



The Isle of Man Law Society
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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

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For and on behalf of the Isle of Man Law Society