

ISLE OF MAN LAW SOCIETY DUTY ADVOCATE SCHEMES

GUIDANCE

Issue 4 coming into effect 01 September 2015

Approved by Duty Advocate Committee on 26 June 2015 and by Council of IoM Law Society on 02 July 2015

Revision and update 1 01 December 2015 to taken into account custody suite access, new inspector, new numbers and reporting e-mail address

INTRODUCTION The IOM Law Society (“the Society”) has been coordinating the Court and Police Station Duty Advocate schemes since they were introduced, under the Legal Aid Act 1986, in 1993 and 1999, respectively.

The Court scheme is more than 20 years old. Since introduction of both schemes there have been changes as to scope and extent. There are some limited rules in primary and secondary legislation about how the schemes are to be operated.

The Society is committed to value for money, transparency, accountability and to the delivery of the highest quality legal services to scheme users and cooperating with other stakeholders such as Treasury, Judiciary, Prosecutors and Police.

In 2012 it was thought appropriate, by the Society and Duty Advocate Committee (DAC), after consultation with Summary Courts, for guidance and a statement of best practice to be issued by the Society as to how the Schemes and their Rotas operate and what is expected of Scheme/Rota members. The Society continues to offer training for the Police and Court Duty Advocate schemes. This is the latest version of the guidance.

These guidance notes are not rules, but are a statement of best practice. They should be observed wherever possible by the DAC, Society and Scheme/Rota members. The Society and DAC always have the power to exercise discretion in case of difficulty and upon reasoned application or explanation. These guidance notes do not fetter that discretion.

This guidance should be read in conjunction with the Legal Aid Act (as amended), the Duty Advocate Scheme 1997 SD-0099 and the Duty Advocate (Police Custody) Scheme 1998 SD 619/98 (“the Schemes”). In case of conflict the Acts and Schemes prevail.

The Society, through the DAC, has the duty to approve the arrangements in place for providing Advocates’ services under the Court scheme. For your Guidance, please note that the arrangements approved by the DAC are that the provisions of SD-619/98 shall apply to both the Court and Police Station rotas. Advocates who apply to participate in these rotas accept, in doing so, that they are subject to the obligations arising under SD-619/98, as though those provisions apply in respect of both Schemes.

In particular Advocates’ attention is drawn to the provisions of Regulations 4, 5, 6 and 7.

Disciplinary Action: Where an Advocate is in breach of these Guidance Notes, obligations as prescribed in the Schemes, or other professional duties, the DAC reserves the right to exercise the powers prescribed in Regulations 4 and 5. In addition, where such powers are exercised, as a general practice non-attendance, without good reason, for an allocated duty will result in the rota member

- a. on the first occasion, having their next duty allocated to another rota member
- b. on a second occasion within 2 years, having their next two duties allocated to another rota member; and
- c. on a third occasion within 3 years’ being removed from the then current and immediately subsequent rota and having to reapply for rota membership

it is also possible, unless there are exceptional reasons to the contrary, that a complaint will be made to the Society’s Council pursuant to Bye-Law 13 with the recommendation that a fine be imposed by way of penalty.

POLICE STATION DUTY ADVOCATE GUIDANCE

1. **Panel Membership and training.** The requirements for panel membership and initial/ongoing training are set out in SD 619/98. Members of the panel must attend an approved training course at least once every two years and are encouraged to attend such training annually. The Society will endeavour to arrange an approved course on Island every year
2. **Gaining initial experience.** The Society expects panel members to take students, or newly qualified advocates, who intend joining the Police Station Duty Advocate panel, to observe attendances on clients in custody under the scheme. This expectation is subject to the permission of the on duty custody officer and consent of the detained person. It is expected that any advocate joining the Rota will have observed on at least 5 separate client interactions, ie attendance at the Police Station, attendance on the client and any interviews arising, for 5 different clients
3. **Gaining experience in first five years.** Under Regulation 8.4 of SD 619/98 a duty Advocate can consult the Senior Advocate on Call for advice in respect of any matter, "in any case of difficulty" and in case of grave offence the Senior should attend. In addition, the custody officer may, in cases of grave offence, call upon the Senior Advocate to replace a duty Advocate, although we would expect the custody officer and the duty Advocate to both discuss with the senior advocate before any decision was reached.

