

**Isle of Man Legal Aid  
Committee Report  
2020 - 2021**

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## Foreword from the Chairman of the Legal Aid Committee

This report covers the 2020/2021 financial year which has been a particularly challenging time in light of the covid pandemic and repeated circuit breakers. Without the professional commitment of staff in the Legal Aid office, the Certifying Officer and her Deputy, the system would have rapidly ground to a halt.

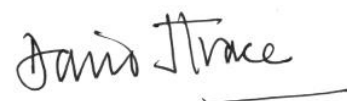
During the year the Legal Aid Committee, advised by staff, agreed to make changes to the system to enable Advocates to carry on delivering the service. These changes were welcomed by the profession.

Digitisation was high on our agenda before the pandemic, unfortunately the provision of an electronic case management system for Legal Aid has not been considered a priority and the system remains an archaic paper-based exercise. This severely impacted on the Legal Aid team's ability to function and prevented our staff from working from home. This is not a good reflection upon a Government which specifically asked people to work from home.

Over 12 months ago there were public consultations on both Criminal and Civil Legal Aid. The Legal Aid Committee is most disappointed that the subsequent Report and Recommendations from the Attorney General have been delayed. It is hoped they will inform our plans to carry out a review of the legislation and regulations which determine Legal Aid before the current Tynwald ends and a new one is elected.

The Committee will continue to work with the Law Society, the Attorney General's Chambers, and other key public, private and voluntary organisations to improve and enhance the quality of Legal Aid services in the Isle of Man.

As I come to the end of my term of office as both Chair and Committee member I would like to thank my fellow Committee members and the Legal Aid officers for their hard work, ideas, dedication, and commitment in this important area of public service and for their continued support.



**David Trace**  
**Chairman, Legal Aid Committee**  
[www.gov.im/legalaidcommittee](http://www.gov.im/legalaidcommittee)

June 2021

## **1. Overview**

The Isle of Man Government spends over £3 million a year on Legal Aid for Civil and Criminal matters.

This funds:

- Civil Legal Aid for family and non-family matters
- Criminal Legal Aid
- Advice and assistance under the Legal Advice and Assistance Regulations (Green Form)
- Duty Advocate service for the Police Stations and Courts

Legal Aid funds the Advocates costs, the costs of specialist reports that are required for a case such as psychiatric and forensic reports, expert advice and opinions from UK Legal Counsel and other services such as mediation, interpretation and Court fees.

## **2. The Legal Aid Committee**

The Legal Aid Committee ('the Committee') is a body established under Section 23 of the Legal Aid Act 1986. The mission statement is 'to promote access to justice in a manner which is fair, equitable, transparent and professional and which uses public resources carefully and effectively'.

The Committee's remit is to:

- set the strategic direction and to determine policy which shapes the development of the provision of Legal Aid in the Isle of Man
- overview its effective delivery
- review, as necessary, the actions of the Legal Aid Certifying Officer and their Deputy

Members of the Committee are appointed by the Appointments Commission for a period of three years. Members receive allowances for attending meetings. For the current membership of the Committee see [www.gov.im/legalaidcommittee](http://www.gov.im/legalaidcommittee).

### **Membership of the Committee for the period covered by this report:**

- David Trace (Chairman) - reappointed 18 July 2018
- Jane O'Rourke (Vice Chairman) - reappointed 25 June 2018
- Margaret Mansfield - reappointed 28 January 2020
- Pamela Pringle - appointed 15 May 2019
- Ruth Costain - appointed 15 May 2019
- Robert Ayre - appointed 28 Jan 2020

Administrative support for the Committee and financial provision for all aspects of Legal Aid are provided by the Treasury. Cost assessments and eligibility for Criminal Legal Aid are managed by the General Registry.

### **3. Legal Aid Certifying Officer**

The Certifying Officer must be an Advocate, Barrister or Solicitor of at least 7 years standing but must not be practicing.

The Certifying Officer ensures that public money is spent fairly and effectively on Legal Aid. They are appointed by the Legal Aid Committee and supported by an administrative team from the Treasury.

