

**6. Constitutional and Legal Affairs and Justice Committee –  
First Report 2020-21: Legal Services –  
Debate commenced**

The Chair of the Constitutional and Legal Affairs and Justice Committee (Mrs Poole-Wilson) to move:

*That the Constitutional and Legal Affairs and Justice Committee's First Report for the Session 2020-21: Legal Services [PP No 2020/0191(1)] [PP No 2020/0191(2)] be received; and that Tynwald is of the opinion that:*

- (1) The Manx legal system is in urgent need of reform;*
- (2) The training system for Manx advocates is out of date and insufficient;*
- (3) The system for qualification should be brought into line with the qualification system in England and Wales;*
- (4) There should be a system of practising certificates for Manx advocates and others practising on the Island;*
- (5) The process for re-qualifying as a Manx advocate for barristers and solicitors from other common law jurisdictions should be simplified;*
- (6) It should be possible for legal practitioners to be given automatic temporary licences, giving them right of audience in Isle of Man courts, if they are briefed by a Manx advocate;*
- (7) Registered Legal Practitioners should be classed as Manx advocates with a restricted licence, based on demonstrable experience and expertise;*
- (8) A system of Common Professional Development should be introduced;*
- (9) The Law Society should not be the representative body and the regulator;*
- (10) The disciplinary system for advocates should be reformed and, in particular, the Advocates' Disciplinary Tribunal in its current form should be abolished; and*
- (11) That the Council of Ministers should commission an independent review of the regulation of legal services in the Isle of Man, chaired by a person who has not practised law in the Isle of Man. The review should consider options for implementing the reforms identified in this Report, in particular:*

- The development of better resources for training advocates;*
- Introduction of practising certificates;*
- A new, faster route to requalification as a Manx advocate for foreign-qualified lawyers;*
- Keeping qualification in step with England and Wales;*
- The abolition of the category of Registered Legal Professional;*
- A definition of the 'provision of legal services in the Isle of Man';*
- The separation of regulation from representation; and*

*A more transparent, user-friendly complaints system, ideally with a single point of entry, which is able to provide proper guidance as to the standards of conduct expected of all lawyers practising on the Isle of Man.*

*The Review should report by July 2022.*

*[GD No 2021/0010] is relevant to this Item.*

**The President:** Item 6, Constitutional and Legal Affairs and Justice Committee, Legal Services. I call on the Chair of the Committee, Mrs Poole-Wilson, to move.

**The Chair of the Constitutional and Legal Affairs and Justice Committee (Mrs Poole-Wilson):** Thank you, Mr President.

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Before I begin my substantive remarks, I would like to note for the record that I am a qualified solicitor of England and Wales, non-practising, and that my husband is also a qualified solicitor of England and Wales, who works at a local commercial law firm.

4440 Hon. Members, in moving this Report of the Constitutional and Legal Affairs and Justice Committee, I want to emphasise the central and key point that review and reform is needed; and I want to explain why.

4445 Your Committee began this Inquiry in 2018. As well as taking evidence, we looked at past reviews. What became clear was that earlier recommended and Tynwald-approved reform had not been delivered fully, or at all in some instances. It also became clear that we are increasingly out of step with change and reform in neighbouring jurisdictions. Finally, we could see that without a determined and urgent focus on review and reform, we would miss out on the economic opportunities that come with a vibrant and growing legal services market.

4450 Our first conclusion, that the Manx legal system is in urgent need of reform, must thus be seen in that context. Without urgent review and reform, we will deny ourselves the opportunity for growth and we will not deliver necessary, and in some cases long overdue, reform to the provision of legal services and the regulation of the profession.

4455 Hon. Members will have had the chance to review the Council of the Isle of Man Law Society's response to our Report, which was recently circulated and, whilst not agreeing with all of the matters raised by the Committee, it is apparent that they too recognise there are a number of significant areas that require reform and improvement.

We understand the rationale for the proposed Government amendment to our first conclusion and, as it still recognises the need for review and reform following such a review, we can accept it.

