

Legal Aid Committee

Minutes of a meeting held at 3.15pm on Wednesday 06 December 2017 in the Ground Floor Boardroom, Markwell House, Douglas

Members Present: Andrew Swithinbank (Chair) AS
David Trace (Deputy Chair) DT
Margaret Mansfield MM
Tony Jones TJ
Jane O'Rourke JO
Tony Warham TW

Officers Present: Christine Clucas CC *for part of meeting*
Wendy Montgomerie WM *for part of meeting*
Alex Powell (Note Taker) AP

Apologies: Ross Stephens RS
Steph Lowe SL

62/17 MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting of 01 November 2017 having previously been circulated, were approved.

63/17 MATTERS ARISING

None.

64/17 MATTERS REQUIRING DECISION AND ACTION

(a) Staffing/Operational Issues/IT Developments in Legal Aid Administration.

CC reported that as the Legal Aid Team's Financial Determination Officer was due to leave on 12th December, colleagues in the Social Security Division would be undertaking financial determinations for applications until a new member of staff was appointed and a training manual was being prepared with this in mind. CC

There was to be a further meeting in the New Year with GTS in order that the updating of forms can continue to be reviewed. CC/AP

The LACO post description is close to completion but it is for the Committee to determine the final version and the Terms and Conditions. There remains a query on the number of hours that the new LACO would be required to undertake in light of the potential introduction of a Public Defender's Unit. AS said that the post would need to be flexible in terms of hours and potential future developments in order that the most suitable candidate might be

attracted who is able to implement and adapt to change. JO commented that it would be easier to assess once the draft job description was presented to the Committee. CC agreed to report back to January's meeting.

CC

(b) Update from Legal Aid Certifying Officer

The Committee thanked the LACO for her written overview of the annual meeting with the Joint Consultative Committee (of Legal Aid Certifying Officers from other jurisdictions) with whom she met in November.

Reports prepared by Mrs Montgomerie on the following subjects were shared and discussed at the meeting; Duty Advocate Schemes; Representation of Bereaved Families; Proceeds of Crime Applications; Care Proceedings.

(i) Duty Advocate Schemes

Howard Connell of the Attorney Generals' Office has met with the Chief Constable and confirmed that there has been a change in police procedures and practice. There will be no need for a change in regulations. CC suggested that this be put in writing in order to be relayed to the Law Society more formally. It was also agreed that CC would check whether the LAC is required to write back to the Coroner.

CC

(ii) Representation of Bereaved Families (of people who have died whilst in custody or care)

In the United Kingdom, this is not at the forefront of current issues. WM asked whether the Committee would like her to discuss the issue again with her English counterparts. Agreed.

WM

(iii) Proceeds of Crime Applications

The Committee again regarded the paper prepared by the LACO – there is the need to consider a number of areas including amendments to Schedule 1 (Civil). There were queries around the rationale behind this which appeared to be historical. WM advised that there had been no responses to her query on the matter from the Law Society but it was estimated that approximately half a dozen applications had been received.

In order to be fully inclusive, the Committee may be required to take this issue to Tynwald in order that Legal Aid applications may be extended to proceeds of crime applications but cost estimates would be required before such an exercise be undertaken. It was agreed that this required monitoring and WM was asked to provide a 'ball park' figure.

WM

The Committee discussed that the policy intent should be to enable expenditure on legal aid to be reclaimed, in some circumstances, from a seized fund. There may need to be a change in legislation to regulate this area and the need for monies be reclaimed before they enter into any seized assets fund. It was agreed that WM and CC would draft a proposal in order that the Committee could review

WM/CC

The options available.

It was further proposed that a formal record of changes/future proposals by the Committee be formulated as it had in previous years and that the note taker source historical information developed by the former Head of Legal Aid, Martin Blackburn in order to progress this.