The Certifying Officer reviews applications for Civil Legal Aid and makes decisions on awarding Legal Aid by applying the legal merits test which is a two part test. Firstly the relevant facts and law are considered to decide whether legal grounds exist for taking, defending or being party to the legal action. Then the reasonableness test is applied - is it reasonable in the particular circumstances of the case - 'would a fee paying client of modest means take the same course of action'.

The Certifying Officer is responsible for issuing certificates, approving payments to Advocates for expert reports for both Civil and Criminal Legal Aid, approving extensions and refusing or revoking Legal Aid.

The Certifying Officer also assists and advises the Legal Aid Committee with policy development and changes to Legal Aid.

### **4. Legal Aid Panel**

The Panel is the list of Advocates who have indicated that they are willing to represent people that are legally aided.

The current Panel of Advocates and the categories of Legal Aid undertaken by each Advocate can be viewed online at [www.gov.im/legalaidpanel](http://www.gov.im/legalaidpanel).

Find out more about the Advocates at [www.iomlawsociety.co.im/advocates-database](http://www.iomlawsociety.co.im/advocates-database).

There were 63 Advocates, from 19 firms, on the Panel of Advocates during 2020/21. During this period 4 Advocates joined the Panel and 3 left.

Advocates are paid a Legal Aid hourly rate of £115 for junior Advocates and £135 for Senior Advocates.

## 5. Total costs over the last 5 years – summary

The cost of Civil and Criminal Legal Aid over the last five years is shown in the table below.

**Table 1: Total spend on Legal Aid in the last five years**

	2016/17	2017/18	2018/19	2019/20	2020/21
Civil non family	£309,268	£280,165	£239,861	£385,121	£247,639
Civil family	£1,209,330	£1,415,684	£993,568	£1,066,551	£1,005,027
Criminal	£1,673,310	£2,033,342	£2,442,549	£2,214,435	£2,191,112
Total - including Admin etc.	<b>£2,248,745</b>	<b>£3,409,707</b>	<b>£3,789,990</b>	<b>£3,836,924</b>	<b>£3,709,311</b>

The first three lines show the spend on Legal Aid cases.

The total line is the overall spend on Legal Aid cases plus administration costs, Committee expenses, recovered costs, contributions from assisted persons, reimbursements and costs recovered. This also includes any amounts claimed from the Legal Costs Reserve Fund

### Total spend in 2020/21

In the financial year 2020/21 the total spend on Legal Aid was £3,709,311.

£1,252,666 was spent on Civil Legal Aid. This amount includes Green Form for both family and non-family matters and irrecoverable VAT.

£2,191,112 was spent on Criminal Legal Aid. This includes the Duty Advocate Schemes at the Court and Police Station, Criminal Green Forms and irrecoverable VAT.

Legal Aid expenditure is neither capped nor restricted, however it is strictly monitored and controlled as Legal Aid is publicly funded.

## 6. Contributions and Recovered Costs 2020/21

Above the 'free' limit there is a sliding scale of contributions that a legally aided person is required to pay. This depends on their income and is determined following a financial assessment of their income and outgoings.

Recovered costs are the costs recovered from the opponent when they are ordered by the Court to pay costs.

**Table 2: Income to the Legal Aid fund through recovered costs and contributions**

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
Contributions from assisted person	£62,384	£103,227	£82,972	£68,505	£51,858
Recovered costs	£175,310	£116,338	£71,295	£89,146	£38,812
<b>Total income to Legal Aid Fund from contributions &amp; recovered costs</b>	<b>£237,694</b>	<b>£219,565</b>	<b>£154,267</b>	<b>£157,651</b>	<b>£90,670</b>

## 7. Green Form – Legal Advice and Assistance

Under the Legal Advice and Assistance Regulations 1997, commonly known as the 'Green Form', people can receive up to 3 hours legal advice, or up to 4 hours in the case of a divorce. This must be applied for by an Advocate on their client's behalf.

