

# Legal Aid Committee

Minutes of a meeting held at 2.30pm on Wednesday 1<sup>st</sup> June 2016 at the Public Records Office, Unit 40A, Spring Valley Industrial Estate

Members Present:	Andrew Swithinbank (Chair)	AS
	David Trace (Vice Chair)	DT
	Chris Callow	CC
	Tony Jones	TJ
	Steph Lowe	SL
	Jane O'Rourke	JO
	Tony Warham	TW
Officers Present:	Martin Blackburn	MB
Apologies:	Ross Stephens – Officer	RS
Note taker:	Kendra Lace	KL

Action

## 38/16 PROCEDURAL

AS advised that the Appointments Commission had extended his tenure as Chair and that DT had been appointed as Vice Chair. He formally welcomed Steph Lowe to his first meeting as a voting member of the Committee.

## 39/16 MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting of 4<sup>th</sup> May 2016, having previously been circulated, were approved and signed subject to the correction of the organisation in item 33/16(b) and the amendment of a punctuation error in item 34/16(e).

## 40/16 MATTERS ARISING

### (a) Thanks to John Wright (30/16)

AS had written to John to thank him for his contribution to the Committee.

### (b) Procedure for the submission of bills and interim payments (16/16(d), 18/16(b), 24/16(b), 32/16(a))

See item 42/16(b).

### (c) Changes to Policy and Procedures (16/16(p), 24/16(e), 32/16(d))

MB would be tasking Alex Powell with the preparation of a matrix of review dates. Review dates would then be diarised for any changes to be referred to the Committee.

MB/AP

### (d) Financial Directive 8 (FD8) (25/16(e), 32/16(i))

The issue of improved metrics was ongoing.

RS

MB had raised a query regarding FD8 with the Financial Controller.

(e) **Regulation 5.2 – request for review of fees (25/16(f), 32/16(j))**

MB advised that the law firm had been notified that this issue would be dealt with as part of the consultation process.

(f) **Legal Aid in the Small Claims Procedure (26/16(e), 32/16(m))**

JO reported that John Kermode had advised that he had no recollection of a pilot being anything other than family mediation.

It was agreed that JO would draft a suitable response for issue by the Committee.

JO

(g) **Mediation, Current Process, Procedures and Remuneration (33/16(b))**

JO provided an update and it was noted that although there was no update available from Logis at this time, this was outwith Tina Hall's control.

JO

The revised mediation policy had been circulated – see item 41/16(b).

(h) **Legal Aid Committee Membership (33/16(c))**

The formalisation of JO's status was discussed and it was noted that JO had provided a copy of the Bar Council's advice to MB.

The quorate requirements for the LAC had been circulated by KL and MB advised that sub-Committees were required to have a minimum of two members.

(i) **Pilot Scheme that has been introduced in the running of Care Proceedings – a letter from Deemster Roberts (33/16(d))**

MB advised that a further email had been sent to Paul Coppell, but that the Committee's question remained unanswered. It was agreed that the Impact Assessment Form should be forwarded to Paul for completion and that all future requests for changes should follow this approach. The form should also be appended to the Handbook.

MB  
MB

(j) **Application for admission to the Legal Aid Panel and appeal process (33/16(e))**

JO provided some clarity on this issue for MB – MB was to consult with the Law Society on the admissions and appeal processes to try and mitigate any contradictions in either procedure.

MB

(k) **Legal Aid Appeal Tribunal Statistics (33/16(f))**

See item 41/16(f).

(l) **Review of Legal Aid – report (34/16(a)(i))**

No feedback had yet been received.

This issue had been placed into the draft publicity programme, but a date would have to be determined. It was agreed that mid-July should be the target.

RS

(m) **Consultation Seminar (34/16(a)(ii))**

Social Security have the capability to use SurveyMonkey, but the content would have to be determined. It was agreed this would be revisited after the feedback had been gathered and analysed.

MB undertook to ensure that Wendy Montgomerie knew to invite DT to the Law Society User Group.

MB

(n) **Amendment to Regulations – time limits for submitting bills of costs (34/16(b))**

MB had met with John Wright and hoped to submit a paper to the July 2016 meeting.

MB

(o) **Treatment of Principal Residence – consideration of change in regulations (34/16(c))**

RS had not yet raised this issue with Wendy Montgomerie, although it had been mentioned by an Advocate at the recent "lunch and learn" session on the statutory charge.

RS

(p) **Representation at SSAT hearings (34/16(f))**

This issue would be dealt with as part of the Consultation.

AS/TJ

(q) **Review of the Website (35/16)**

Members had perused the revised website and it was agreed that the following documents should be added to the site and included in the main text:

MB

- Legal Aid Handbook;
- Consultation Report;
- Seminar notes.

