

**Minutes of a meeting held at 2nd Floor Markwell House
on Wednesday 09th November 2022**

Members Present:	Ruth Costain (Chair)	RC
	David Trace (<i>via Teams</i>)	DT
	Paul Coppel	PC
Officers Present:	Christine Clucas	CC
	Martina Jay	MJ
	Alex Powell (Note Taker)	AP
Apologies:	Margaret Mansfield	MM
	Howard Connell	HC
	Bob Ayre	BA
	Pam Pringle	PP

48/22	WELCOME AND MINUTES		
	The Minutes of the meeting 12 th October 2022, having been previously circulated, were approved.		
49/22	MATTERS ARISING		
	<p>40/22 Legal Merits Test in Childcare Proceedings</p> <p>HC had emailed to advise that he had checked the Legal Aid Act 1986 on the question of Care Proceedings. He had been responsible for three provisions in the Justice Reform Act 2020 - one being the insertion of section 3(1B) which removed the financial assessment limb for applications for Legal Aid for care proceedings but there were no changes made regarding the removal of the legal merits test. CC affirmed that this was also her recollection.</p> <p>The meeting noted that, in law, the legal merits test still applies in Childcare Proceedings. If the Law Society can provide further information of case law which suggests otherwise then this would be welcomed. Until such time that the law is changed, the Certifying Officer will continue to make the decision on Legal Aid funding on the basis of representations made by the advocates.</p> <p>37/22 HM ATTORNEY GENERAL'S LEGAL AID REVIEW – OPTIONS & RECOMMENDATIONS REPORT See 51/22 below.</p>		
50/22	MATTERS REQUIRING ACTION AND DECISION		
	(a)	Update from the Legal Aid Certifying Officer (MJ)	
	(i)	MJ reported that she had attended the Joint Consultative Committee with Legal Aid peers	

		<p>from neighbouring jurisdictions in Guernsey 3-4 November. Issues were similar across the board e.g. Quality Assurance and funding although MJ noted that Legal Aid on the Isle of Man remains generously funded in comparison to other jurisdictions.</p> <p>Regarding Legal Aid Appeal Tribunals, MJ said that by the time of the next Hearing on December 2nd there will have been 7 appeals submitted (including those which have been withdrawn), and they have all been successfully defended by the Certifying Officer. This work is very time consuming and it is of concern that the Tribunal do not advise appellants that they do not have jurisdiction over financial matters.</p>	
	(b)	Update on Staffing/Operational Matters (CC)	
	(ii)	<p>There was no update on staffing matters.</p> <p>CC advised that she has requested the previous 2 years Legal Aid Committee Annual Reports be laid before Tynwald. There is no statutory requirement for the Reports to go to Tynwald but as Legal Aid is funded by Public money the costs should be open and transparent. It is likely that the Reports will be laid before February 2023 Tynwald.</p>	
51/22	HM ATTORNEY GENERAL'S LEGAL AID REVIEW – OPTIONS & RECOMMENDATIONS REPORT		
		CC reported that HM Attorney General had sent the Report to the Interim Chief Financial Officer on 23 rd October and they are due to meet to discuss over the coming weeks.	
52/22	INTERIM COSTS IN PERSONAL INJURY/MEDICAL NEGLIGENCE CASES		
		<p><i>Minute 39/22 referred: After careful consideration, the Committee decided that Advocates cannot recover interim costs at a commercial rate from the other side in personal injury/medical injuries cases where liability has been accepted, without prejudicing the existence of the Legal Aid Certificate.</i></p> <p>An email from Vicki Unsworth and Kathryn Clough of the Law Society was sent to the Committee on 08th November advising that the Society had taken legal advice and intended to issue a Petition of Doleance against the Committee unless additional information/rationale for their decision was provided by return, or no later than 4 pm on 10th November.</p>	AP

		<p>The email had been circulated to the Committee accordingly.</p> <p>Following discussion at the meeting, it was agreed that the Society should be asked to provide a copy of their formally agreed Resolution and, on receipt of such, the Committee will table as an Agenda item for their next meeting and respond accordingly. It was not feasible that the Committee provide an appropriately considered and detailed response within the timescale set by the Law Society.</p>	
53/22	ANY OTHER BUSINESS		
		None.	

The meeting closed at 15:14

Minutes agreed

**By
Chair**



Date 14/12/22

