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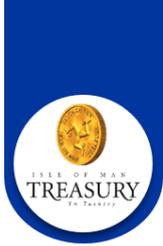
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ISLE OF MAN
TREASURY
Yn Tashtey

CONSULTATION REPORT

Proposed Amendments to the Legal
Aid Act 1986-
February 2026



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Introduction

Background

The draft changes to the Legal Aid Act have been developed alongside the Legal Aid Steering Group, which has been chaired by the Treasury Minister since its formation in March 2024. The Steering Group’s main intention is to implement the recommendations from the Late Attorney General John Quinn’s Review of Legal Aid and many of the amendments proposed within this draft Act are derived from those recommendations.

The consultation

The public consultation on the proposed amendments to the Legal Aid Act 1986 ran for six weeks from 18 November- 22nd December 2025.

In addition to the publication of the consultation documentation on Government’s Consultation Hub, and the associated media releases, a number of key stakeholders were contacted directly and invited to take part in giving their views. These included-

- Political Members
- All advocates currently registered to provide Legal Aid in the Isle of Man
- The Isle of Man Law Society
- The Police Chief Constable
- The Attorney General
- The Solicitor General
- The Deemsters & High Bailiffs
- Senior Officers of the Department of Home Affairs including the Prison Governor
- Senior Officers of the General Registry



- The Appointments Commission
- The Legal Aid Appeals Tribunal

The Treasury also sent paper copies of the consultation to the Isle of Man Prison in order to enable inmates to take part in the consultation.

A total of 17 responses to the consultation were received by the Consultation Hub and a further 7 responses were received in written form.

Of the responses received via the hub 11 agreed that their response could be published, see **Appendix A**. Of the 7 direct responses received 3 agreed that their response could be published, see **Appendix B-D**.

The consultation sought to seek views on the various amended sections of the Act and it was clear from the responses provided that many of the responders were giving their professional and experienced views, which will help to shape any further changes that may be required.

Consultation Responses

An extensive review of the consultation feedback has been carried out, and this section will focus on the key concerns raised by consultees and, where possible, answer the concerns or indicate further action and considerations that will be taken by the Department:

Granting criminal legal aid certificates & financial conditions for criminal legal aid

Numerous respondents raised concerns about the proposal to transfer the powers to grant legal aid certificates from the Courts to the Legal Aid Certifying Officer, would cause significant delays, because many defendants—especially those remanded in custody, without documents, or with challenging lives—can only apply for legal aid at court, where judges can currently take sworn evidence and make rapid, practical decisions.

Some respondents also warned that this change could lead to more adjournments, more unrepresented defendants, and heavier pressure on the duty advocate scheme, potentially requiring more duty advocates and slowing criminal proceedings overall.

Several respondents also stressed that the courts are uniquely placed to assess merits and the financial means of an applicant on the day, and that shifting this function risks creating a bureaucratic bottleneck, increasing administrative costs, and undermining access to justice for vulnerable people, including children.

Whilst the concerns are understandable it would seem that an assumption has been made that the Legal Aid Certifying Officer (LACO) process is going to cause delays when the reality



is that the Courts may likely still issue them in the same way just under the delegation of the LACO and under the condition that they will be subject to financial assessment of the applicant.

Further discussions and consideration of this feedback must take place to ensure that if this change should proceed then it will be with a clear operational plan that won't delay proceedings.

The proposed Legal Aid Board

A range of concerns were raised about proposed establishment of the Legal Aid Statutory Board in place of the current Legal Aid Committee under the Legal Aid Act 1986, which included:

- Several respondents strongly objected to making Legal Aid a *body corporate* because no costings or financial impact assessment had been provided. They warned that the proposal could create substantial new expenses—board member remuneration, administrative staffing, indemnity costs, and operational infrastructure.
- Some respondents expressed concern that making Legal Aid a corporate body gives it the power to sue and be sued. They expressed alarm that this would invite legal proceedings *against* Legal Aid, creating both financial and operational risks.
- It was also intimated in responses that the Statutory Board presents a risk of diverting the focus from access to justice, and that the shift to a board risk disrupting the balance of independence and efficiency achieved under the current model.

The establishment of the new Legal Aid Board as a Statutory Board was recommended by the late Attorney General's 2021 Report, who said '*Establishing the Legal Aid Administration as a Statutory Board would add clarity to the independence of the Legal Aid Committee demonstrating that the Legal Aid Administration is physically separated from Treasury and enabling the public and stakeholders to identify the independence of the Certifying Officer*' and this has been adopted and agreed by the Legal Aid Steering Group. However, the concerns around the formation of the Legal Aid Statutory Board are noted and will be discussed and considered further. It is reasonable to expect that a cost assessment is carried out, and this will be a mandatory requirement as part of the process for seeking Tynwald approval for the amended Act.

Legal Aid Panel Advocates

The new Section 13 of the draft Legal Aid Act gives the Legal Aid Board the authority to make regulations to specify how the Legal Aid Panel of Advocates is maintained, procedures for inclusion on the panel, requirements for training or development needs, service level agreements and a framework for removal from the panel advocate register.



Many respondents raised concerns that proposed training and panel-advocate requirements could duplicate or conflict with the Isle of Man Law Society's existing regulatory role and may deter advocates from registering to provide legal aid work. Some also stated that mandatory training that is a requirement of the Legal Aid Statutory Board should be free and agreed with the Law Society.

The provision in the Act is to make regulations only and does not put these requirements in place immediately. Any regulations that are developed around the maintenance and record details of the Legal Aid Panel Advocates will be developed in conjunction with the Isle of Man Law Society.

Prescribed rates of costs and expenses

Some concerns were raised by respondents in respect of the proposed changes to Section 19 of the Act, and the new Section 19 3A-C. 19(3A) makes explicit as to what an order under sec 19(3) may provide for. The amended Section 19 clarifies that regulations *may* set rates or fixed fees for legal aid work, including fees based on hourly rates, specific functions, or other defined factors. It also allows for reducing legal aid costs by prior payments for advice and assistance and sets travel expenses at the same rate as public sector employees.

The feedback seemed most concerns about the travel expenses element of the proposed change around mileage deducted at rates the same as civil servants, with many responders saying this is not comparable as advocates do not operate within the same terms as civil servants.

Whilst there wasn't an intention to reduce any travel expenses for advocates it's clear that the wording of this section has certainly given this impression, if this is changed in the future alternative and more suitable terminology that doesn't penalise advocates will be added.

Fixed Fee Legal Aid work

Many respondents strongly opposed introducing fixed fees, suggesting that they may encourage minimal work, reduce service quality, and undermine access to justice. They emphasised that legal aid work is complex and time-intensive, and that advocates should be paid for the actual hours worked, assessed by the costs officer. Several also warned that fixed fees would worsen recruitment and retention in legal aid, widen inequality between private and legally aided clients, and risk significant delays or poorer outcomes.

The Treasury note the concerns raised by the consultation responders The late Attorney General's Report of 2021 recommended fixed fees for certain cases it did also note that careful consideration and consultation should take place to ensure reasonable rates for work and that will still be the cases, ensuring that they are comparable and reasonable against the costs in other jurisdictions. The current draft Act merely sets out that fixed fees *could* be introduced via regulations, it is merely an enabling provision at this point.



Criminal Legal Aid Appeals

Some feedback stated that the current appeal process for criminal legal aid lacks clarity, the appeal procedure outlined in the new draft Act, which will be further clarified and defined in supplementary regulations, will apply to both civil and criminal legal aid cases making appeals accessible to all, in a fair and transparent manner- If implemented. In line with Recommendation 2 of the Legal Aid Review, criminal legal aid appeals will be considered by the Legal Aid Appeals Tribunal.

The role of the Appointments Commission

It is the intention that the Appointments Commission will appoint the persons who are to be Members of the Legal Aid Board, in the same way as it appoints the members of the Legal Aid Committee now.

It is also intended that if this draft legislation is approved, the Treasury will have the power to terminate the appointment of a Member of the Legal Aid Board where certain circumstances apply.

Repayment of contributions payable for legal aid provided

Whilst reviewing the draft Legal Aid Act some respondents have noted that the current period for repayment of contribution orders should be extended beyond 26 weeks as it is considered that this is unfair, particularly in the current economic environment. One respondent suggested that the order should be extended up to 12 or 24 months.

The relevant stakeholders, including the Courts of Justice, must consider this feedback with a view to potentially extend the timeframe for repayment of criminal contributions.

