

**Isle of Man Legal Aid  
Committee Report  
2019 - 2020**

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## Foreword from the Chairman of the Legal Aid Committee

Firstly a thank you to the Legal Aid office, Certifying Officers, Advocates and Committee members for continuing to keep Legal Aid working during a very challenging period.

This report covers the 2019/2020 financial year. The last month of this financial year was far out of the ordinary with the onset of the covid pandemic in March 2021. Many people had to adapt how they worked and the Legal Aid Committee, advised by staff, agreed changes to the system and procedures to enable Advocates to carry on delivering the service. These changes were welcomed by the Law Society and its members.

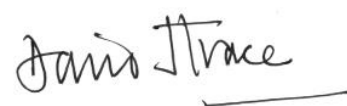
Digitisation was high on our agenda before the pandemic, and will become an ever more important element in continuing to make the service more efficient.

During the past year there have been two public consultations carried out on Legal Aid, Criminal and Civil, these form part of the overall review of Legal Aid being led by the Attorney General. Once the results and recommendations from the Attorney General have been shared with the Legal Aid Committee, they will inform our existing plans to carry out a review of the legislation and regulations which determine Legal Aid. The intention is to ensure that provision can develop in ways which best serve those who need it and that its operation reflects and is relevant to changing circumstances.

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 the quality of Legal Aid services in the Isle of Man.

By publishing our data in this report we hope to help our partners, customers and other stakeholders become more fully informed and work towards our shared goal to ensure that the Island's Legal Aid service is fair and sustainable.

As I come to the end of my first year as Chair I would like to again 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 station 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, opinions and advice 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 (Chair)	reappointed 18 July 2018
Jane O'Rourke (Vice Chair)	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

### **Term of office completed**

The following members left the Committee during the year: -

Tony Jones and Tony Warham – both completed the maximum two terms on 7 January 2020

Steph Lowe – one term completed 7 May 2019, did not seek re-appointment

## **Committee Support**

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, 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.

You can see the current Panel of Advocates, and the categories of Legal Aid undertaken by each Advocate, online at [www.gov.im/legalaidpanel](http://www.gov.im/legalaidpanel). Find out more about the Advocates online at [www.iomlawsociety.co.im/advocates-database](http://www.iomlawsociety.co.im/advocates-database).

There were 62 Advocates, from 21 firms, on the Panel of Advocates during 2019/20. 3 Advocates joined the Panel during this period.

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**

	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
Civil non family	£313,448	£309,268	£280,165	£239,861	£385,121
Civil family	£1,173,914	£1,209,330	£1,415,684	£993,568	£1,066,551
Criminal	£2,217,500	£1,673,310	£2,033,342	£2,442,549	£2,214,435
Total - including Admin etc.	<b>£2,350,498</b>	<b>£2,248,745</b>	<b>£3,409,707</b>	<b>£3,789,990</b>	<b>£3,836,924</b>

The first three lines show the spend on Legal Aid cases which amounts to £3,666,107

A total of £1,451,672 was spent on Civil Legal Aid. £1,066,551 was spent on family matters. This includes Green Form and irrecoverable VAT.

£2,214,435 was spent on Criminal Legal Aid. This includes the Duty Advocate Schemes at the Court and Police Stations, Criminal Green Forms, full Criminal Legal Aid and irrecoverable VAT. Over 60% of the Legal Aid expenditure was on Criminal Legal Aid.

The total line is the total of the 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. The total spend was £3,836,924.

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 over last 5 years

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

	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>
Contributions from assisted persons	£75,192	£62,384	£103,227	£82,972	£68,505
Recovered costs	£76,492	£175,310	£116,338	£71,295	£89,146
Total income to Legal Aid Fund from contributions & recovered costs	<b>£151,684</b>	<b>£237,694</b>	<b>£219,565</b>	<b>£154,267</b>	<b>£157,651</b>

Above the 'free' limit there is a sliding scale of contributions that a legally aided person is required to pay. This depends on the person's 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.

## 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.

In 2019/20, we received 786 Green Forms from Advocates. The matters Green Forms have most frequently been used for are child contact and maintenance, divorce and financial matters, and wills.

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, 192 extensions were approved.

**Table 3 Green Forms received and amounts paid 2019/20**

Type	Number of Green Forms	Green Form costs	VAT disbursements	Non-VAT disbursements	Total
Family	439	£148,237	£516	£15,605	<b>£164,358</b>
Non-family	247	£84,253	£330	£2,966	<b>£87,549</b>
Criminal	100	£28,907	£31	£271	<b>£29,209</b>
<b>Total</b>	<b>786</b>	<b>£261,397</b>	<b>£846</b>	<b>£18,842</b>	<b>£281,116</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 2019/20, 66% of Green Forms came from four firms. The remaining 34% came from a further 13 firms.