The Society has the following expectations:

- a. That in appropriate circumstances the Senior Advocate should attend the Police Station if requested (and if the request requires that the Senior Advocate attends) and, if appropriate, agree to either supervise the duty Advocate or allow the duty Advocate to observe, thus allowing the duty Advocate to gain experience. NB consent of both custody officer and detained person should be sought
- b. The duty Advocate should never refuse to attend the Police Station, even for a grave offence, without having first discussed the case with the Senior Advocate and, if appropriate, arranged joint attendance

- c. The question of sharing of fees arises as Legal Aid will probably not pay for the attendance of two advocates. Both advocates should keep their on call fee and, subject to any agreement between the advocates, the Society suggests the attendance fee at the highest rate is claimed and then apportioned by agreement.

4. Senior Advocates and their on- call role.

- a. Except in exceptional or unavoidable circumstances the duty Advocate and the Senior Advocate should be two different advocates
- b. The Senior Advocate is paid a fee to be available to assist and advise the duty Advocate and to be available in case of grave crime. The Society expects the Senior Advocate to be the first person to be called by the Custody officer or duty Advocate and, wherever possible, to attend, in cases of conflict of interest or multiplicity of detained persons

5. The Rota, number of duties expected, cab rank rule, delegation (out of office hours rota).

- a. The Society expects a duty Advocate on the rota to perform a minimum of 18 twelve hour out of office hours duty sessions per year unless the Society is not in a position to offer that number
- b. The Society expects a Senior Advocate on the rota to perform an additional minimum of 18 twelve hour out of office hours Senior on call duty sessions per year unless the Society is not in a position to offer that number
- c. The Society expects that all Advocates on rota will attend all cases. There is no right to refuse to attend a particular type of case except that juniors (ie Advocates with less than 5 years call) should not attend cases involving grave crimes on their own. They are however encouraged, by agreement, and where appropriate, in such a case, to attend and either act under supervision of an attending Senior Advocate or observe that Senior Advocate
- d. An Advocate on the rota should aim to perform at least 50% of all duty sessions allocated in any 12 month period and should not, without good reason, delegate more than 50% of the duties allocated to another Advocate. Delegation may only be made to another member of the Duty Advocate panel. Failure, without good reason, to perform the minimum number of duties or excessive

delegation may impact upon training requirements or ability to be on the rota

- e. It is hoped that all Advocates on Rota will take their fair share of the load. That includes accepting days spread evenly over the week and acting as Senior if 5 years qualified. However, the Society recognises that family and other commitments may mean this is difficult, or impossible, and discretion will be exercised by the Society and DAC on reasoned application.

6. Daytime office hours Rota.

- a. As this rota is voluntary and during the working day there is no minimum or maximum expectation as to duties, except that duties undertaken on this rota will not count towards the minimum commitment at 5 above.
- b. There will be no Senior Advocate on call for the office hours Rota. The Society expects Senior Advocates to make themselves available in case of call by the duty Advocate on office hours duty.
- c. No on call fee is payable for being on the office hours Rota
- d. The Society expects that Advocates on the rota will attend all cases. There is no right to refuse to attend a particular type of case except that Advocates on duty with less than 5 years call should not attend cases involving grave crimes on their own. They are however encouraged, by agreement and where appropriate, in such a case to attend and either act under supervision of a Senior Advocate or observe a Senior Advocate who is attending.
- e. An Advocate on the office hours Rota should aim to perform at least 50% of all duty sessions allocated in any 12 month period and should not, without good reason, delegate more than 50% of the duties allocated to another advocate, Delegation may only be made to another member of the Duty Advocate panel. Failure, without good reason, to perform the minimum number/percentage of rostered duties or excessive delegation may impact upon training requirements or ability to be on the rota.
- f. **Lateness or non-attendance**. It is expected that the Advocate on rota will as soon as reasonably practicable report to the DAC any late or non-attendance by him/her, with full reasons/explanation.
- g. **Notification of Statistical Data**: Advocates on Rota are expected to complete and return to the DAC template forms to enable the

Society to collate data on the operation of the Rota, including the identification of delays in the system.