Proceedings for which civil legal aid and criminal legal aid may be given

A number of respondents referred to the question of which types of civil legal proceedings legal aid should be available for, as outlined in Schedule 1 of the draft Legal Aid Act. The responses included suggestions that legal aid should be available for boundary dispute cases and Employment or Equality Tribunals.

The Legal Aid Steering Group did consider both of these matters during the drafting stages, and it was determined that these items would not be included. Given then feedback that has been received, this must have further review and consideration.

Though only raised by one response it is important to clarify that legal aid can be awarded for medical negligence cases that are heard in the High Court, if the applicant qualifies for legal aid.



Civil legal aid for inquests following death in the care or custody of the State

The proposal to allow certain relatives of a person who died while in the care or custody of the State to qualify for civil legal aid without satisfying the normal financial conditions was welcomed by one respondent. However, clarification was sought on some of the terminology included in the Bill by another respondent.

Extending civil legal aid for domestic abuse protection orders, etc.

The proposal to make civil legal aid available in relation to for domestic abuse protection orders, etc. was supported by one respondent although guidance was sought on a related matter by another respondent. It should be noted that amendments included in the Justice and Home Affairs (Reform and Miscellaneous Amendments) Bill 2025 to expand the definition of “domestic proceedings” in the Summary Jurisdiction Act 1989 to include proceedings in respect of a domestic abuse protection order under the Domestic Abuse Act 2020, etc. may require this matter to be reviewed. This is because civil legal aid is available for domestic proceedings in a court of summary jurisdiction (see paragraph 2 of Schedule 1 to the Legal Aid Act 1986).

Other matters

The Treasury would like to thank colleagues from the Department of Home Affairs (DHA), this extensive feedback will be reviewed by the Legal Aid Steering Group and officers within Treasury will continue to liaise with the DHA around our legislation that have areas of cross over and implication.

One consultation response referred to recommendation 19 of the Attorney Generals’ Legal Aid Review of 2021, which suggested that the Manx Citizens’ Advice Service could be redefined and expanded to support the provision of and access to legal advice. The respondent clarified that Manx Citizens’ Advice Service is an independent charity and is not authorised to give legal advice. It should be noted that the consultation did not refer to recommendation 19.

Conclusion

Some consultation responses expressed concerns about the potential impact of certain proposed amendments. Further work with all relevant stakeholders must take place to ensure that before those or any other amendments are made, their potential impact is properly understood and that any changes made to legal aid are operationally workable and in line with policy objectives.

The Treasury Minister, Chris Thomas MHK, has determined that the proposed amendments be put on hold for at least the duration of the current Tynwald administration period and that the progression of the changes should no longer be the responsibility of Treasury and instead should be taken forward by another Government body that is better equipped to do so.



Appendix A – Consultation Hub responses (with permission to publish)

Section 1- Civil Legal Aid	
Question 1- Do you have any comments about the proposed changes to Part 1 (sections 1 to 6, Civil Legal Aid)?	
Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	Have you really just uploaded a 76 page document for people to read and comment on without bothering to break down any of fundamental principles of this piece of work into meaningful questions?
ANON-KT9B-45QG-U	<p>Children age 16 or under should automatically qualify/meet the financial criteria for the granting of legal aid.</p> <p>Further the only costs that legal aid or the treasury should be able to recover from the young person in terms of any costs made in the young persons favour should be those amounts CLAMIED under the legal aid certificate. Plus a fixed amount of interest say 1% in terms of any administration that might be required to recover any statutory charge or legal aid bill of costs.</p> <p>Legal aid is about access to justice it is not a vehicle to generate profit. Regulations should allow for a longer period for contributions orders to make them more affordable i.e. over 12/24 months not 26 weeks.</p>
ANON-KT9B-45Q5-9	<p>S1-I support the addition of Domestic Abuse Act Proceedings</p> <p>S2- I oppose this amendment. This would give the Legal Aid Board the power to remove whole areas of civil legal aid, it is not merely an additive power. The requirement to 'consult'</p>



	<p>with the Deemsters is effectively meaningless.</p> <p>S3- I support S.3A-I support S4-I support S6-I support</p>
ANON-KT9B-45RD-S	<p>Children that are under the age of 16 years old should automatically meet and qualify for the financial criteria for Legal Aid to be granted rather than the parents/guardians feeling the pressure. Further if the person has no access to the assets, the determination should reflect their position.</p> <p>The only costs that Legal Aid or the Treasury should be able to recover from the young person in terms of costs made in the young person's favour should be those amounts claimed under the legal aid certificate, with a fixed amount of interest in terms of the admin that may be required for the statutory charge or bill of costs.</p> <p>Legal aid is about access to justice and not to generate profit and regulations should allow for a longer period of contribution rather than 26 weeks due to the current economy.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	No response
ANON-KT9B-45RK-Z	Clarifying the treatment of assets subject to court orders reflects practical realities, and the introduction of non means tested assistance for relatives in death occurring in State or custody or care is strongly supported. Care will be needed to ensure recovery provision under section 4 are applied transparently and without undue hardship
ANON-KT9B-45R9-E	No response



Section 1- Civil Legal Aid

Question 2- Do you have any comments about the proposed changes to Schedule 1?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	Part 1 should include funding to allow for the variation of SOPO's and SHOPOS and POCA's and/or any order made in Civil/Criminal Proceedings.
ANON-KT9B-45Q5-9	These are generally positive, save the boundary dispute provision. This would effectively mean that a very wealthy individual could move boundaries at will against a poorer person who would have no remedies. There should be limited provision for this, with strict oversight from the Certifying Officer as to the realistic prospects of success. The Statutory Charge could also be used to prevent unnecessary costs being incurred.
ANON-KT9B-45RD-S	Funding for orders such as variations of restraining order, SOPOs, POCA's etc and or any order made in civil and criminal proceedings.
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	Children under the age of 16 should automatically meet the financial criteria for the granting of Legal Aid. Often Legal Aid Practitioners have to deal with children who are in care or, sadly, whose parents are not interested in any shape or form of attending meetings with their children, in order to complete Legal Aid Application forms. Sometimes, it will be an approved Social Worker who will turn up, or even a relative of the child and they are not aware of the true financial position in the family. Access to Justice is imperative for all members of society. Defence Lawyers are often asked to deal with children with addiction problems, mental health problems, behaviour problems and frankly, it can be rather challenging for any Practitioner to obtain any form of paperwork from them.



ANON-KT9B-45RK-Z	Protecting domestic abuse order proceedings is supported The removal of treasure inquiry and boundary disputes is understandable though it may restrict access to justice in some cases; limited discretion in exceptional circumstances should be worth considering
ANON-KT9B-45R9-E	No response

Section 2- Legal Advice and Assistance (Green Form Scheme)

Question 3 – Do you have any comments about the proposed changes to Sections 7 to 11?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	No response
ANON-KT9B-45Q5-9	The requirements in relation to Panel Advocates are creating an additional level of regulation which will be cumbersome and unnecessary. The Isle of Man Law Society already regulates Advocates, and prescribes CPD and training.
ANON-KT9B-45RD-S	No response
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	No response
ANON-KT9B-45RK-Z	These amendments are technical and uncontroversial
ANON-KT9B-45R9-E	No response



Section 3- Miscellaneous and Supplemental- Civil Legal Aid and Advice and Assistance

Question 4- Do you have any comments about the proposed changes to Part 1 - Miscellaneous and supplemental?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<ol style="list-style-type: none">1. Any prescribed training should be provided to panel advocates free of charge, and should be on a bi-annual basis to marry in to the bi-annual training advocates on the police station rota also undertake. It should be agreed in conjunction with the Law Society to ensure it is appropriate for the members.2. Advocates should be free to write to asked to be removed from any of the legal aid schemes and they will be permitted to do so without any penalty.3. There should be an appeal procedure put in place to a Deemster or the High Bailiff to appeal any decision of the board by any person either in receipt of legal aid, the opposing party to a legally aided person, or by an advocate effected by any decision of the proposed board. There should be rules set in place to cover the above.
ANON-KT9B-45Q5-9	As before, the particular provisions regarding Advocates will duplicate, and may at times contradict, the Isle of Man Law Society's role as regulator for the Legal Profession. The Law Society already specifies matters such as CPD etc.
ANON-KT9B-45RD-S	<p>Any prescribed training should be provided to panel duty advocates free of charge and be on a bi-annual basis.</p> <p>Law Society should check that it is appropriate for the members.</p>