The Green Form is only submitted once all work is complete and the matter is either resolved or an application is submitted for a full Legal Aid Certificate. Advice given under a Green Form may, with the Legal Aid Certifying Officer's prior approval, be extended from the initial 3-4 hours to a maximum of an additional 6 hours. During the financial year 174 extensions were approved.

**Table 3: Spend on Advice and Assistance (Green Form) 2020/21**

<b>Type</b>	<b>Number of Green Forms</b>	<b>Green Form costs</b>	<b>VAT disbursements</b>	<b>Non-VAT disbursements</b>	<b>Total</b>
Family	398	£144,165	£56	£18,637	<b>£162,858</b>
Non-family	173	£63,892	£218	£1,537	<b>£65,647</b>
Criminal	93	£30,189	£75	£396	<b>£30,660</b>
<b>Total</b>	<b>664</b>	<b>£238,246</b>	<b>£349</b>	<b>£20,570</b>	<b>£259,165</b>

Note that the information on expenditure shows payments authorised during the financial year and not necessarily the payment for work undertaken in the year. Due to the timing of the submission of forms, the number received does not correlate to the amount paid, and the work paid for may not have been carried out in the actual year that bills were submitted.

In 2020/21, 68% of Green Forms came from five firms. The remaining 32% came from a further 13 firms. The matters Green Forms have most frequently been used for are child contact and maintenance, divorce and financial matters, and wills.

## 8. Civil Legal Aid

In 2020/21 the Legal Aid office received 217 Civil Legal Aid applications from Advocates. Around 63% of the applications received came from four firms. The remaining 37% were from a further 16 firms.

172 Civil Legal Aid applications received in 2020/21 were for family matters (78%). In a number of cases Legal Aid funds both parties e.g. a divorce application or child contact and maintenance

45 applications (21%) were for non-family matters.

Of the 217 applications received in 2020/21

- 119 Certificates were issued and the cases are ongoing
- 70 Certificates were issued, the cases completed and were discharged
- 22 Applications were refused and not awarded Legal Aid
- 6 Applications were abandoned by the applicant

During 2020/21

- 206 Certificates were issued
- 304 Certificates were discharged (either case finished or Legal Aid stopped)

The number of applications received and the number of Certificates issued in a year can differ due to applications being refused, returned if they are incomplete, or abandoned by the applicant.

£1,252,666 was spent on Civil Legal Aid.

Civil Legal Aid spend 2020/21 –

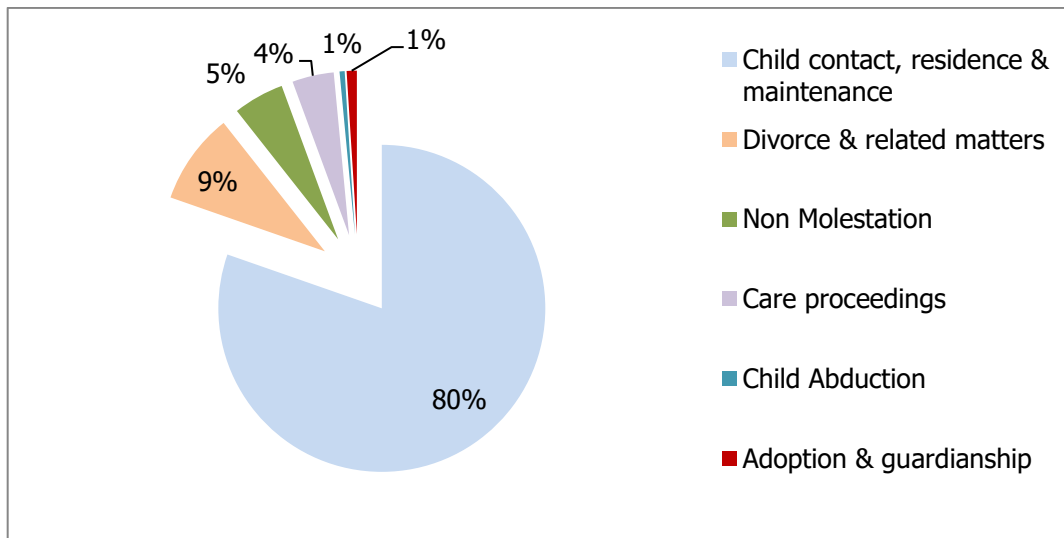
- £1,005,027 was spent on family matters. This includes Green Form and irrecoverable VAT
- £247,639 was spent on non-family matters. This includes Green Form and irrecoverable VAT
- In total £1,252,666 was spent on Civil Legal Aid during the financial year.