7. **Procedure in case of unexpected non availability for the office**

hours rota. The Society accepts, and understands, that from time to time an Advocate who is rostered may not be able to attend. If the difficulty arises in advance then the Society will assist in organising swaps on either out of hours or office hours Rotas. The Society also recognises that Advocates on the office hours Rota may have to attend court, interviews or conferences at short notice. If that occurs when the Advocate is rostered for office hours duty the Advocate should contact the custody officer on e-mail dhapolicecustody@gov.im or 'phone the custody suite on 631373 or 631515/6/7, to advise. See annex for the location of those phones. If the need for a duty advocate to attend the Police Station to advise a detained person arises whilst the rostered advocate is not available, or in case of conflict or multiplicity of detained persons requiring advice the custody officer will send an SMS text to members of the Police Station Duty Advocate panel requesting a volunteer attendance.

8. **Communication.**

- a. It is expected that the Advocate on duty will contact the Senior at the start of any Rota session to establish contact details as well as for guidance or in case of grave crime.
- b. At times of anticipated high demand (practice & TT weeks) the Society may put 2 advocates on duty. In that case the two advocates are expected to agree between each other who is to be called first and when and to notify custody.
- c. If the duty advocate is not going to represent the detained person if charged and going forward, the Duty advocate should hand over any disclosure and notes to the advocate subsequently instructed by the detained person, see note below

9. **Taking things into the Custody Suite**

- a. There are no specific rules. However, remember the Duty Advocate room may not be secure and may not always be available. You may take in and to use your laptop, PDA, tablet or phone at the discretion of the Custody officer which will be exercised in favour. However do remember not to allow the DP to

use them to contact the outside world. Such contact is at the discretion of the Custody Officer under the PPP Codes. WiFi is available in the Duty Advocate room. However it is not available and no law or text books are available in the consultation room as things stand at present

10. **Notification of rota changes and delegation.**

a Where possible the Society will assist in arranging swaps or cover. The following must be notified by the Advocate on the Rota on any change

- a. The IOM Law society by e-mail to Jacky Lloyd on jl@iomlawsociety.co.im or 'phone 662910
- b. The IOM Constabulary (Custody) by e-mail dhapolicecustody@gov.im and 'phone the custody suite on 631515/6/7
- c. The other advocate on rota to provide cover; by e-mail or by phone
- d. Legal Aid by e-mail legalaid.treasury@gov.im phone 685977

COURT DUTY ADVOCATE GUIDANCE

1. Panel Membership and training, general. There are no formal regulatory requirements for panel membership set out in SD 99/97. However, Council of the Society determined that with effect from 01 August 2012 Advocates have only been able to join the Court Duty Advocate panel and rota if :

- a. they have attended a training course approved by the Society and
- b. observed, under the supervision of a panel member (who has been on the panel for at least two years and has themselves performed at least 40 duties), at least 6 courts after passing the Manx Bar exams and within the previous six months. Ongoing membership will require attendance on a course at least every two years but the Society encourages panel members to attend ongoing training annually and the Society will endeavour to arrange an approved course on Island at least once every year

2. Gaining initial experience.

- a. The Society expects panel members to take students, or newly qualified advocates, whether or not they have taken an approved training course, who intend joining the Court Duty Advocate panel, to observe attendances on clients at Court and appearance before the Court.
- b. It is expected that any advocate joining the Rota will have attended and observed at least 6 separate courts under supervision, one court must be a Juvenile Court, one court must be a Magistrates Court and two courts must be a High, or Deputy High, Bailiff's Court. It is suggested that at least one court should be an on call remand court to allow experience to be gained of advising persons in custody.
- c. It shall be the duty of the Advocate wishing to join the panel to keep a record of each court attended as an observer with details of the court, date and time of attendance, supervising Duty Advocate, defendant, type of case, and notes of what they observe and experienced. Each attendance should be signed off by the supervising advocate and the record should be produced to the Society when applying to join the panel