	<p>Advocates should be able free of charge to ask to be removed from the legal aid schemes.</p> <p>Appeal procedure put in place for a Deemster of High Bailiff for any decision of the board by any person either in receipt of legal aid, the opposing party to a legally aided person or advocate effected by the decision.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	No response
ANON-KT9B-45RK-Z	Expand regulation making powers offer flexibility but should be exercised with transparency and consultation. Provision relating to legal aid panel of advocates are supported, provided requirements do not deter practitioners participation
ANON-KT9B-45R9-E	No response

Section 4- Criminal Legal Aid

Question 5- Do you have any comments about the proposed changes to Part 2, sections 18 to 21?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	<p>Whilst it would seem on the face of it to be a sensible and logical recommendation the issue of criminal legal aid needs to be done quickly and the certifying officer the DHB / Clerk to the Magistrates are able to make a decision quickly and more importantly apply a degree of common sense. A drug mule from the UK could be sentenced with as little as 4 weeks?</p> <p>The Criminal Court will also be best placed to assess whether the legal merits test is met and also have proved adept at ensuring the means test is met.</p> <p>If we are required to ascertain a persons means when they are from off island and remanded</p>



	<p>will be impossible. Even for island residents who are remanded they may have been living on criminal cash and have no record of benefits and no bank accounts. The Court will take sworn evidence on their means will the combined certifying officer accept such or be in a position to do so.</p> <p>For cases where assets / bank accounts frozen how will they be dealt with? what will need to be provided.</p> <p>Recently when undertaking Green Form work for serving prisoners, Legal Aid are asking the Advocate to show that the prisoner has no income / savings. This has taken almost as much time as the time of the advice.</p> <p>Needs very important safe guards put in place.</p>
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<p>1. Whilst granting power to the certifying officer to grant legal aid certificates, this only works IF advocates or the client fills in a form and submits it ahead of the court attendance. if a person is kept by the police or the secure unit, or is in custody at the prison then often the first opportunity to submit a form is at court where they will not have access to their financial documentation. To avoid unnecessary adjournments at court the section should be amended to say that where any court date is less than 7 days before the submission of the form the court may still grant legal aid (which is then notified to the certifying officer). All other applications should be sent direct to the certifying officer with the option for the person seeking legal aid permitted 14 days in which to provide proof of benefits or income. If you remove the power from the court to grant legal aid there is the obvious risk of significant delays and unnecessary adjournments in criminal proceedings. The power to grant legal aid in criminal proceedings should be shared by both legal aid and the court. Further more the court is also in the best position to know whether a matter which looks on first blush to require legal aid. The file can always be subject to review by legal aid. Lastly I am concerned about the amount of matters that would need more adjournments on first appearance because an advocate will not attend if they cannot be paid, thereby increasing the pressure and time on the court duty advocate meaning we may need to go back to 2 duty advocates due to the increased number of unrepresented defendants.</p>

2. The amount of certificates that permit for a client to be able to have legal aid with a contribution should be explored with a view to possibly increasing the numbers and the periods of any contribution should be capable of being extended over a 12 month period rather than 26 weeks which would reflect the reality of those middle income families who could contribute but at a lower amount over a longer period thereby reducing the strain on the individual or family.
3. Criminal legal aid for those 16 or under should be granted without recourse to considering a parent or guardians financial means as these are often children/young people who are continually passed from duty to duty because the parent doesn't want to pay and this is not in the best interests of the young person.
4. Advocates on the various schemes are not public sector employees and should not be paid at a rate analogous to public sector employees unless the government wish to provide panel advocates with the same benefits. This is because advocates rates reflect the fact that they do not receive any public sector employee benefits at all, no pension, sick pay, they don't get an annual pay rise flexi time, they have to pay for their insurance under the master policy, practice certificate, tax and national insurance etc Advocates should be paid in relation to the time they actually expend, and the miles they actually drive, in their own vehicles (not government vehicles), with the parking fees that come out of their own pocket. Panel advocates are paid the least amount per hour of any advocates working on the Isle of Man £150.00 per hour maximum in comparison to the private sector whose hourly rates even for unqualified trainees start at £175.00 and a comparable hourly rate for a senior advocate of 10 years call is £350.00. Government employees have many benefits that are not available to legal aid panel advocates.
5. Panel advocates in criminal proceedings deal with the most complex areas of law and the most demanding and mentally or physically ill clients. The profession is struggling to attract young advocates to undertake legal aid work because legal aid firms cannot compete to pay the same salaries as non legal aid firms who bring in more money and have significantly better working conditions, and clients who are not dangerous. Furthermore panel advocates are increasingly dealing with dangerous people who represent a direct danger to the advocates representing them. Numbers of advocates prepared to go to court and undertake



	<p>litigation are very low, and they are not prepared to undertake such demanding work without proper remuneration. the more dangerous the working environment the more people wish to be paid to reflect that.</p> <p>6. Panel advocates should be paid under the existing system on an hourly rate, with the legal aid costs officer still considering the bill of costs as per the current system. There could be an amendment which provides for both the legal aid costs officer and the certifying officer to make a recommendation for a specific set of training IF they take the view that a file could be managed in a more cost effective manner whilst not impacting the defendants case. As an advocate I would not agree to fixed fee work, you should only be paid for what you have done which is exactly the same as the private sector.</p> <p>7. The amounts per scheme should be kept totally separate and what a person has had under one scheme should not be counted under another. Advocates already certify that a claim under one scheme will not be duplicated under another.</p>
ANON-KT9B-45Q5-9	<p>S18 This is strongly opposed. Currently Legal Aid in Criminal Cases is granted by experienced Judges and Legal Officers in the Criminal Courts (in principle, with the financial calculation being then often done afterwards). This enables the smooth flowing of proceedings, and also allows these experienced Judges to make such determinations, having heard from the Prosecution a summary of the case.</p> <p>These proposals would significantly impact the flow of work, particularly in the busy Summary Courts, they would create additional administrative expense for no obvious benefit.</p> <p>The current system works well, as does the current model of financial assessment, whereby Defendants are granted Legal Aid if they meet the merits test (ie a likely risk of custody, expert cross examination being required etc) however if they have significant means, they will be required to pay a contribution which may amount to the entirety of their fees if they are so wealthy as to be able to do so.</p> <p>The removal of this would create a significant issue in obtaining representation in large number of cases due to a lacuna in the Proceeds of Crime Act in this jurisdiction. In England and Wales there is an 'adequate consideration' defence which allows Solicitors and Barristers</p>

to be paid by Clients who's funds may be criminal property, provided that the moneys received are adequate consideration for the work done. The Isle of Man has no such provision, meaning that if this is too strictly applied whole swathes of Defendants may be denied legal aid, but unable to privately instruct an Advocate. This would cause very significant delays and costs, and may breach the IoM's requirements under the ECHR

Section 19 is strongly opposed. Fixed fees are illogical in almost all types of legally aided litigation work, and have been disastrous in England and Wales. They have lead to a labyrinthine system which costs more to administer, and which has brought the Criminal Justice system to it's knees in that jurisdiction.

In particular, it has effectively meant that Solicitors in that jurisdiction do not attend Police Stations, instead 'Police Station Advisers' attend. Their lack of legal knowledge means that interviews in England and Wales are much more likely to be 'no comment' causing delays for policing and investigations, further pain for victims, and delays in the Court process. This information is gathered from speaking to a large number of current and former Police Officers in England and Wales as well as Criminal Defence and Prosecution Lawyers in that jurisdiction.

The travel rate is dishonest in the extreme, as it fails to acknowledge that Government Employees are in fact employees, and are being paid their wage during the travel time, this would mean that Advocates would not be remunerated at all save for the pence paid per mile. When considering that Advocates have to travel to out of town stations upon request when on call, this could never be considered fair.

On a weekend, or after 7 on a week day, the sole duty advocate for that period is required to attend whichever Police Station requires them. By way of example, an Advocate living in Castletown is required to attend an interview in Ramsey. They will drive around 50 miles as a round trip and spend nearly 2 hours travelling. For this they will receive less than £30. This is at a time when the Community Stations such as Ramsey, Peel and Castletown are becoming busier, and this consultation suggests adding additional locations which Advocates will be required to travel to.