## 8. Civil Legal Aid

In 2019/20 the Legal Aid office received 310 Civil Legal Aid applications from Advocates. Around 70% of the applications received came from four firms. The remaining 30% were from a further 14 firms.

239 Civil Legal Aid applications received in 2019/20 were for family matters (77%). In a number of cases, Legal Aid funds both parties e.g. a divorce application.

71 applications (23%) were for non-family matters.

During 2019/20:

247 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.

Of the 310 applications received in 2019/20:

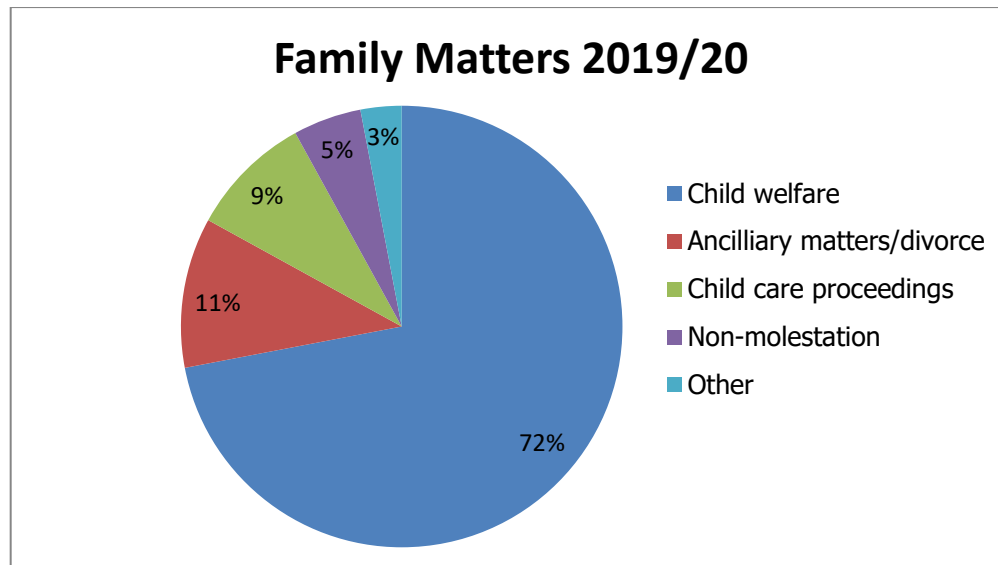
205	Certificates were issued and the cases are ongoing
61	of these cases were discharged
20	applications were refused and were not awarded Legal Aid
6	discharged at the applicant's request
11	abandoned by the applicant
3	applications had certificates issued and were afterwards revoked
1	discharged as the applicant was deceased
1	discharged as the applicant no longer qualified financially
2	discharged for unreasonable behaviour

42 applications were applied for, completed, discharged and paid for within the financial year.

The Legal Aid office received 274 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.



**Chart 1: Family Matters 2019/20**



The greatest proportion of family Legal Aid is spent on matters concerning children.

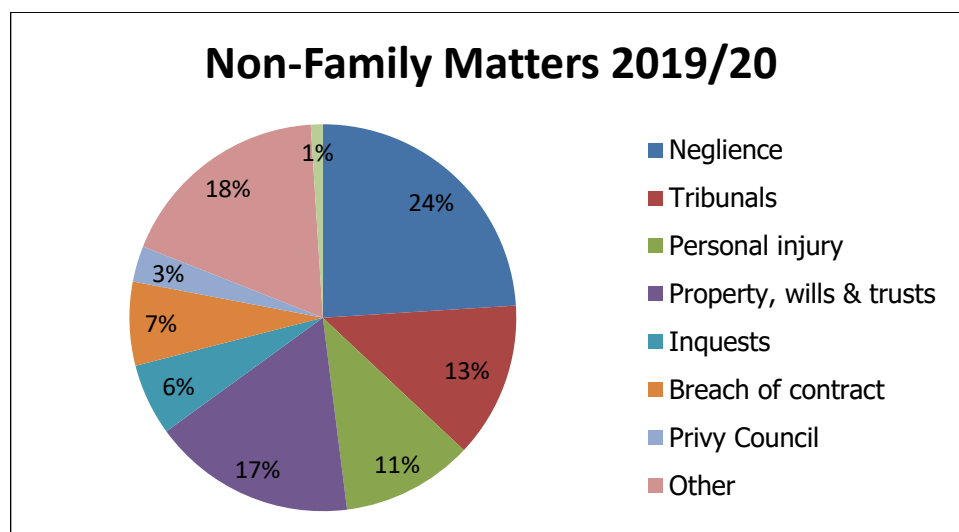
176 Legal Aid applications were approved during the year to deal with child welfare; this includes child contact, residence, maintenance and prohibited steps orders.

