

SPSO decision report

Case: 201305715, Scottish Legal Aid Board
Sector: Scottish Government and devolved administration
Subject: handling of application
Outcome: some upheld, no recommendations

Summary

Mr C complained that the Scottish Legal Aid Board (SLAB) handled his funding application unreasonably. He was in extended correspondence with them before formally complaining and, after he did so, he was also unhappy at their handling of his complaint. Mr C had raised two unsuccessful court actions – both funded by SLAB – and was considering raising a third. SLAB then funded a legal opinion about the possible third action, which Mr C wished to discuss with his legal representatives. However, SLAB refused to fund that and Mr C felt that this was unreasonable.

We cannot question SLAB's discretionary decision making without maladministration in their decision-making process. SLAB's guidance said matters would be judged on their own merits, but that they would also consider the steps that a private client of modest means would take. It also said a recipient of legal aid should not be put in a better position than such a private client. We considered the guidance meant SLAB had to use an element of judgment and, although Mr C felt a private client would have paid for the consultation, that was as much a matter of interpretation as SLAB's position. We recognised the significance of this for Mr C, but his disagreement with SLAB's decision did not mean there had been maladministration in their decision-making process. We did not uphold this complaint.

We had originally upheld Mr C's second complaint because, on the basis of the paperwork originally available, SLAB had not responded to one of his letters. However, SLAB then contacted us to say that they had actually responded to Mr C and gave us a copy of their response. Although they had replied to Mr C, we maintained our original decision to uphold Mr C's complaint because we felt our initial contact with SLAB had made them aware of Mr C's concerns about their complaints handling. In any event, we had then formally requested all relevant documents from them and, at that point, they confirmed in writing that they had given us everything (although it turned out that this piece of correspondence was missing).