	<p>Government employees, in addition to their travel expenses, also receive their wage, sick pay, pension, and numerous employment rights which all add into their remuneration. The comparison is therefore inherently dishonest.</p> <p>Section 21 guidance notes rather miss the point when they refer to "the Police Station". The Isle of Man has 4 Police Stations, Ramsey, Peel, Castletown and Police Headquarters in Douglas. Interviews take place at all of these on a regular basis, Ramsey Police Station, for example, would often conduct numerous interviews per week.</p> <p>That said, it is supported that other comparable interviews would also be covered under this scheme, these would include Treasury/Benefits interviews in Douglas, as well as those conducted by DEFA or Trading Standards in St Johns.</p>
ANON-KT9B-45RD-S	<p>Granting power to the Legal aid certifying officer to grant legal aid certificates, this only works if advocates and the client fill in a form and submit it ahead of Court, if a person is kept by Police, secure unit as an extra for Court this is not possible as they will not have any access to financial information. It also does not assist with the Court duty advocate scheme as it will leave a lot of people unrepresented if the Court cannot grant legal aid.</p> <p>The Court also are the best fit as they can evaluate the case on the day if legal aid should be considered in the case before them. Otherwise a lot more adjournments would be required by clients and clog up Court time when matters could just be dealt with as an advocate of the client's choice will not attend without funding and a position as an employee they will not be permitted to go and work for free. This would then increase the amount of clients requiring the duty advocate on the day.</p> <p>Period of contribution should be considered for a longer period as this would relieve families who have small household incomes.</p> <p>Children under the age of 16 should receive Legal Aid automatically as it usually puts the young person in a difficult position going duty advocate to duty advocate as the parents do not want to pay for an advocate and this then worsens the young person's position and not in their best interests.</p>



	<p>Advocates on the schemes and are not public sector employees and should not be paid at this rate, unless to receive the same benefits offered. It is also noted that it is not in the public's best interests to be prosecuted by the government paid prosecutors and then defended by the same people with no separation, this would massively decrease the trust between clients and advocates and could result in a lot more self representations at the Court.</p> <p>legal Aid advocates do not receive a pension, sick pay etc that public section employees do receive. Advocates should be enumerated appropriately as we do not have government vehicles it is our own personal vehicles used that mileage is added to the clock and maintenance of that vehicle. It is also our own personal time for travel, insurance master policy has to be paid. Legal aid advocates are also paid the least amount with a Senior Advocate charging time at £150.00 in the private sector it is common for the unqualified trainees to be charged out at a minimum of £175.00 with a senior advocate charging £350.00.</p> <p>Panel advocates should be paid under the existing system on an hourly rate, we deal with the most dangerous, physically and mental ill people and also have a high risk of injuries to ourselves if assaulted. Legal Aid bill of costs should be considered as it is now, as an advocate I would not agree to do any fixed fee work and believe this would significantly impact the public.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	<p>Recommendation 19 mentions expanding the role & remit of the Manx Citizens Advice Service. It should be noted that MCAS is not a government body but an independent charity run by volunteers and therefore the AGC is acting beyond remit in dictating the aim's & objectives of such a charitable body. Furthermore the MCAS is not the same as U.K. CAB in its operation and is not qualified to give legal advice as it is a signposting service only.</p>
ANON-KT9B-45RA-P	<p>Transferring the granting of power to a Certifying Officer to grant Legal Aid Certificates is something that is fraught with difficulties. In a perfect world, Client's would turn up to appointments, complete Legal Aid forms and provide proof of benefits, Bank Statements, wage slips in good time. However, many of the Client's that we deal with have alcohol addictions, drug addictions, mental health problems, complex needs and sometimes it is an achievement just getting them to get to Court on time. Over the years, the High Bailiff and</p>



Deputy High Bailiff have, on numerous occasions, had to ask a Defendant in a criminal matter to get in the witness stand and to give sworn evidence about their Legal Aid Application. This has proved to be absolutely invaluable. Sometimes an employer will not provide a letter outlining a Defendant's wages because someone has just started a job and the new employer simply does not cooperate. On other occasions, the Defendant may have such a chaotic lifestyle that despite numerous requests for Bank Statements and proof of benefits, that they fail to provide them. On occasion, it is clear to the Judge having viewed the individual, or listened to them giving evidence, that they have very obvious mental health problems or learning disabilities.

In practice, a lot of the time people are brought straight from the Police Station to custody and there are either seen by either the Duty Advocate or their Advocate of choice in the custody block. It is at this stage the Legal Aid Application is made. It would mean that for matters to be progressed quickly, you would require the Certifying Officer to be present at Court to make a determination. An Advocate should not be expected to attend the Court and have to wait for a week or more for a determination to be held to give advice to a Client, the advantage in the current system is that the individual can be seen by the Duty Advocate, or their Advocate of choice and a Legal Aid submission can be made to the Court, the paperwork physically handed in, and a determination, subject to the provision of accompanying required documentation can follow. It speeds up the process. Even for those Clients who come to see you before a Court appearance, quite often the Police have not provided the Prosecution with the paperwork, sometimes, not until the afternoon before the first appearance. In order to complete the Legal Aid Application Form, one would have to go through the merits to do so, one would have to see the Advanced Information Pack and Statements. It would be extremely unwise to remove the power of the Judiciary to be able to grant Legal Aid. It is going to lead to a situation where a number of additional Duty Advocates are going to have to be appointed because Advocates cannot wait around the Court for an entire morning for a matter to be listed. They will, in reality, simply say to an individual that they are representing, go see the Duty Advocate, complete the forms and hand it in. It is going to increase the pressure and time on the Courts, the Court Duty Advocate and all of those involved in the administration of Justice.

The life of a criminal defence lawyer means that as Practitioner you work in an area of law that can often be complex and demanding, particularly when you are dealing with mentally or



	<p>physically ill Clients, or those with personality disorders.</p> <p>Panel Advocates should be paid under the existing system on an hourly rate, with the Legal Aid Costs Officer continuing their function to tax bills. If, going forward, fixed fees are going to be introduced, there will have to be a Court time appointment system for all Deputy High Bailiff's Courts, High Bailiff's Courts and Magistrates Courts dealing with any criminal matters, as well as the Court of General Gaol Delivery. The danger with fixed fees is that it will encourage lawyers to do the absolute minimum. If you have a case that has 300 pages of Witness Statements and Exhibits and you are going to be paid for only reading a small proportion of them, there is a danger that some Practitioners might do the bare minimum. It is important on the Isle of Man, as an independent Bar that access to justice is given to Manx residents. Advocates should be paid adequately to prepare for cases before Court appearances.</p>
ANON-KT9B-45RK-Z	<p>The transfer of certification decisions to a legal aid certifying officer and alignment of financial criteria with civil legal aid are supported. Proposal enabling fixed fees should retain flexibility for complex cases. The expansion of Duty Advocate coverage is appropriate subject to adequate resourcing</p>
ANON-KT9B-45R9-E	<p>In relation to Section 18, with the shift from the court issuing legal aid certificates to a "Legal Aid Certifying Officer" this adds another bottleneck to a process which often is very rapid, especially with criminal proceedings. The court is best placed to issue certificates in a timely manner, ensuring that the defendants get proper representation as advocates are not likely to work without a fee arrangement in place.</p> <p>Also pertaining to section 18, the changes owing to the move from the separate financial requirements for criminal legal aid and civil legal aid is unclear, as there is no easy access to the information required to see the eligibility for either, thus making it difficult to determine what changes are actually taking place.</p> <p>Further to this, any court proceedings without legal aid would likely cost between £30000 and £50000 privately, which means any reduction to the availability of Legal Aid would be crippling for anyone working any regular level job who would no longer be covered by legal aid if it was changed to be have the same financial limitations as civil legal aid.</p>



Section 4- Criminal Legal Aid

Question 6- Do you have any comments about the proposed changes to Schedule 3?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<p>1. The power to grant a certificate should be within the power of both the court and the certifying officer. Removing the right of the criminal court to grant a certificate is going to lead to delays and uncertainty. It will also lead to significantly increased costs as there is no way that the legal aid certifying officer can possibly do all of this extra work without significant extra funding and staff. So the costs of administration will increase exponentially. Giving the certifying officer the right to review a certificate granted by the court would be a better way to proceed.</p> <p>2. If legal aid is about access to justice then Tynwald should consider how many individuals may end up unrepresented if there is no funding for them in court and the impact that will have on the court system. Litigants in person take up far more time and resources than those with an experienced criminal advocate who can provide robust and sensible advice. You cannot expect a litigant in person in criminal proceedings to not increase time and costs as they simply do not have the skill set to deal with our system, which is complex.</p> <p>3. There should be an appeal of a refusal of legal aid to a judge. The wording should be left in the schedule for a court to still grant legal aid as well as the certifying officer.</p>
ANON-KT9B-45Q5-9	No response