3. Training. Before being allowed to join the Court Duty Advocate Panel and rota every advocate must attend a course approved by the Society and produce proof of such training to the satisfaction of the Society

4. Ongoing training. To remain on the panel and to be placed on rota every panel member must undergo approved training at least once in every two years and produce proof of such training to the satisfaction of the Society

5. The Rota, Application, number of duties expected, cab rank rule, delegation.

a. Application to join the Court Duty Advocate panel shall be in writing to the Duty Advocate Committee

b. The Society expects an Advocate on the rota to perform a minimum of 20 court duty or on call sessions per year unless the Society is not in a position to offer that number

c. The Society expects that all Advocates on rota will deal with all cases. There is no right to refuse to advise in a particular type of case except that Advocates on duty with less than 5 years call should not advise or appear in cases involving grave offences on their own, except to adjourn, or apply for legal aid.

d. An Advocate on the rota should aim to perform at least 50% of all duty sessions allocated in any 12 month period and should not, without good reason, delegate more than 50% of the duties allocated to another duty Advocate. Failure, without good reason, to perform the minimum number of duties or excessive delegation may impact upon training requirements or ability to be on the rota

6. Rota hours.

a. Fixed Courts. The Advocates on rota are expected to attend and be ready to give advice from 30 minutes before the commencement of any court (normally 09.30 for a 10.00 start) and to stay until 13.00 unless released sooner by the bench. Even at 13.00 the duty advocate is expected to ask to be released out of courtesy to the bench. However, the Advocate on rota, or one (by agreement), if two or more are on rota together, if the list is long and it appears that it may run into the afternoon, should make themselves available for the afternoon session at the request of the bench

b. Remand and on call courts. The Advocates on rota are expected to attend at 09.00 for a 09.30 start for remand, on call Saturday or bank/public holiday courts unless otherwise advised. No phone calls will be made to advise that the court is on. If you are on duty for an on call court you should telephone the custody sergeant on 631515/6/7 at

08.00 on the morning of the court for confirmation as to whether there are detained persons in custody who have been charged and will be being taken to Court. The Duty Advocate is only on call in the morning, not the afternoon, unless there are special pre arranged courts and the Courts service have requested and agreed with the Society that there be afternoon cover as well. Such cover would be a separate duty for which claim could be made. NB You are not expected by the Society to attend Court on the off chance to find out if anyone is listed.

c. Lateness or non-attendance. It is expected that the Advocate on rota, will as soon as reasonably practicable report to the DAC any late or non-attendance by him/her with full reasons/explanation for the delay/non-attendance. Failure to advise the Society of non-attendance and the reasons therefore and failure to attend will be grounds for the Duty Advocate Committee to take Disciplinary Action

d. Notification of Statistical Data: Advocates on Rota are expected to complete and return to the Society template forms to enable the Society to collate data on the operation of the Rota, including the identification of delays in the system.

e. Non availability or excessive client numbers seeking to use services of Duty Advocate

Occasionally it may happen that the duty advocate is not available, has a conflict, or has been released or that more clients ask for advice than can be handled by one advocate. In that case the Society expects other advocates attending Court who are Rota members to assist and to step into the breach and for the Court to be notified immediately and Legal Aid Office to be notified as soon as possible after the end of the Court

7. Communication and cooperation

a. It is hoped that if there is double staffing on the Rota for any court (normally only practice and TT weeks) the two Advocates will cooperate with each other and the court and Prosecutions. This includes telling each other what cases they have picked up and cooperating in filling out the template report sheet

b. If the matter is not disposed of on the day and is adjourned and the Duty Advocate is not continuing to represent the defendant the Advanced Information Pack (AIP) must be returned to the prosecutor. If another advocate is to take over the case the Duty Advocate should

hand over any papers requested by the new advocate in a timely fashion and without charge; see note below.

