

# Legal Aid Committee

## Minutes of a meeting held at 2.30pm on Wednesday 6<sup>th</sup> January 2016 at the Public Records Office, Unit 40A, Spring Valley Industrial Estate

<b>Members Present:</b>	Andrew Swithinbank (Chair)	AS
	Jane O'Rourke	JO
	David Trace	DT
	Tony Warham	TW
<b>Officers Present:</b>	Martin Blackburn	MB
	John Kennish	JK
<b>Apologies:</b>	John Wright (Vice Chair) – Member	JW
	Tony Jones – Member	TJ
<b>Note taker:</b>	Kendra Lace	KL

Action

### 01/16 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meeting held on 2<sup>nd</sup> December 2015 were confirmed.

### 02/16 **MATTERS ARISING**

#### (a) **Register of Members' Interests (67/15(f))**

TJ had yet to register his interests and it was noted that TW had no registrable interests.

TJ

#### (b) **Website statistics (67/15(g))**

See item 03/16(b)).

#### (c) **Application for admission to and interviews for Legal Aid Panels and appeal process (67/15(h))**

See item 03/16(g)).

#### (d) **Legal Aid Appeal Tribunal Rules (67/15(k))**

See item 04/16(e)).

#### (e) **Pilot scheme that has been introduced in the running of Care Proceedings – letter from Deemster Roberts (68/15(e))**

See item 03/16(f)).

#### (f) **Facts & Figures (68/15(g))**

No update.

(g) **Legal Aid Consultation (69/15(a))**

See item (04/16(a)).

(h) **AS & MB meeting with Treasury Minister on 11<sup>th</sup> November (69/15(b))**

See item 04/16(a).

(i) **Meeting with Law Society (69/15(d))**

See item 03/16(e)).

(j) **Induction Training (70/15(b))**

See item 03/16(d)).

03/16 **CURRENT PROCESSES AND CONTROLS – (ADMINISTRATION/FINANCE/STRUCTURE)**

(a) **Register of Members' Interests**

No additional interests were declared.

(b) **Review of Website**

MB advised that Government Technological Services were currently unable to provide any website statistics as the Legal Aid pages still sat on the "old" General Registry platform.

It was noted that the new calculator was due to go-live which would automatically convert monthly figures to the weekly figures used in the statutory calculation.

(c) **Mediation, Current Process, Procedures and Remuneration**

A letter from a local advocate and papers from the sub-Committee considering the future development of mediation and other ADR methods were discussed.

The list of approved mediators on the website will be amended accordingly.

MB

It was noted that advocates appear to be broadly supportive of mediation, but appear not to be undertaking it due to the mediators' disagreement with the interim measures implemented.

JO proposed that the sub-Committee should meet with the mediators to discuss how expansion of mediation will depend upon people being available and willing to mediate and it was agreed that they should meet with as many interested parties as possible both advocates mediators and other mediators at the outset and then identify representatives to meet with the sub-Committee going forwards in order to plan further development of ADR.

JO/TW

It was further agreed that MB should endeavour to obtain David Sellick's research on mediation from 2010.

MB

(d) **LAC Membership – vacancy and induction training sessions**

It was noted that interviews had been scheduled for 13<sup>th</sup> January 2016.

MB advised that Darren Taubitz had offered the opportunity for LAC members to shadow him during court duty advocate sessions etc. and DT would contact him direct to arrange this. JO would also attend if she was available.

DT

(e) **Feedback from AS, WM & MB's meeting with IoM Law Society**

It was agreed that this had proved to be a fruitful meeting and a useful follow-on from the training sessions recently held.

Those present had appreciated the training sessions and had expressed a desire for newcomer training and refresher training on an annual basis, with training on new regulations being provided as and when required.

The suggestion for the establishment of a regular user panel group was accepted and this group should be constituted of the LACO, MB, Chair or Vice-Chair and JO or DT, Chair or Vice-Chair, with the Law Society being represented by the Chief Executive and up to 3 advocates on the LA panel.

Those present had also been supportive of a consultative seminar to explain the story so far in advance of the launch of the interim consultation report and it was agreed that:

- representatives of all organisations including the Law Society who had responded to the consultation document should be invited, with additional invitees being the Minister for Home Affairs and Treasury Minister – MB to draft the invite list;
- MB should look to book the Ceremony Room or other suitable premises on for the afternoon of 26<sup>th</sup> January;
- AS would provide the introduction and closure, with sub-Committees presenting on their areas of interest;
- AS would draft the invite letter and agenda.

MB

MB

AS/ALL

AS

See item 04/16 also.