The membership page also required updating.

MB/KL

It was noted that the site contained a list of mediators and that this would require updating once the issue of mediation accreditation was confirmed.

Once the above issues were resolved, it was agreed that the Law Society and Courts should be asked to provide a link to the site.

MB

Members should notify any future changes to MB or KL.

MB left the meeting at 3.10pm.

41/16 **CURRENT PROCESSES AND CONTROLS – (ADMINISTRATION/FINANCE/STRUCTURE)**

(a) **Declaration of any interests specific to the agenda**

No additional interests were declared.

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

The Committee approved the revised mediation policy in principal, subject to the removal of references to the number of hours and sessions.

Wendy Montgomerie should be asked to provide her approval or comments and thereafter Tina Hall should be asked to provide any comments.

(c) **LAC Membership**

Nothing further to report.

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

Nothing further to report. See item 40/16(i).

(e) **Application for admission to and interviews for Legal Aid Panels and appeal process**

Nothing further to report. See item 40/16(j).

(f) **Legal Aid Appeal Tribunal Statistics**

The analysis provided by Wendy Montgomerie was noted. However, it would be useful to have clarified:

- how often the Tribunal meets;
- how much time is involved in an appeal – either average or aggregate – and if this information is not available, that data should be collected from this point forward;
- where appeals were allowed, whether there was anything which could have been progressed at the time, or by the Courts, which would have negated the need for an appeal;
- whether there have been any appeals in 2016.

AS and DT would welcome the opportunity to meet with the LAAT Chair and Vice Chair. This will be passed to AP to make the necessary enquiries as above and arrangements to meet.

AP

(g) **Section 14 of the Legal Aid Act 1986 and assessment reviews**

The email from Wendy Montgomerie dated 3<sup>rd</sup> May 2016 and the email response from John Kennish dated 9<sup>th</sup> May 2016 were discussed. It was agreed that Mrs Montgomerie should devise a form of words to add to the application form that the applicant consented to their application and appropriate files to be passed to officers who work for the legal aid service. That wording should cater for the current as well as future constitution (i.e not mention named Departments in which legal aid officers are located in case this changes again over time).

WM

(a) **Legal Aid Consultation**

The memo from Alex Powell dated 31<sup>st</sup> May, on the status of feedback on the consultation report was noted.

The sub-Committee structures were revised in light of the recent membership changes:

- Access – TJ, AS, SL (revision of the Legal Advice and Assistance Scheme (“the Green Form Scheme”) & should publicly funded Legal Advice Centres (ACs) be established);
- The adoption of a telephone advice service for Duty Advocate police station work – JO, DT, SL
- Financial Processes – MB, Wendy Montgomerie and one further officer (introduction of a fixed price or time regime; case preparation by non-Advocates; adoption of standard terms to be used in all Legal Aid Certificates; and review procedure for timely submission of bills and interim payments);
- Ensure that the Courts, Advocates, Prosecutions and Police collaborate to demonstrate effective use of publicly funded resources and accountability to taxpayers – MB, CC and DT
- Review/modify/remove certain financial means test – JO, DT and SL
- Should a Public Defender Unit (PDU) be established – JO, DT and SL
- Should alternative dispute resolution (ADR) and, in particular, mediation be promoted – JO, TW and TJ
- Should a unified Legal Aid Service be developed – MB, CC and DT.

The feedback from the Law Society was expected by 13<sup>th</sup> June and Alex Powell should forward the relevant information to each group for review ASAP thereafter. Alex or KL to schedule the sub-Committee meetings for late June/ beginning of July for each to report to and update the full committee on 6<sup>th</sup> July.

AP  
ALL  
AP/KL

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

Nothing further to report. See item 40/16(n).

(c) **Treatment of Principal Residence – consideration of changes to regulations**

Nothing further to report. See item 40/16(o).

(d) **Proportionality Principle in Criminal Matters**

The email from Wendy Montgomerie dated 3<sup>rd</sup> May 2016 was discussed.

The Committee instructed that Alex Powell should obtain some data from the Law Society and John Kennish on the number of cases where proportionality was an issue so that they can make a proportionate policy response.

AP

(e) **Regulation 2(2) of the Legal Aid (Financial Resources) Regulations 1997**

An email from a legal firm dated 17<sup>th</sup> April 2016 regarding the above was noted and AS requested that if the completion of an impact form had not yet been requested, that request should now be made so that the Committee can make a decision having more fully considered the implications.

AP

43/16 **ANY OTHER BUSINESS**

Nothing further to discuss.

44/16 **DATE OF NEXT MEETING**

**2.30pm on Wednesday 6<sup>th</sup> July 2016** at Public Records Office.

The meeting closed at 4.10pm.

Minutes agreed by Chairman



Date

6-7-16