



## PRESS RELEASE

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### **Consultation on Reforms to Legal Assistance and the Creation of a Duty Solicitor Scheme**

The Ministry of Health, Care and Justice and the Bar Council are pleased to announce that discussions between them have progressed to a stage where a proposal to stakeholders on a revised legal assistance framework and the creation of a duty solicitor scheme can be placed for public consultation. The proposal is for a pilot project to be formally reviewed within three years.

The new statutory structure included in the consultation document would see an increase in the financial eligibility threshold for legal assistance from £5,000, a sum set in 1990, to over £14,000 (being 50% of the average annual income in Gibraltar). This would, in effect, mean that persons in full time employment and on the minimum wage would be eligible to receive assistance. The proposed new system also increases the amount of capital and the amount of equity in an applicant's home that the Registrar may disregard when deciding to grant legal assistance.

The reforms also include changes to the scope of legal assistance to ensure that taxpayers' money is not used in respect of cases where there is no strong or compelling public interest in making legal assistance available or where controls of expenditure are being introduced in the interest of the taxpayer by limiting the cost payable in certain cases. To that end, the consultation includes additions to the type of cases that are to be excluded from the scope of legal assistance and creates category of cases where a scale of fees would be applied. Examples are the exclusion of consumer disputes and making divorce proceedings, where there are no children of the marriage, subject to scale fees.

Further revisions are included, which will strengthen the Registrar's power to refuse the funding of unreasonable cases. To assist in the prompt and low cost resolution of disputes, mediation will be compulsory in most cases where a party is legally assisted. The regime for the recovery of costs will also be strengthened, which will include provision to ensure that successful claimants who are awarded damages pay back to the consolidated fund any legal assistance they receive from such damages in appropriate cases.

The consultation envisages that the changes to the legal assistance regime will come into effect at the same time as the creation of a duty solicitor scheme. This will ensure that legal representation will be available on a 24/7 basis to persons arrested and held in custody. Membership of this

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scheme will be compulsory for all law firms of 5 or more practitioners and voluntary for smaller law firms. Practitioners who wish to undertake legal assistance work must, however, also be practitioners of law firms participating in the duty solicitor scheme.

The Minister for Health, Care and Justice, the Hon N F Costa MP, said: “On behalf of HM Government of Gibraltar, I am delighted that our discussions with the Bar Council have resulted in the issue of a joint consultation paper on a new legal assistance framework and the establishment, for the first time, of a duty solicitor scheme. In my view, the proposed legal architecture set out in this consultation document balances the need to increase such eligibility with the need to ensure that tax payers’ money is not used to fund unreasonable cases or cases where to grant legal assistance is not in the public interest.”

The Chairman of the Bar Council, Keith Azopardi QC said: “The proposed reforms to legal assistance and introduction of a duty solicitor scheme that form part of this consultation exercise are very far-reaching and significant. The proposed increase of the legal assistance threshold would increase the potential pool of applicants for legal assistance significantly and for the first time give financial assistance to many individuals who need access to the courts or who have been prevented in the past from recourse to the courts for determination of any dispute because they could not afford the cost of litigation. It will significantly improve access to justice. Likewise the introduction of a duty solicitor scheme has been longstanding and will secure advice and representation to persons in custody thus securing a basic fundamental right. The Council looks forward to responses to this consultation exercise.”