8. Procedure for client interviews and advice.

- a. On being asked to represent someone as Duty Advocate obtain the AIP from the prosecutor
- b. Take the client to the interview room. Identify them, by asking for confirmation of address, name and date of birth
- c. Introduce yourself and explain your role.
- d. Read the AIP to the client
- e. Ask client for comments and instructions.
- f. If client indicates they want to admit the offence, check that there is no defence, do not just accept that they should admit because they wish.

A client should only be advised to plead guilty if

- (i) the disclosed evidence is capable of proving the case and
- (ii) the client's instructions as to the facts make it clear that s/he is guilty either of the offence(s) charged or some other related offence that would make it expedient for the client to plead 'guilty' to the offence(s) that have been charged and
- (iii) it would be in the client's best interests to indicate a plea of 'guilty' at this stage.

As to (i) you may be in difficulty if asserted evidence is merely the AIP summarised by a third party (usually the preparing officer). Check the witness statements. If they are not available apply for legal aid and adjourn. If long or complex and contradictory, again apply for legal aid and adjourn. As to (iii) it could be that although probably guilty of the serious offence charged, it might be in the client's best interests to indicate a plea of 'not guilty' to that offence, while considering offering a plea of 'guilty' to a lesser charge based on the same facts. IF IN DOUBT advise client to adjourn and apply for full Legal Aid so you can research and advise in a less pressured and stressed environment. You may be able to agree editing of the AIP summary with prosecutions to arrive at an agreed basis of plea. Ensure that both copies are edited and marked up identically and initialled by you and the prosecutor

g. If you are satisfied the client is correct to admit the charge, explain what will happen and ascertain mitigation and advise sentencing range, review whether reports are required

h. If case cannot be disposed of on that day, review bail, legal aid and adjournment. If client wants to be represented by another advocate going forward, still apply for legal aid and ask the court to allocate it to the advocate of choice and after court, pass on details to that advocate, including AIP

i. if you are not taking the case on going forward and no other advocate is requested for Legal Aid remember to return the AIP to the prosecutor for the next court.

9. Notification of rota changes and delegation. Where possible the Society will assist in arranging swaps or cover. The following must be notified on any change

a. The IOM Law society by e-mail to Jacky Lloyd on jl@iomlawsociety.co.im or 'phone 662910

b. The IOM Courts by e-mail: enquiries@courts.im or 'phone 685265

c. HM AG Prosecutions by e-mail: CPD@attgen.gov.im or 'phone 686700

c. The other advocate on rota by e-mail or by phone

d. Legal Aid by e-mail: legalaid.treasury@gov.im or 'phone 685977

10. General

a. The scheme is not a full representation scheme. Those are available under the Legal Aid Act for criminal or civil matters either by way of advice under Green Form or a full certificate

b. If the case is not one which can be dealt with on the day on the AIP, with mitigation, or with mitigation reserved, then your duty is to adjourn, apply for legal aid and bail as appropriate

c. The Society will keep a supply of Criminal Legal Aid and Green Forms in Meeting Room 6. However, you should carry appropriate forms with you.

GENERAL NOTES APPLICABLE TO BOTH SCHEMES

NOTES ABOUT OVERLAPPING DUTIES

1. The Society will not allocate duties, (and does not expect any panel member to swap), in such a way that an Advocate is on out of hours police station duty at night and on office hours police station duty or court duty on the following day (unless it is a bank holiday or weekend daytime), or to be on Police Station and court duty at the same time. This is for two reasons, fatigue, which may impact on service delivery, and availability, you cannot be in two places at once.
2. The Society will, at the request of the Advocate, allow allocation of Senior duties overnight and office hours on call in the succeeding 12 hour session

