the wider public interest in Scotland in that if the case was successful it could lead the way for many others to make similar claims.

However, the review application did not provide the detailed information required to support the claim of a wider public interest. Again, the Board has published detailed guidance for solicitors on this, which was not adhered to. As such the review application was refused.

Yesterday, on 7 December 2010, we received the letter referred to in today's press release from the applicant's solicitors asking us to take into account certain additional aspects supportive of the applicant's claim and to look again at the refusal.

The solicitor's letter provides new information, including the question of seeking a protective costs order. The Board is considering re-opening the application as it may be more cost effective to do this rather than insisting on a fresh legal aid application. Further information will however be needed in relation to the points raised in the latest letter.

On the information provided to the Board initially and on review, we are satisfied that the refusal decisions were appropriate especially with regard to the guidance we have issued about civil legal aid applications.

The Board entirely rejects entirely Mr Dailly's assertions and are confident of the Board's role in monitoring and safeguarding access to justice in Scotland.

Over the past two years there has been a substantial increase in the numbers of people receiving civil legal aid and benefiting from wider access to justice through services such as grant funded projects and in-court advisers, which are funded by the Board.

However, it is also important that the Board properly applies the statutory test for civil legal aid. In doing this the Board has to rely on the information provided by the solicitors in applications and the extent to which this information meets the Board's requirements as set out in our guidance.

GLC's press release suggests that legal aid is unlikely to be obtained for certain cases. This is not accurate. Each application is considered on its own merit and the question of whether legal aid is granted is very much dependant on the quality of the application made by the solicitor in relation to providing the necessary information to enable the statutory tests to be met.

As this application is still “live” it would be inappropriate for the Board to give further details or comment.”

**Ends**

**Journalists please contact:**

Mat Lopez tel (direct) 0131 240 1887

**Notes for editors**

1.

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.