ANON-KT9B-45RD-S	<p>The power to grant legal aid should still be in the power of the certifying officer and the Court. There should be an appeal of a refusal of legal aid to a judge.</p> <p>If Legal aid is about access to justice, then Tynwald should keep in mind how many people would end up unrepresented if there is no funding for them at the Court and the impact this would have on the Court system.</p>
ANON-KT9B-45RW-C	<p>Schedule 3B - 6 "Lawyers" - define what is meant by lawyers e.g. specify if they are practicing or non practicing.</p> <p>Schedule 3B - 7 Vice Chair wording needs to be consistent "must or shall" for Chair and Vice Chair</p> <p>Schedule 3B - 9 What is the purpose of paying compensation if the member leaves? Needs defining of the purpose of that. Treasury need to consider the in balance of the payments it makes to tribunals and other bodies that the Appointments Commission appoints to and other statutory boards.</p> <p>Schedule 3B - 10 Allowances - The Appointments Commission finds this section confusing and suggests further clarification. Are the allowances under the PSP or not.</p> <p>Schedule 3B - 11 If the Appointments Commission appoints then we should also terminate. If that is the case it would be under the Removal of Bodies Order, the scope of which is currently being review by Theresa Greaves at the Attorney Generals Chambers if you wish to contact them for further clarification.</p> <p>Schedule 3B -14 3 b and c Can the clause consider how the membership will be effected by the attendance of lawyers versus non lawyers, define quorate.</p>



	<p>Schedule 3B - 16 How do they identify and appoint suitable members</p> <p>Schedule 3B -24 There is a conflict between 10 and 24. Should committees of the board in clause be included in 24,1,A?</p>
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	<p>The power to grant a Legal Aid Certificate should be within the power of both the Court and the Certifying Officer for the reasons mentioned above. Removing the right for the Summary Courts to grant a Legal Aid Certificate is going to lead to huge delays, significant increase in costs and significant expenditure to the Legal Aid Certifying Officer having to employ additional staff. If it leads to more litigants in person, the drain on the Court system will be significant to those involved in the administration of justice. Criminal Advocates have to provide robust, pragmatic and professional advice to people who often are in high states of anxiety, distress and who have mental health, learnings difficulties or physical difficulties. A criminal defence Lawyer is not an easy vocation and requires patience, dedication and a robust approach on occasion with Client dealing often with complex areas of law.</p>
ANON-KT9B-45RK-Z	No response
ANON-KT9B-45R9-E	No response

Section 4- Criminal Legal Aid

Question 7- Do you have any comments about the proposed changes to Schedule 3A?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response



ANON-KT9B-45QG-U	<p>1. Children 16 or under should be granted legal aid without consideration of the financial merits, there are many parent who put themselves before a child meaning a child could go to trial with no advocate (and it has happened in juvenile court) because the parents wont pay, but it is the child that suffers and ends up with an antecedent record not them.</p> <p>2. Power should be left in for the court to still grant legal aid as well as the certifying officer.</p> <p>3. Contributions should be capable of being paid over more than 26 weeks to reflect the reality of most middle income families and individuals. Peoples real mortgage or rent payments should be taken into account not some notional amount as it does not reflect the reality of life any more.</p> <p>4. A panel advocate should have the right to stop work without negativity from the court whilst a contribution is calculated or legal aid granted.</p> <p>5.</p>
ANON-KT9B-45Q5-9	Schedule 3A is opposed due to the reasons already given concerning the transfer of powers to the Certifying Officer
ANON-KT9B-45RD-S	<p>Both the Court and certifying officer should be able grant legal aid certificates.</p> <p>Contributions should be able to be over a longer period of time to be accessible to more individuals.</p> <p>Children under 16 years old should be automatic as it is has been the case the parents will not pay and a child has had to do a trial without any assistance as there has been no funding.</p> <p>A panel advocate should have the right to stop work without negativity from the Court whilst a contribution is calculated or legal aid granted.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	Power should be left to the Court to still grant Legal Aid as well as to the Certifying Officer.



ANON-KT9B-45RK-Z	No response
ANON-KT9B-45R9-E	No response

Section 5- Miscellaneous and Supplemental- Criminal

Question 8- Do you have any comments about the proposed changes to Part 3 - Miscellaneous and Supplemental?

Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	<p>Establishing Legal Aid as a board will be welcomed as the Judiciary will be forced to make awards of costs against the Prosecution / central funds as it wont be seen as a mere transfer between government departments and the true costs of legal aid will be know as the wasted prosecutions will be highlighted and not hidden.</p> <p>Any verification costs etc. for Advocates how will this be resourced?</p> <p>Will this be resourced with an increase in payments to Advocates or will it be another admin burden the Advocate bears without payment? will there be charges for Advocate to go on the panel?</p>
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<p>1. Legal aid at its heart is only about access to justice and nothing else. I do not agree that the Board should be a body corporate. The disadvantages far outweigh the advantages. There has been no costs analysis of what it would cost to have a body corporate as opposed to the current regime. In giving legal aid the right to sue or bring proceedings you are opening up the flood gates for legal aid to be litigated against, this is a terrible terrible idea. Independence is the sacrifice made in order to fund and run an effective legal aid system.</p>



	<p>This element should not be proceeded without a full costs analysis to Tynwald, this provision has the ability to turn legal aid in to a costs horror show. If legal aid can sue then it can be sued and that is quite something that shocks me has be written in without a business case or costs??</p> <p>2. You can still provide a large amount of the powers within this section with legal aid in its current form. Including everything within section 5 and without incurring the necessity for incurring costs of a panel. This piece of legislation should go straight back to the drawing board until such time as there is actually a report to Tynwald on what all of this would cost. Who is paying for 5 to 7 board members? What will they be being paid? How many more staff is legal aid going to need? What will be the cost? if you are indemnifying members who is paying if they are sued, the tax payer? Why are we doing this without a costs analysis?</p>
ANON-KT9B-45Q5-9	No response
ANON-KT9B-45RD-S	<p>Legal aid should be access to justice and nothing else. I strongly disagree that the board should be a body corporate.</p> <p>No costs analysis has been considered.</p> <p>Independence should be noted to be the most important to all.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	The fundamental issue has to be access to justice for Defendants.
ANON-KT9B-45RK-Z	Delegation powers should be exercised carefully to maintain accountability
ANON-KT9B-45R9-E	No response

Section 6- Remuneration of persons giving Civil Legal Aid

Question 9- Do you have any comments about the proposed changes to Schedule 2?



Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<p>1. I don't agree with fixed fee work, you note your hours and you are paid for what you have actually done and that is then assessed by the costs officer. I don't see how this is of benefit to a represented person or how it ensures that they are provided with a quality service by a competent advocate. Fixed fee work by its nature encourages people to do as little as possible, as quickly as possible to generate the most profit. That is not what access to justice is about. Access to justice means a person has access to an appropriately qualified advocate who does the job properly within a reasonable period of time and that work is assessed by the costs officer.</p> <p>2. Even in private practice most advocates do not do fixed price work unless it is something very time specific such as a will which is straight forward. Even then if the will is about more time consuming it is done on an hourly basis.</p>
ANON-KT9B-45Q5-9	<p>This is opposed in its entirety for the reasons given regarding fixed fees.</p> <p>The requirement to consult has no real meaning.</p>
ANON-KT9B-45RD-S	<p>I strongly disagree with fixed fee work, your hours are noted and you are paid for what you have actually done and that is then assessed by the costs officer. Fixed fees encourages as little work and service as possible to even make a business run and ends meet.</p> <p>It will encourage less and less young people to service the individuals who need access to an advocate the most.</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	No response

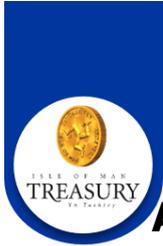


ANON-KT9B-45RK-Z	The clarification of fee setting powers are helpful. Mandatory consultation with the IOM Law Society is strongly supported and any fixed fee regime must ensure legal aid work remains viable
ANON-KT9B-45R9-E	In regards to the remuneration of the persons giving legal aid, the advocates are already being prescribed fees lower than what they charge clients, if there's is then to be limits on how much time can be spent on a matter it is likely that there will be a discrepancy between the level of service that a private client and a legal aid client would receive. Which would be unjust for someone receiving legal aid, as regardless of income and financial wellbeing people should have access to equivalent legal representation.