NOTES ABOUT PAPER WORK AND LIEN

1. Following the recent Staff of Government case of Patterson v R the Society feels it appropriate to issue the following guidance which applies to both Police and Court schemes. The notes made by a Duty Advocate and disclosure (or AIP if Court) belong to the client, who is the Detained Person or Defendant, not the Advocate, Court, Prosecution, Legal Aid or the state, or the payer, such as IOMG or Treasury, and are NOT subject to the lien of the Advocate until he is paid. This is in contrast to the private paying client position. No lien arises in case of legal aid (including advice or representation under both schemes) as there is a statutory right to payment under the Legal Aid Act. After payment the private client can demand their return to him or her or that they be passed on to another Advocate, and, the Advocate cannot ordinarily ask for costs of production or handing over. For a legally aided client, including one who is seen under either duty advocate scheme, the Society expects file attendance notes and any disclosure or AIP to be handed over in a timely manner to any subsequent advocate on request and with any necessary client authority and without charge

being raised. If you wish to keep copies for your purposes then they are to be taken at your expense.

ISLE OF MAN LAW SOCIETY DUTY ADVOCATE SCHEMES

GUIDANCE RE Access to Custody, Risk Assessment and Medical information

THIS UPDATE TO THE GUIDANCE NOTES COVERS TWO MATTERS

- 1. The Wi-Fi in the robing room and advocates room in the custody suite at Police HQ**
- 2. The ongoing issue of what constitutes the Custody record and access to the risk assessment and FME forms/medical information**

1. WIFI

Police Station Advocates' Room The Law Society provides Wi-Fi in the advocate's room in the custody suite. Do not switch on or off. The Wi-Fi identifier name is **iomls** and the log on password is **Snaefell123***. **Remember to use an uppercase S and to use the asterisk.** The society is examining the extension of that WiFi into the non CCTV enabled interview room so you may use internet access in your consultations with clients

Court Robing room Log on to Courts General WiFi. There is no password. You will need to consider security if you wish to send client confidential information using this WiFi system.

WiFi allows internet access to Manx Legislation on Line and the Judgments on Line and also may allow access to any internet legal resources you or your firm may be subscribed to. This is primarily because the Juta/Blackhall statutes are so out of date. It is recommended that you take a laptop or tablet with you. At present we have no scanning or printing facilities at the police station, but pages or documents could be copied and sent as e-mail attachments to the custody suite and you could ask the custody officer to print off for you.

Note 1. do not disclose the WiFi passwords to anyone.

Note 2. if something goes wrong it may be considered negligent of you not to take a method of electronic access to statutes/legal resources given how out of date the printed legislation is.

2. Access to certain custody records.

This is an ongoing issue. The Law Society position is that you are entitled to see these, as advocate for detained persons, with their written consent; the police position is that you are not. The Society is willing to agree a specific form with the police, or inclusion of space on the existing custody forms, to allow consent, and subsequent handover, to be recorded so as to be capable of audit.

To protect you and your client it is suggested that you follow the following simple procedure in every case and use the form attached. A supply of these forms are printed and placed in the filing cabinet in the advocate's room.

On arriving and establishing with the DP that you are instructed, you should request to see the custody record, Ask for the yellow and green forms, i.e. the FME and Risk Assessment forms. You should also ask for any Mental Health forms such as Community mental Health Service records/notes and any Psychiatric Examination records. (Together the FME and mental health information is described in this guidance as the medical records) You will be refused. Ask that request and refusal to be noted on the white custody record. Obtain a signed authority from the DP using Law Society form. Show the form to the custody officer and repeat the request. On refusal hand the form over and ask that the refusal to disclose the risk form and the medical records be noted in the custody record and that a copy of the written consent form is attached to the custody record.

FORM FOR REQUESTING RISK & FME (AND OTHER MEDICAL RECORDS HELD BY CUSTODY INCLUDING MENTAL HEALTH RECORDS AND ASSESSMENTS) CUSTODY RECORDS, OBTAINING CONSENT OF DP, AND REGISTERING FACT OF REFUSAL OF ACCESS TO FULL CUSTODY RECORDS

At (time) on (date) I requested verbally that I be provided with full copies of all custody records including the risk assessment and the FME medical record (including any mental health records). I made this request as advocate to (detained person name).