The Legal Aid office received 248 Bills of Costs from Advocates. The costs of Legal Aid cases reported here reflect the expenditure authorised during the year, which means that the figures may include the costs of work carried out in an earlier financial year.

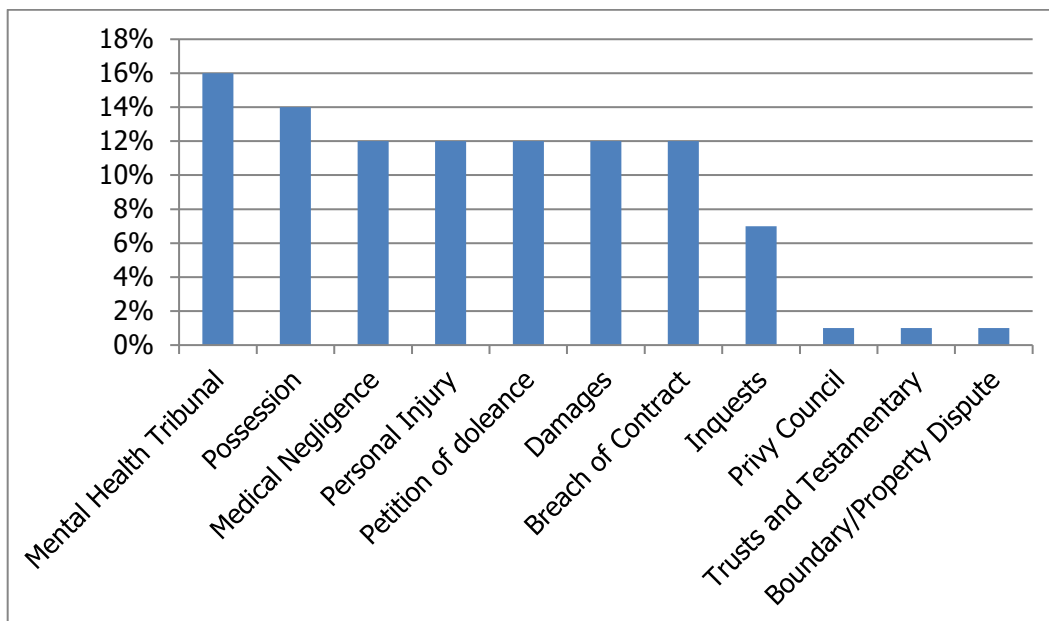
At present, expenditure authorised during the year, and the number of matters completed cannot be compared to extract meaningful data about spend on the specific cases completed during a year.



**Chart 1: Family Matters 2020/21**



**Chart 2: Non-Family Matters 2020/21**



**Very high cost cases**

Very high cost cases are generally complex cases that incur spend of over £20,000. A total of £170,142 was spent on 4 large civil cases. These cases involved:-

- Child care proceedings
- Application for financial support following divorce
- Child residence matter
- A specific issue regarding a child

## 9. Criminal Legal Aid

A total of £2,191,112 was spent on Criminal Legal Aid. This includes irrecoverable VAT of £259,110 and £4,866 spent on reimbursing contributions (prosecution failed).

Irrecoverable VAT applies to Criminal Legal Aid, Green Form and Police Duty Advocate, but not to the Court Duty Advocate scheme.