Section 7- The Legal Aid Board	
Question 10- Do you have any comments about new section 23 or Schedule 3B?	
Consultation ID	Response
ANON-KT9B-45QN-2	No response
ANON-KT9B-45QF-T	No response
ANON-KT9B-45QZ-E	No response
ANON-KT9B-45QG-U	<p>1. The court should share power to grant a legal aid certificate particular in any proceedings concerning children or vulnerable or mentally ill persons.</p> <p>2. I do not agree that legal aid should be a body corporate for all the previous reasons I have mentioned including the fact that you would be opening up legal aid to be sued by others. It needs a costs analysis of what all of this might cost.</p>
ANON-KT9B-45Q5-9	<p>What is being proposed is going to significantly increase costs in relation to the administration of Legal Aid. This level of complexity and costs are not required.</p> <p>It is noteworthy that the terms for the board and it's employees are in many ways significantly better than for those actually conducting the legally aided work.</p>



ANON-KT9B-45RD-S	<p>The Court should share the power to grant legal aid particular in respect of young people, vulnerable or mentally ill persons.</p> <p>I strongly disagree that legal aid should be a body corporate for all the reasons highlighted</p>
ANON-KT9B-45RW-C	No response
ANON-KT9B-45RT-9	No response
ANON-KT9B-45RA-P	No response
ANON-KT9B-45RK-Z	<p>The creation is f the legal aid board is supported in principle, Its effectiveness will depend on independence balanced membership and transparent operation</p>
ANON-KT9B-45R9-E	No response



Appendix B- Isle of Man Law Society Response



The Isle of Man
LAW SOCIETY .1859

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22 December 2025

Carrie Yates

To: carrie.yates3@gov.im

Sent by email only

Dear Carrie,

Re: Isle of Man Law Society Response to Public Consultation on Proposed Amendments to the Legal Aid Act 1986 ("the Consultation")

This submission is made on behalf of the Isle of Man Law Society ("the Law Society") in response to the Public Consultation on proposed amendments to the Legal Aid Act 1986 published in November 2025.

The Law Society understands that individual practitioners have also provided responses to the Consultation and we ask that these, while being the views of individual practitioners, should also be considered.

The Law Society recognises that the proposed amendments seek to implement elements of the Attorney General's Legal Aid Review (Options & Recommendations Report, December 2021).

The Society supports reform which enhances access to justice, safeguards quality of representation, and maintains public confidence in the legal aid system while maintaining a strong and independent Manx Bar. Our comments are directed to ensuring that implementation achieves those objectives without unintended consequences.

Overarching Principles

1. Access to justice must remain the primary purpose of the legal aid system.
2. Reforms must preserve the independence of the legal profession and the separation of powers.
3. Any new structures must be operationally workable within the realities of the Isle of Man's courts.
4. Remuneration arrangements must be sustainable to ensure continued participation by advocates.
5. Changes should be evidence based, proportionate, and subject to appropriate safeguards and review.

Criminal Legal Aid

Section 18 – Power to Grant Criminal Legal Aid Certificates

The Law Society has serious concerns regarding the proposal to remove the Court's power to grant criminal legal aid certificates and transfer that function exclusively to the Legal Aid Certifying Officer.

In practice, the Court is uniquely placed to make immediate and informed decisions on legal aid at first appearance. Judicial officers hear the facts, assess vulnerability, and can test submissions on merits in real time. Removing this function risks delay, additional adjournments, and periods where advocates are potentially required to work without certainty of funding.

The Law Society strongly recommends that, if reform proceeds, the power to grant criminal legal aid should not rest solely with the Certifying Officer but be shared between the Court and the Certifying Officer, or that an emergency/interim certification mechanism be retained by the Court.

Appeals

The current framework for appeals in criminal legal aid matters lacks clarity. The Law Society recommends that the amended legislation expressly provides a clear right of appeal against refusal of criminal legal aid, with appeals determined by a judicial officer experienced in criminal work.

Juveniles and Vulnerable Defendants

The Law Society strongly supports automatic eligibility for legal aid for children aged 16 and under, without reference to parental means. For 17 and 18 year olds, parental finances should likewise not be determinative. This reflects the reality that parental support is often absent and that unrepresented juveniles face significant prejudice in criminal proceedings.

Section 19 – Remuneration and Fixed Fees

The Law Society opposes the introduction of fixed fees for criminal legal aid work. The current system of hourly remuneration subject to rigorous costs assessment already ensures value for money, proportionality, and accountability. Fixed fees without the creation of a clear statutory framework, setting out exactly what is and what is not caught by a fixed fee, will result in uncertainty. Further, the introduction of fixed fees in England and Wales has resulted in a wholesale reduction in Lawyers being willing or able to undertake Criminal Legal Aid work. This in turn will potentially impede the quality of representation, and discourage advocates from undertaking legally aided work in a small jurisdiction which does not benefit from the potential economies of scale which exist in other jurisdictions.

The Law Society considers that any move towards fixed fees should only occur following a pilot scheme, full consultation with the Law Society, and a clear opt out provisions for complex or exceptional cases.

Travel Expenses

Advocates are not public sector employees and do not receive the benefits associated with public service. The Society submits that advocates should continue to be remunerated for reasonable travel time at the applicable hourly rate where physical attendance is necessary in the interests of justice.

Civil Legal Aid

Children and Vulnerable Adults

The Law Society supports automatic eligibility for civil legal aid for children aged 16 and under, and for vulnerable adults, without application of the standard financial criteria. Recovery should be limited to amounts paid under the certificate, together with a modest fixed administrative interest.

Contribution Orders

The Law Society recommends greater flexibility with regards to the amount an individual may have to contribute with regards to their Legal Aid to reflect the realities of low and middle income households, including lower contributions payable over longer periods aligned to the likely duration of proceedings.

Green Form Scheme

The Law Society supports reform of the Green Form scheme to allow for fair contribution mechanisms and a clear appeal process. This would enhance early access to advice and reduce unnecessary escalation to full civil legal aid.

The Law Society would also ask that consideration be given to expanding Legal Aid to include those bringing claims before the Employment and Equality Tribunal beyond the Green form advice that is available. This will ensure access to justice for those who may have lost their jobs but do not have the means to pay for an Advocate.

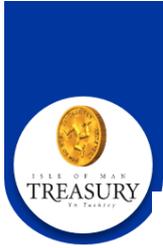
Governance and the Legal Aid Board

The Law Society has reservations regarding the establishment of the Legal Aid Board as a body corporate. Concerns include cost, litigation risk, and duplication of existing oversight functions already exercised by the Law Society.

The Law Society recommends that alternative governance models be considered and that no such change proceeds without a full cost benefit analysis presented to Tynwald.

Panel Advocates and Regulation

The Law Society supports high standards for panel advocates but cautions against excessive administrative burdens. Any mandatory training should be funded by Treasury noting that the Law Society already organises training for its members, and this can be tailored to meet any perceived concerns. Advocates must retain the right to withdraw from panels without penalty, and professional regulation and oversight must remain within the remit of the Law Society.



Conclusion

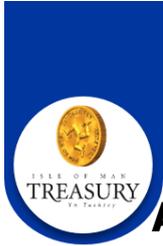
The Law Society supports reform that genuinely enhances access to justice while preserving the quality, independence, and sustainability of legal aid services in the Isle of Man. We urge that the proposed amendments be refined to incorporate the safeguards outlined above and that continued engagement with the Law Society remains central to the reform process. This response should be considered alongside the Law Society's responses to previous Legal Aid consultations and HM Attorney General's recommendations.

Yours sincerely,

Meghan Kennish

Meghan Kennish

For and on behalf of the Isle of Man Law Society



Appendix C- Department of Home Affairs response

Department of Home Affairs

Rheynn Cooishyn Sthie



**Isle of Man
Government**

Keeiltey Ellen Yennin

Carrie Yates
Acting Head of Legal Aid
Social Security Division – Treasury

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5 January 2026

Dear Carrie,

Re. Legal Aid (Amendment) Bill 2025 – November 2025 consultation

Thank you for the invitation to comment on the above consultation and thank you for the prior engagement which we can see has been reflected in the updated Bill which is now being consulted upon.

The following responses to your questions have been provided after discussion at officer level and form an officer level response. We did of course set out our position in respect of many of the below points in our prior detailed response on 03 June 2025. And as noted in that response, political input has not been sought at this time, but the Minister is aware of your prior correspondence, and the Department of Home Affairs ("DHA") is supportive of the intended changes and the manner in which they will enhance wider operation of the Criminal Justice System.

As we noted in June, we have been aware of your ongoing progress with implementation of the recommendations, as updates have filtered through the Criminal Justice Board from the Legal Aid Certifying Officer (thanks again to her for continued participation at that Board).

