



News Release

21 December 2010

Removal of firm from the criminal legal assistance register

The Scottish Legal Aid Board announced today that it had removed the firm of Winning Defence Lawyer, 122 Gorgie Road, Edinburgh, EH11 2RN, and its sole practitioner Peter Winning, from the list of firms registered to provide criminal legal assistance.

The removal follows compliance audits by the Board in relation to the Board's code of practice for criminal legal assistance.

These revealed repeated failures to comply with the code including inadequate time recording and other administrative failures. The firm showed no improvement in its compliance with the code over a period of time. The Board felt it therefore had no option but to deregister the firm and as a consequence Mr Winning.

Compliance with the code of practice is mandatory for firms undertaking criminal legal assistance. It is designed to minimise the risk of inappropriate charges to the public purse and help support the effective administration of cases.

There was however no suggestion of fraud, malpractice or overclaiming of legal aid in this case. Therefore, the Board took the view that it was prepared to consider an approach from Mr Winning to be permitted to reregister to provide criminal legal assistance with another firm which would then become responsible for his compliance with the code (and the consequent risk of any non-compliance).

All current criminal legal assistance cases being undertaken by Winning Defence have been transferred to another registered firm and Peter Winning has been reregistered.

The Board has a substantial programme of monitoring and investigating legal aid expenditure involving both legal aid applicants and the legal profession. While it can stop solicitors doing criminal legal aid work under its own powers, currently only the Law Society of Scotland has responsibility for stopping solicitors from doing civil legal aid work.

Where the Board has concerns about the conduct of lawyers or advocates, it can make formal complaints to the appropriate regulatory body (for example, the Law Society of Scotland, the Faculty of Advocates or the Legal Complaints Commission) and may also forward cases for consideration to the Crown Office Procurator Fiscal Service.

In 2009-2010, the Board's compliance and investigations work resulted in savings and recoveries of nearly £2 million, and a number of cases involving solicitors, applicants and legally-aided assisted persons were reported to the Crown Office.

The Board manages legal aid in Scotland, which is paid for by the taxpayer and delivered by solicitors and counsel. A key part of the Board's work is ensuring firms and solicitors abide by legislation, guidance and the Code of Practice for Criminal Legal Assistance. This work is important in protecting the Legal Aid Fund and the taxpayer.

Ends

Journalists please contact:

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Notes for editors

The Code of Practice for Criminal Legal Assistance is operated by the Board. To register and remain registered to practice criminal legal assistance, individual firms and solicitors must show that they meet the standards of service set out by the code in three main areas - management and administration systems, standards of service and standards of professional conduct.

Legal aid allows people who would not otherwise be able to afford it to get help for their legal problems. Legal aid and advice and assistance can only be accessed through a solicitor in a private firm or in one of the Board's Civil Legal Assistance or Public Defence Solicitors' Offices. In 2009-2010 providing legal assistance cost the taxpayer £150.4 million. The Board's strategic aims are to provide access to a range of quality assured legal help in Scotland, when and where it is needed, to obtain best value for the taxpayer through the delivery of efficient legal assistance services in Scotland and to contribute to an efficient justice system in Scotland by providing an efficient legal aid system.

The Board can remove a firm or solicitor from the Criminal legal Assistance Register. This prevents solicitors from doing legal aid work in relation to criminal cases. It does not prevent them from doing private-fee work; this is outside the Board's responsibility. For any queries about removing solicitors' firms from the civil and children's legal assistance register under section 31 of the Legal Aid Scotland Act, please contact the Law Society of Scotland (tel. 0131 226 7411).

When the Legal Services (Scotland) Act comes into force the section 31 powers to preclude a solicitor from undertaking legal assistance activities will become the responsibility of the Board.