(f) **Pilot Scheme that has been introduced in the running of Care Proceedings – letter from Deemster Roberts**

The limited redacted information provided by Courts was discussed and it was agreed that MB would look at the individual files for those care proceedings where Legal Aid was granted to endeavour to establish the average cost of representative cases, albeit each case tended to be significantly different and not all cases were eligible for Legal Aid funding and so the costs of these, plus those of the non-assisted parties, would not be available. Whilst these indicative costs could be extrapolated over the average number of care proceedings there were per annum, the estimated costs were likely to be subject to significant margins of error. Any provisos and assumptions should also be included. It was agreed LAC could not decide until we had an idea of scale and cost albeit based on estimates. Further information would also be sought from Deemster Roberts.

MB

**(g) Application for admission to Legal Aid Panel and appeal process**

The draft policy and comments received from JO were discussed and it was agreed that MB would amend the policy and recirculate to JO before seeking ratification of the LAC at the February meeting.

MB

**(h) Concession – Proof of Financial Eligibility, Green Form matters**

The amendment to regulation 5, the email from JW, the email from Wendy Montgomerie and the email from a local advocate were discussed.

It was noted that the reference to fourteen days in paragraph 3 of the proposed new regulation was at variance to an existing concession in the Legal Aid Handbook of 21 days for another matter, and would be in addition to the existing statutory requirement for an Advocate to be satisfied as to applicant's eligibility at the time the form was signed, which was felt to be the critical determining factor.

The LAC considered that the imposition of an arbitrary date for possession of documentary evidence of that entitlement was unnecessary since if the Advocate could not prove entitlement when the form was submitted for payment, then payment would be refused. It was felt that this provided suitable safeguards and the LAC decided not to progress the suggested amendment.

The LAC further decided to invite Advocates whose claims had been rejected to re-submit these to the LA Office if the Advocate could (i) demonstrate that they had taken reasonable steps to ensure they were satisfied that the assisted person was eligible at the time the form was signed and (ii) that documentary proof backing this entitlement (even if it had received after the date of signing the application) was submitted with the claim for payment.

MB

**(i) Legal Aid Handbook – version 3**

This had been amended in light of the recent training sessions and would be further amended given the decision in item 03/16(h). The revised version would be uploaded to the website and a tracked version issued to the Law Society.

It was noted that the number of trivial queries to Legal Aid and the number of forms being returned as incomplete had decreased.

The Committee congratulated all those involved in the production of the Handbook and MB advised that this was largely thanks to JK and Simon Mann.

AS requested that the Handbook be placed as a standing item on the agenda for the meetings with the Law Society and that this success in delivering improvements be added to the list of reforms implemented.

MB

**(j) LACO Complaints Policy**

It was noted that no complaints had been received and it was therefore agreed that the policy should be reviewed in another 6 months.

**(a) Legal Aid Consultation**

See also item 03/16(e).

The draft interim report was discussed and it was agreed that the draft required significant editing and someone to carry out further research and produce an executive summary.

Several options were discussed and it was agreed that MB should approach Simon Mann to ascertain if he would be available to undertake this task. KL would approach RS to ascertain if funding could be made available for this purpose.

MB  
KL

If Simon was agreeable and funding could be made available, it was agreed that he should meet with the Committee on 26<sup>th</sup> January, prior to the seminar and then follow this up the next day to agree an action plan based on the issues raised in order to produce an interim report that could be distributed to seminar participants and other consultees

It was noted that it was not the intention to launch the interim report at the seminar, but rather to seek further opinion on proposals and to invite respondents to take part in research if they had the relevant expertise and/or access to information.

AS reiterated the previously agreed tranches of work agreed at the October meeting and requested that sub-Committees meet to agree their presentations for the seminar and to determine what further work would need to be done by Simon on the sections of the report addressing the potential area for change they are addressing.

ALL

Discussion took place regarding the position of Legal Aid within the Governmental and Departmental structure and AS requested that MB look at the structure and produce a paper containing options for a unified criminal and civil legal aid service including the legal aid cost assessments function currently undertaken by the Courts and the benefits and disadvantages.

MB

**(b) Amendment to Regulations – time limits for submitting bills of costs**

This issue was deferred to the February meeting.

KL

**(c) Ongoing engagement with Law Society**

MB would provide meeting dates for further Legal Aid "lunch and learn" sessions in the event that LAC members wished to attend.

MB

**(d) Summary Courts User Group**

This issue was deferred to the February meeting.

KL

**(e) Legal Aid Tribunal Rules**

This issue was deferred to the February meeting.

KL

(f) **Legal Aid in the Small Claims Procedure**

This issue was deferred to the February meeting.

KL

05/16 **ANY OTHER BUSINESS**

(a) **Procedure for the submission of bills and interim payments**

JO requested that MB establish whether any research was being undertaken in the LA office on cost recovery, and asked for an update on the number of statutory charges imposed and collected to date.

MB

06/16 **DATE OF NEXT MEETING**

**2.30pm on Wednesday 3<sup>rd</sup> February 2016** at Public Records Office.

The meeting closed at 5.10pm.

Minutes agreed by Chairman



Date

3-2-16