My request was refused. I asked the custody officer to note my request and the refusal in the custody record. I have now discussed this further with my client who has given specific written consent to and direction for disclosure of these records by signing this form

.....(Signature of Detained Person)

.....(Date).....(Name of Detained Person)

I have shown this form with the signed consent to the custody officer. That direction and consent to disclose has been ignored and the custody officer has refused to disclose. I have requested that the written direction/consent and refusal also be recorded and that a copy of this form be attached to the custody record.

Both the risk assessment form and FME record (including any mental health records) are personal data about the DP, the information on them belongs to the DP, and forms part of the Custody Record. The DP has a right, on request, to see them, be provided with a copy and to allow me as advocate to see them. This right is enshrined in the Data Protection Act. They are not evidence in the investigation. They are all part of the Custody Record in terms of the PPP Codes. Access is guaranteed under Data Protection or Access to Medical Records and Reports Acts. There is no legitimate reason to refuse access and sight.

Failure to allow me to see them could impact upon my ability to advise, the advice I give to the DP as well as upon the safety and health of the DP and myself.

Name Advocate.....

Date.....

Notes for Training on 15 July 2015

These notes are designed to highlight major changes and issues which have arisen.

New Custody Block

Contact. Note e-mail address and new phone numbers. dhapolicecustody@gov.im and 631373 or 631515/6/7 The new Inspector with responsibility for custody is Lynne Skelly. These are how you contact custody and how you notify rota changes.

Access. You still park out front, there is a dedicated parking place You are not allowed to enter the compound car park, ie drive through the gates; however on request some custody officers may allow, especially in bad weather or night time. To then get into custody use the and the side pedestrian access and not the front entrance.

Teething problems. We want you to report. Use the following e-mail Panel@iomlawsociety.co.im which is exclusively for duty advocate reporting concerns and issues There are bound to be teething issues. We need to be told by you of your observations. The following have been raised already. If you do not report the Society, Strategic Custody Group and Police assume everything is in order and nothing gets done

The double security airlock doors do not close properly on their own. You can only proceed through the second when the first is properly closed. Don't get stuck on the way in or out. Pull too the door behind you.

Privacy, confidentiality and being overheard. To protect you and clients be aware that everything said at the desk can be heard down both cell block corridors, on the other half of the custody office desk and in the two consultation room and the FME medical exam room and vice versa. If you have something to say to custody officers needing privacy you should ask to go into a private room

Advocates room. The law books are there, do we need anything else? The Delay Forms, the Guidance Notes and the Medical Record Disclosure Consent Forms. The Medical Record Disclosure Consent Forms are essential to protect you and the DP and may base an application to exclude evidence. The delay forms are there so we can monitor and produce statistics about police delay, which is useful for a number of things, not least negotiations on Legal Aid.

Advocates Room equipment and reliability. Always check that the phone is plugged in and has a dial tone. The instructions and ear piece are in the top left hand drawers. Likewise always check the WiFi is present and has an internet connection. Try accessing your search engine. Mobile signal is weak,

so you cannot rely on that. Given that the statutes are 13 years out of date you should take in a laptop or tablet and use <http://www.legislation.gov.im/cms/en/>

Consultation and interview rooms. Note heavy furniture designed to be screwed down, but not all screwed down. Is it uncomfortable and not ergonomic for long interviews, more than one tape. Is it dangerous because of its weight if a DP picks it up and swings it round. Views required. Note the inopportune location of panic bars. Don't accidentally touch one, all hell breaks loose.