**Table 6: Criminal Legal Aid spend 2020/2021**

	Costs	Disbursement (VAT)	Disbursement (non-VAT)	Apportioned Irrecoverable VAT	Total
Criminal Legal Aid	£888,370	£213,110	£65,013	£151,579	£1,318,072
Green Form	£30,189	£75	£396	£5,182	£35,842
Duty Advocate	£132,640	£0	£0	£0	£132,640
Police Duty Advocate	£597,343	£0	£0	102,349	£699,692
Reimbursed Contributions	£4,866				£4,866
					<b>£2,191,112</b>

## 10. Full Criminal Legal Aid

15 Advocates at 13 firms carried out Criminal Legal Aid work during the year under a full Criminal Legal Aid Certificate. Legal Aid paid £1,318,072 (including VAT where applicable).

Disbursements refer to payments made to other parties. The most common disbursements requested are for medical and psychiatric expert advice and/or reports, opinions and advice from UK legal counsel, interpreters, transcription and forensic accountancy analysis and reports. 94 of these payments were made in 2020/21 totalling £170,666.

Disbursements may be paid before the final bill is submitted so not all the spend will necessarily have been incurred in the financial year 2020/21.

314 final Bills of Costs were received in the financial year 2020/2021.

## **11. Duty Advocates**

The daytime Police Station rota and Court rotas are organised by the Law Society.

### **Court**

Not all defendants are in a position to instruct Advocates to appear for them when they are prosecuted. Court Duty Advocates attend Summary Court to provide representation to defendants who would otherwise have no representation at their appearances in Court.

As of the end of March 2021 there were 22 Advocates on the Court Duty Advocate rota providing this emergency service.

Advocates saw 721 clients at Court during the year. This amounted to over 868 hours at a cost of £132,640. VAT on Advocate's bills paid by Government is recoverable under this scheme.

### **Police**

The Police Custody Scheme is a Statutory scheme [Duty Advocate (Police Custody) Scheme 1998]. Police Duty Advocates attend the police stations to advise detained persons, and are on-call 24 hours a day, 365 days a year. The scheme's 'on call' hours are 7am-7pm during the working week and at weekends and bank holidays, and the out of hours scheme is 7pm-7am every day. There is additional cover by senior Advocates covering more serious crimes e.g. rape and murder, to support the 'on call' Duty Advocate.

As at the end of March 2021 there were 23 Advocates (9 junior, 14 senior) on the police station Duty Advocate rota providing this service, so that people who are taken to the police station can get quick access to legal advice. The service automatically provides free representation to persons who might not otherwise know how to go about this, regardless of their means.

Duty Advocates spent a total of 3,704 hours with 1,197 detained persons at the police stations during 2020/21. This cost £597,343 plus £102,349 irrecoverable VAT, making a total of £661,921.

### **Very high cost cases**

Very high cost cases are those costing over £20,000. During the year, 5 large cases cost a combined total of £162,819 (including VAT), this amount includes the costs of expert witnesses.

These cases involved:-

- Theft and financial crime
- Multiple charges of theft
- Drugs and proceeds of crime
- Multiple charges of sexual offences
- Appeal against conviction – serious sexual offences

## **12. Conclusions**

During the financial year the Isle of Man residents experienced three lockdowns as a result of the Covid 19 virus. Despite the difficulties this presented to the Legal Aid Office and local Advocates alternative ways of working were adopted and Legal Aid continued to be provided.

## **13. Future**

The Legal Aid Office could not have functioned during the lockdowns without the co-operation and dedication of the Legal Aid team members. The Office had to be staffed each day because the lack of an electronic Legal Aid Case Management System prevented home-working. During the coming year it is essential that the Legal Aid Office is modernised and provided with the necessary technology to ensure continuity of service and deliver further efficiencies.

The Legal Aid Committee look forward to receiving the Attorney General's Report and Recommendations on the Review of Criminal and Civil Legal Aid. It is regrettable that Covid 19 and the lockdowns have introduced such a significant delay in this long awaited Report.

June 2021  
[www.gov.im/legalaidcommittee](http://www.gov.im/legalaidcommittee)