Also as noted in June, ensuring fairness and proportionality across the Criminal Justice System is key to confidence in that system. Therefore, we recognised that a number of the proposed changes (falling from the recommendations made) looked to make Legal Aid more transparent and enhance fairness in its application. These changes are welcomed and will align with the upcoming review and refresh of the Criminal Justice Strategy, as legal aid is such an essential element of that system. The Department is also aware of the need to be mindful of the impact on general revenue. With that in mind, you will be aware of some areas of crossover, particularly in relation to [the Justice and Home Affairs \(Reform and Miscellaneous Amendments\) Bill 2025](#) ("the JRAB"), which have also been raised with your team, and with the Legal Aid Committee (who kindly granted an audience to DHA officers), in recent months.

We have included a few comments below slotted in against the relevant section of your consultation that they appeared to relate to, for your ease of reference. Many of these are just a further noting of our established comments (from our prior correspondence in June), or a capture of recent discussions (particular around DHA's ongoing legislative changes contained in the JRAB).

We would welcome any additional discussion that would assist further in any of these areas, as set out below.

1. Civil Legal Aid

Definitions linked to Civil Legal Aid (section 2 / Sch. 1)

I am aware that officers of the Department have been in correspondence with your team (and were kindly granted an audience by the Legal Aid Committee) regarding the wider implications of the changes brought by the JRAB, and in particular the planned amendments to the definition of "domestic proceedings" within the Summary Jurisdiction Act 1989 ("SJA1989") and more broadly its impact on eligibility for Civil Legal Aid¹.

I appreciate that separate engagement has taken place around this, both immediately prior to consultation on JRAB, and very recently by way of correspondence with Shelley Walker. I note that you have kindly indicated a delegate (Nick Gough) that you wish to be involved in the implementation planning around the specific parts of JRAB that will commence any changes in the SJA1989. Working together in ensuring that that particular "sub-working group" establishes the necessary harmonisations to clarify any impact on Civil Legal Aid will be most welcome.

We note that you have brought forward an ability to amend Schedule 2 by Order (made under section 2). DHA has also proposed powers to amend the relevant definitions in the SJA1989, and in the Domestic Abuse Act 2020, by instrument. These powers will doubtless be welcome as part of these discussions, in ensuring that there is harmony across this piece, and that our teams are able to fully explore any required changes.

DAPOs (section 2 / Sch. 1)

We note with thanks the proposed formal insertion of Domestic Abuse Protection Orders ("DAPOs") as a matter eligible for Legal Aid, and our understanding that this is presently being provided for outside the scope of Schedule 2.

Death in Custody (new section 3A)

Additionally, we note the cross reference between the Coroners of Inquests Act 1987 and the fresh section 3A, however (as per our prior correspondence from June) do wonder if the wording here needs to refer to someone in care, custody or *otherwise in state detention*. We would refer you to clause 59 of the JRAB which is set to amend section 2 of the Coroners of Inquest Act 1987 (following an abortive amendment by the Justice Reform Act 2021 that could not take effect as framed).

Additionally, as noted in June, it is unclear to us whether proceedings of the Coroner of Inquests Act 1987 in respect of a death as a result of an injury caused by a constable in the execution or purported execution of the constable's duty are also intended to be within the spirit of the amendment made, so perhaps this could be qualified or confirmed.

Employment and Equality Tribunal suggested inclusion

Finally, one additional matter is noted, in respect of the Employment and Equality Tribunal and whether it might be possible to consider Legal Aid for those proceedings, in specific circumstances, where such representation may have merit and be in the public interest. I recognise there are practical considerations around the scope of this inclusion, but it is raised now for your general consideration. It could be considered as a discussion topic when we are considering implementation planning for JRAB.

¹ Where this definition cascades across as term that determines Civil Legal Aid eligibility set out at Schedule 1 of the Legal Aid Act 1986. And amendment to this definition in the SJA1989, stems from Part 4 of the Domestic Abuse Act 2020, which will itself be amended by the JRAB.



2. Legal Advice and Assistance (Green Form Scheme) and 3.

We have no specific comments here and are broadly content with the changes being made.

3. Miscellaneous and Supplemental changes – Civil Legal Aid & Advice and Assistance

We have no specific comments here and are broadly content with the changes being made.

We do note for your reference, a change being brought in the High Court Act 1991 (at section 57 of that Act) by clause 51(48) of the JRAB, in respect of hardship applications in connection with Court Fees. This will not impact those individuals who are legally aided, as of course their fee payments are provided for, but you may wish to be aware of the wider "access to justice" change being made here.

4. Criminal Legal Aid

Duty Advocates Scheme (section 21 – new (1A)(ba))

Firstly, we note with thanks that officers from your team have begun a separate dialogue with officers within the Isle of Man Constabulary both regarding this consultation, and also around the separate point in relation to Police Station Duty Advocate scheme and interviews held under caution whether at the Police Station or elsewhere. We also note that wording has been inserted at section 21(1A)(ba) that appears to resolve recommendation 12(d).

I appreciate that engagement around this, and related matters, is ongoing with Inspector Fielding, who has responsibility for Custody matters, and who will record any specific comments on behalf of the Constabulary. We would also appreciate continued involvement as any further Duty Advocates Scheme is developed.

Pilot Schemes (section 21 – new (1C) to (1E))

This change is also noted and appears to be one that appears to resolve recommendation 12(d). We look forward to the engagement needed with the Isle of Man Prison and Probation Service, and the DHA, to establish this Scheme.

Schedule 3 applicability

We note that you have brought forward an ability to amend Schedule 3 by Order and this will doubtless be welcome as part of future discussions around Criminal Legal Aid, and in ensuring that there is harmony across this piece.

As indicated in our June correspondence, while we think there is a reasonable level of comfort that the majority of proceedings that would be expected to be visible in Schedule 3 are provided for in some manner. I note that some proceedings are clearly identified e.g. in relation to anti-social behaviour orders, whilst others are likely only covered by the wider reference to proceedings, particular those which are "post-conviction" orders.

Future discussions in relation to relevant proceedings would be welcomed. You will note that the changes in the JRAB in relation to the way in which court proceedings are managed (the new "sending process" replacing committals to Court of General Gaol Delivery for trial etc.) and other new Orders (such as Deferment Orders, which will be inserted by clause 15 of the JRAB), might perhaps warrant engagement alongside the implementation planning around the JRAB, to ensure that Schedule 3 continues to be aligned.



5. Miscellaneous and Supplemental – Criminal

We have no specific comments here in relation to the changes made and are broadly content with them.

Legal Aid Certifying Officer (section 23B)

As noted in June, the continued attendance at the Criminal Justice Board of the Certifying Officer is welcomed, and if it should be the case that the reference made in the membership structure of that Board² to the Certifying Officer ultimately needs to be modified to remain correct (following any changes made by your Bill, and in particular the new section 23B), this would be helpful to be reminded of in the future, in order that section 4 of the [Justice Reform Act 2021](#) might be modified to align with these changes. This is a change we can make by Order.

6. Remuneration of persons giving Civil Legal Aid

We have no specific comments here and are broadly content with the changes being made.

7. Legal Aid Board

We have no specific comments here and are broadly content with the changes being made.

Other future matters of note

As noted in our June correspondence, and as further explored with your team and by way of the kind audience with the Legal Aid Committee, it is noted that the DHA continues to seek to progress the following modifications or fresh changes as part of our ongoing legislative programme:

Prohibition of cross-examination in “domestic proceedings”/“ family proceedings” (Part 4 Domestic Abuse Act 2020/changes to SJA1989 and Matrimonial Proceedings Act 2003) (see also clause 67 in the JRAB)

As noted in relation to these proceedings, engagement will be sought with your team (likely as part of the JRAB implementation approach) to ensure that when these changes commence and when Regulations are brought (by the Treasury) concurrent to this, all matters that require to be addressed within those Regulations are provided for.

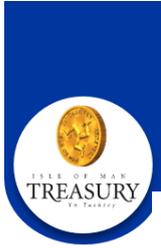
The ongoing support of your team, and more widely of the Legal Aid Committee, is much appreciated in respect of these much needed protections for victims.

Fresh Prohibition of cross-examination children, complainants and vulnerable witnesses (clause 50 of the JRAB)

As noted in relation to these proceedings, engagement will be sought with your team (likely as part of the JRAB implementation approach) to ensure that when these changes commence and when Regulations are brought (by the Treasury) concurrent to this, all matters that require to be addressed within those Regulations are provided for.

The ongoing support of your team, and more widely of the Legal Aid Committee, is much appreciated in respect of these much needed protections for victims, along with children and vulnerable witnesses, within the Criminal Justice System.

² Where reference is made at section 4(j) to: the Legal Aid Certifying Officer (being a person appointed in regulations made under section 16 of the Legal Aid Act 1986)



Contempt proceedings under the Contempt of Court Bill

The Contempt of Court Bill is presently being finalised for introduction to the House of Keys.