Note you take disclosure in the advocates room and see DP's in the Consultation rooms. Consultation rooms have no Wi-Fi or books. So if you need to check something you have to put DP back in cell and go to Advocates room, check, assuming you can get internet access, and then go back to consultation room and get DP out of cells. This is going to take time. It introduces potential delay. It is important the Society is advised of this if it occurs. We haven't negotiated how we deal with phone based translation services given no phones in the consultation rooms. Consultation rooms are very small for appropriate adult or translator, DP and advocate

CCTV. We no longer have a PC in the advocates room or the consultation rooms to allow clients or Advocates to view CCTV. Custody has got a laptop. They should loan it and you are entitled to watch on your own and with DP

Duty Advocate claims, notification of duty changes etc. Although John Kennish has moved to Courts and Legal Aid to Treasury please note that the Duty Advocate fee claims are submitted to Legal Aid, not John Kennish, Legal Aid will assess these. The generic e-mail to notify duty changes to Legal Aid is legalaid.treasury@gov.im and phone is 685977. Remember the onus is on you and NOT something you should ask Jacky to do.

COURTS ON CALL

If you are on call you ring custody as far as the Society is concerned to ascertain if there is anyone to go to Court that morning. The DHB has suggested we have to turn up. This will be resolved in due course. If you are criticised you can show her this guidance note

Added 13 August 2015

GENERAL GUIDANCE DUTY ADVOCATES

At the recent meeting of the Court Duty Advocate Committee, it was felt that it may be helpful for general advice to be issued intermittently during the year. These normally arise from Duty Advocates requesting help from the Committee. They will be posted in the weekly newsletter and in the section on the Society's Website that deals with Duty Advocates

1.1 if the Duty Advocate at the Police Station is not taking the matter forward, either because they are not dealing with the next bail date or that the client has been charged and they are not taking the matter forward to Court, it is inappropriate for that Advocate to detail to any new Advocate what advice they gave.

1.2 it is for the client to decide whether or not they wish the new Advocate to know what went on at the Police Station and what advice he/she was given.

1.3 notes and details of what went on at the Police Station should only be forwarded if a request is made from a new Advocate and the client's authority is obtained.

1.4 even then, caution should be given in relation to whether or not you disclose full details of advice at that point.

2. The Duty Advocate Committee have received confirmation that all recordings are kept for 31 days. Therefore a Duty Advocate who considers that it may be necessary for some of their representations on tape to be retained will need to ensure that that occurs irrespective of whether or not they are taking the matter further within that time limit.

SENIOR DUTY ADVOCATES BANK HOLIDAYS

1. If you are rostered to be Senior Duty Advocate for a pm session starting at 19.00 you are automatically expected, if it is a Bank Holiday, to also cover the daytime out of hours duty starting at 07.00

2. If you do not wish to act as Senior Duty Advocate for Bank Holiday daytime you must notify the Committee when you return the Questionnaire that you specifically do not wish to cover Bank Holiday daytimes, in which case another Senior Advocate will be rostered.

3. Alternatively if you wish to obtain a swap for that Senior 12 hour period then this will not count towards your 50% performance target.

ACCESS TO THE CUSTODY SUITE

There are 4 visitor parking spaces at the front of Police Headquarters together with one bay which has been reserved for custody use only and is marked as per the sign below. It is the space nearest to the top gates.



Once parked if you make your way on foot to the top gates, dial option 2 on the yellow telephone kiosk, you can then request access to the custody suite.



Officers will provide you with access by opening the pedestrian gate. Please then make your way carefully down the path, step and roadway to the van dock. Please be aware that vehicles may be using the roadway so extra care should be taken in this area. The area is lit at night.



Press the intercom button to request access and enter via the airlock.

Once the first door has opened and you have entered the airlock, you must ensure this door is closed behind you. If this door is not closed the inner door will not open. This is a secure air lock.

Once the airlock is secure and the custody area is safe for you to enter you will be allowed access, via the inner door. This needs to be closed securely behind you, so the custody block is secure.

Should the yellow phone be not working the custody can also be contacted using the following numbers:

631373 Custody Police Constable (Back Office), 631515 Custody Sergeant (Back Office) 631516 Charge Desk 1 or 631517 Charge Desk 2