18 applications for child care proceedings were approved. When Social Services decide they may need to become involved with a family to keep a child/children safe they may start a court case and family members may seek/be eligible for Legal Aid assistance for representation in such proceedings.

2 applications were for Adoption proceedings.

“Other” covers 1 application to oppose a Secure Unit Care Order, 1 application for mediation and 4 matters relating to family property.

**Chart 2: Non-Family Matters 2019/20**



Approximately a third of Civil Legal Aid non-family applications during the year were for medical negligence and personal injury.

“Other” includes employment issues, matters regarding property, petitions of dolence and historical sexual abuse.

### Very high cost cases

Very high cost cases are generally complex cases that incur spend of over £20,000. During the year there were 4 Bills of Costs received for civil cases which were high cost cases. The combined total cost was £170,142 and these cases involved:-

- Child care proceedings
- Financial support following divorce
- Residence order for children
- Prohibited steps – children

## 10. Criminal Legal Aid

	Costs	Vat Disbursements	Non Vat Disbursements	Total
Full Criminal Legal Aid	£990,580	£102,119	£53,470	£1,146,169
Criminal Green Form	£28,907	£31	£271	£29,209
Police Duty Advocate	£549,771	£0	£0	£549,771
Court Duty Advocate	£151,888	£0	£35	£151,923
Irrecoverable Vat	£320,429	£0	£0	£320,429
Reimbursed Contributions	£16,934	£0	£0	£16,934
<b>Total</b>				<b>£2,214,435</b>

A total of £2,214,435 was spent on Criminal Legal Aid. This includes irrecoverable VAT of £320,429 and £16,934 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.

## 11. Full Criminal Legal Aid

20 Advocates at 14 firms carried out Criminal Legal Aid work during the year under a full Criminal Legal Aid Certificate.

Criminal Legal Aid is granted by the Courts; however, the Legal Aid Certifying Officer does consider and decide upon disbursements (payments to third parties). Such payments may include: medical expert advice and/or opinions and advice from UK legal counsel, translation services, forensic scientific reports and forensic accounting reports.

71 of these payments were made in 2019/20 totalling £155,589.

Disbursements may be paid before the final bill is submitted so not all the spend will necessarily have been incurred in 2019/20.

425 final Bills of Costs were received in 2019/20.

## **12. Duty Advocates**

The Police Station and Court rotas for Advocates attendance are organised by the Law Society.

### **Police Duty Advocate**

The Duty Advocate (Police Custody) Scheme is a Statutory scheme [The Duty Advocate (Police Custody) Scheme 1998]. Police Duty Advocates attend the police stations to advise detained persons. 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.

This ensures that people who are taken to the police station can quickly access free legal advice, day or night, every day of the year.

As at the end of March 2020 there were 20 Advocates (7 junior, 13 senior) on the police station Duty Advocate rota providing this service

Duty Advocates spent a total of almost 3,379 hours with 1,016 detained persons at police stations during 2019/20.

### **Court Duty Advocate**

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 at the end of March 2020 there were 22 Advocates on the Court Duty Advocate rota providing this emergency service.

Advocates saw 751 clients over 341 Court sittings during the year. This amounted to over 1,087 hours at a cost of £151,923. VAT on Advocate's bills paid by Government is recoverable under this scheme.

#### **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) which includes the costs of expert witnesses.

These cases involved:-

- Theft and proceeds of crime
- Theft
- Sexual offences
- Drugs
- Appeal against sentence for serious sexual offences

## **13. Conclusion**

The Legal Aid service spent £3,836,924 during 2019/2020 and this provided legal representation for a wide range of matters, both Criminal and Civil. This helps to achieve fairness and 'equality of arms', whilst assisting the Courts and the Police to operate efficiently.

## **14. Future**

We will continue to develop the Legal Aid service, ensuring quality customer service and value for money. The Legal Aid Committee look forward to receiving the results of the Attorney General's Report and Recommendations following the review of Civil and Criminal Legal Aid. The Report and Recommendations will inform the Committee in developing and ensuring a modern and sustainable Legal Aid system for the Isle of Man.

June 2021

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