AP

(iv) **Care Proceedings**

The meeting referred to WM's report. JO said that the test did not necessarily need to be removed but that it is *deemed* passed the test in order to avoid delays. The meeting noted that there had been some criticism regarding the length of time being taken for care proceedings to reach the Court. WM to revert to Howard Connell for clarification.

WM

WM left the meeting at 4:15

65/17 **REPORTS FROM SUB-COMMITTEES AND OTHER MEETINGS**

(a) **Legal Aid Users Group**

The meeting noted that the next meeting of this Group would take place December 19th and would be attended by representatives of the Law Society in addition to DT, MM, CC and WM. It was agreed to raise the subject of spamming and the obligations of Advocates in the statute to safeguard the confidentiality of Legal Aid clients.

(b) **Public Defender Unit Sub-Committee**

DT advised that he would seek to obtain an update from the Attorney General's office on this issue prior to attending the Legal Aid Users Group meeting. There was nothing further to report from the Sub-Committee and it was duly noted that this initiative was being progressed at Officer level.

(c) **Legal Advice Centres (aka Legal Services Centres)**

An initial discussion document for LAC consideration prepared by AS and TJ was circulated at the meeting following their visit to Ireland. AS noted that that the remit of the Sub-Committee had altered somewhat from what had been envisaged at the start of the Consultation process in that the Irish model had indicated the possibility of bringing various elements of publically funded legal and related services – advice, guidance, mediation and representation – could potentially be brought together into comprehensive centres.

AS said that finance should not be the main driver but that the LAC needed to have information to be able to judge whether development of said Scheme would be more cost effective than the systems currently in place. CC was asked to provide more substantive figures for the Committee's next meeting, including Court costs, in order that cost comparisons can be made.

CC

JO suggested that she would look at the Programme for Government (<https://www.gov.im/media/1354840/programme-for-government->

[210917.pdf](#)) particularly how 'Protection of the Vulnerable' could tie into the work of the Committee.

JO

(d) **Alternative Dispute Resolution/Mediation Sub-Committee**

JO reported that she and TW had attended a follow up meeting with Minister Thomas and representatives of the Law Society on 13th November 2017, accompanied by Officers – RS was to provide action points from said meeting. It was also noted that the Law Society and Legal Aid Committee would work together to produce a paper on the way forward to increase upon mediation services.

RS

It was agreed too that mediation would now form a key focus point of the Legal Advice/Service Centres initiative.

66/17 **ANY OTHER BUSINESS**

(i) Stakeholders Meetings

It was agreed that the Committee would continue to work towards the above in 2018 subject to staffing restrictions.

(ii) Political Meetings

AS and DT to arrange meetings with the Treasury Minister and Policy Minister to provide them with an update on the work being undertaken by the Committee.

(iii) Programme for Government

As outlined at 65/17(d) above, the Committee felt that there was the need to regard how the work of the Committee can link into the values of the above Programme. It was agreed that there needs to be an update on what the LAC have achieved; what they are doing as focuses had, inevitably, changed. JO said that the Committee needed to draft formal Mission Statements on Law Centres/Advice Centres; Public Defender Unit; Alternative Dispute Resolution.

(iv) It was agreed that the meetings for 2018 would take place as follows:

Wednesday 10 Jan – 3rd Floor Meeting Room, Markwell House

Wednesday 31st January – Ground Floor Boardroom, Markwell House

Wednesday 7th March – As above

Wednesday 11th April – As above

Wednesday 2nd May – As above

Wednesday 30th May – As above

Wednesday 4th July - As above

Wednesday 1st August – As above

Wednesday 5th September – As above

Wednesday 3rd October – As above

Wednesday 7th November – As above

Wednesday 5th December – As above

67/17 **DATE OF NEXT MEETING**

3.15pm on Wednesday 10th January 2018 in the Third Floor Meeting Room, Markwell House.

The meeting closed at 5.20pm.

Minutes agreed by Deputy
Chairman

David Trace

Date

14/02/2018