The harmonisation of this Bill, by way of a similar provision to that found in the SJA1989, and latterly the JRAB, that will see Regulation making power be added to this Bill, that predicates its operation on Regulations being made by the Treasury. We have appreciated the engagement with your team in refining these provisions, and the approach to be taken.

The ongoing support of your team, and more widely of the Legal Aid Committee, is much appreciated in respect of these much needed protections for the judicial process.

Please come back to me if you require any further clarification on these comments and we would welcome any additional discussions on matters pertaining to the Legal Aid Act in the near future.

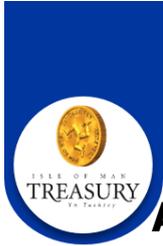
Thank you again for the invitation to comment on this consultation and we hope that some of the above commentary is useful to you.

Yours sincerely,

Clair Barks

Deputy Chief Officer, Department of Home Affairs

CC: Martina Jay – Legal Aid Certifying Officer Martina.Jay@gov.im;
Dan Davies, Chief Officer, DHA



Appendix D- Ian Kermode Advocate Advocates

IAN KERMODE ADVOCATE



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Our Ref: IK/MC/Misc/Law Society-2025

15th December 2025

Public Consultation Manager
The Treasury
Isle of Man Government
3rd Floor
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Isle of Man, IM1 3PZ

Dear Sir/Madam

RE: Public Consultation on proposed changes to Legal Aid Act 1986

Further to the public consultation document dated November 2025 in relation to proposed changes to the Legal Aid Act 1986, please see below a summary of our concerns:-

Criminal Legal Aid

1. **S.18 Amendment (power to grant certificates)**

Under the proposed amendment to S.18, the power to issue Criminal Legal Aid certificates would be transferred from the Court to the Legal Aid Certifying Officer.

At present, the Court grants Criminal Legal Aid certificates, not the Legal Aid Certifying Officer.

In practice, this means that a Criminal Legal Aid application form is either sent to Court ahead of a client's appearance in Court or is submitted on the day of client's appearance at Court.

The Court usually gives an immediate indication as to whether Legal Aid is granted.

IAN KERMODE ADVOCATE

(2)



There a number of possible scenarios, such as that Legal Aid is granted in principle, subject to proof of wages within 7 days. Alternatively, if proof of DSC benefits has been included within the Criminal Legal Aid application form, the Court will confirm that Legal Aid is granted. Additionally, if the Defendant is remanded in custody to the Prison at first appearance, Legal Aid is usually automatically granted.

The point being made is that the Advocate usually knows immediately from the Court what the position is regarding legal aid funding.

If the power to grant Criminal Legal Aid certificates was removed from the Court and given to the Certifying Officer, there is a danger that there would be a delay of one or more days in confirming whether Legal Aid has been granted and funding guaranteed.

During this hiatus, the Advocate may have to undertake work on behalf of the criminal client, such as attending Prison, reading evidence or filing a bail application, with the possibility that Legal Aid may not be approved and potentially such work not be paid. This uncertainty would be unacceptable and may well deter Advocates from taking on cases, given the lack of certainty as to whether or not they will get paid. This may in turn may mean some defendants not being represented.

The power to issue criminal legal aid certificates ought therefore to remain with the Court, in order to ensure the effective functioning of the Legal Aid Scheme and that defendants are appropriately represented, without delay.

2. **S.19 Amendment (Fixed fees)**

The proposed amendment to S.19 would allow for the introduction of fixed fees for Criminal Legal Aid work.

This proposal causes us significant concern.

At present, an Advocate undertaking Criminal Legal Aid work is paid at an hourly rate.

A Senior Advocate (over 5 years called) is paid £150.00 per hour.

When a case is completed, the Advocate's firm prepares a detailed bill of costs which is submitted for assessment.

The bill of costs includes all work such as letters, phone calls, meetings, Court appearances, perusal evidence, drafting documents etc. undertaken by the Advocate.

IAN KERMODE ADVOCATE

(3)



Each bill of costs is submitted to the Legal Aid Costs Officer for assessment. The bill is rigorously assessed and checked in order to ensure that it is fair and reasonable.

Any work deemed to be unnecessary or excessive is discounted from the bill, with inflated bills being appropriately reduced.

In other words, the present billing process ensures that only work undertaken by an Advocate which is deemed necessary, proportionate and reasonable is paid by the taxpayer.

It is submitted that this current process works well.

Currently there are no fixed fees for Criminal Legal Aid work on the Isle of Man whereas fixed fees are widely used for criminal matters in England and Wales.

There are fixed fees Representation Orders for solicitors and barristers.

To give a couple of examples, a sentencing in the Magistrates Court currently attracts a basic fee of approximately £145.00 per day for a junior solicitor. A trial in the Magistrates Court currently attracts a basic fee of £491.00 inclusive of all preparation, pre-trial review, conferences and bail applications.

However, the Criminal Justice System in England and Wales is at breaking point.

There was a backlog of 78,329 Crown Court trials as at September 2025.

Part of the reason for this enormous backlog is that solicitors and barristers are not being properly paid.

A fixed fee of £491.00 for an entire trial does not make any financial sense, when the same barrister could be earning over £300.00 an hour for private work. The economies of scale are such that undertaking a considerable amount of criminal work in large cities such as Liverpool, Manchester or London at a low fixed fee is more or less financially viable. However, such economies of scale are not present in a small jurisdiction like the Isle of Man.

There is a real danger that if fixed fees are introduced on the Island, many Advocates will decline to undertake criminal work. This may well lead to defendants struggling to find proper representation.

It is also pertinent to note that the same Manx Advocate undertaking Criminal Legal Aid work at £150.00 per hour can earn double that doing private client work.

IAN KERMODE ADVOCATE

(4)



Access to justice for clients is the main consideration but if Advocates are not to be adequately paid, they simply will not undertake Criminal Legal Aid work. These are two sides of the same coin of access to justice. In other words, a Defendant requires proper and experienced legal representation but for this to happen the legal representative must be properly paid.

Moreover, the Court is likely to be impacted through increased delays, self-representing clients and non-compliance with Court rules and procedures.

Overall, there is a significant concern that fixed fees will not be financially sustainable or realistic for Manx Advocates.

A consequence of this will be that defendants may be prejudiced and the administration of justice on the Island compromised.

3. S.19 Amendment (Travel Expenses)

The proposed amendment to S.19 also envisages travel expenses incurred by an Advocate be paid at the same rate applicable to a public sector employee.

This appears to be a suggestion that the Advocate uses his/her own vehicle and will be paid so much per mile (e.g. 57p), to cover fuel and vehicle usage.

At present, an Advocate travelling from his/her office to the Prison to see clients is paid at the relevant hourly rate for the travel time, not just a vehicle mileage rate.

In the majority of cases, the Advocate will use a video link facility at Court to consult with clients at the Prison.

However, there are occasions where it is necessary to physically meet with the client such as to have documents signed for example a Basis of Plea or a Proceeds of Crime Act Statement of Means. Sometimes it is necessary to meet in order to explain complicated telecommunications data charts, which cannot sensibly be done holding up charts and plans in a video conference.

It is clearly in the best interests of the remanded client that he or she can fully understand relevant evidence and give informed instructions on the evidence.

Accordingly, where it is necessary for the Advocate to travel to the Prison for a legal visit, the Advocate should be paid for the time incurred. The Advocate could obviously be doing other work in such time, which would be billable and therefore it is only fair that he/she is paid not just a mileage fee but an hourly rate.

IAN KERMODE ADVOCATE

(5)



It is therefore respectfully submitted that the current arrangement of the Advocate being paid for travelling time ought to continue.

Conclusion

Our overriding concern is that those persons who cannot afford to pay privately for an Advocate should be able to obtain proper legal representation in the criminal Courts.

Criminal clients are often vulnerable persons in very difficult and challenging circumstances.

It is imperative that they obtain proper legal representation.

Under Article 6 European Convention on Human Rights, every person has a Right to a Fair Trial.

Integral to such Article 6 right is that defendants have appropriate access to legal representation in order to defend him/herself.

The current framework of Legal Aid remuneration works well and enables access to justice to be effectively delivered by private legal practices. We submit that the current framework provides a stable structure for securing legal representation on the Island in to the future.

The paramount consideration is always the right of a defendant to justice and a fair hearing.

Regrettably, the proposed changes to the Criminal Legal Aid Act imperil such rights.

Taking all of the matters raised above into consideration, we strongly oppose the proposed changes to S.18 and S.19 Criminal Legal Aid Act 1986.

Thank you for your assistance.

Yours sincerely



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