4460 Through our Inquiry, the Committee identified three broad areas in need of reform. These are: first, training and continued quality assurance referenced by our conclusions numbered (2), (3) and (8); secondly, access, referenced by our conclusions (4), (5), (6) and (7); and, finally, the dual role of representation and regulation, as well as complaints and discipline referenced by our conclusions (9) and (10).

4465 Looking first, then, at training and continued quality assurance, Hon. Members, the last substantial inquiry into legal services in the Isle of Man was led by Sir Cecil Clothier more than 30 years ago. The Committee recognises and agrees with the conclusion reached in the Clothier Report that:

... it is in the Island's best interests to preserve the distinctive character of its legal system.

4470 The Clothier Report based this conclusion on both practical grounds, recognising the upheaval involved in abandoning our system, but also the advantages of our freedom to legislate to suit our own needs. In particular, Clothier cited at the time the Island's status as a financial centre and its prosperity being dependent on Government policy, supported by the ability for us to make our own legislation. However, Clothier also recognised, and we reflect this in our Report, that with the exception of land law where we do have many more differences due to historic developments during the Viking period, in many areas of law such as contract, tort, commercial law and family law, the law of England and Wales has been adopted with whatever modifications are necessary to suit local requirements.

4480 Recognising the importance of an understanding of the law of England and Wales, our own Isle of Man Advocates Admission Regulations require those at the outset of their career to obtain either a law degree, or a non-law degree followed by a law conversion course and then a one-year vocational course, which is typically either the Legal Practice Course in England or Wales to become a solicitor, or the Bar Vocational Course to practise at the Bar of England and Wales. The final part of the route to qualification is hands-on work experience. As an alternative to continuing the qualification process in England and Wales to finally qualify as a solicitor or barrister, those at

4485 the outset of their career *could* at this point come to the Island and complete a two years' training contract with a local firm and sit the Manx Bar exam in order to qualify as a Manx advocate.

It is worth highlighting that the two-year training period work experience is a feature of other systems for those at the outset of their career and, Hon. Members, an important part of learning to study to apply the study of law to the reality of practice. Your Committee, however, would distinguish this approach for those embarking on their career with those who are experienced practitioners – a group I will return to talk about shortly.

4490 Clothier highlighted problems with the training provided to local trainees, noting a lack of formal structure at the time for training, a lack of formal advocacy training and the absence of textbooks and scarcity of other written materials relating to Manx law. Since that time, there have been some notable improvements. We now do have Manx Courts reports online and an up-to-date legislation database. The Isle of Man Law Society does now run more training courses, including in the skill of advocacy; and in our Report we recognise that the Law Society, with the help of the judiciary, does the best with the resources it has.

4495 However, there remains a scarcity of textbooks and an over-reliance on, as Clothier put it, acquiring a knowledge of Manx law:

... mainly by absorption in practice, which is not on its own considered to be an adequate method of learning.

4500 Nearly 30 years later, this was reflected in evidence to us from the Law Society with express acknowledgement that it is not easy to find sources of Manx law.

By contrast, during the Inquiry, we noted with interest the Institute of Law in Jersey, which offers structured tuition and publishes Jersey Law study guides. Hon. Members, the continued absence of authoritative textbooks on Manx law, including commentaries on how our statute and case law differ, is not only detrimental in terms of proper training for aspiring advocates, it is also important more broadly to enable others who want to understand Manx law to be able to do so and indeed to support the retention of our unique system.

4505 A further matter recommended by Clothier was that the Manx Bar exam should concentrate on the *differences* between Manx law and that elsewhere. In evidence to us, the First Deemster agreed that that is supposed to be the focus of the Manx Bar exams; commenting that whether it does that at the moment is arguable.

Our second conclusion, that the training system for Manx Advocates is out of date and insufficient reflects these concerns. We note the Government's agreement with this in its response.

4515 In addition to these outstanding reforms, developments in England and Wales affect the main pipeline for qualification of new advocates here on the Island. The Solicitors Regulation Authority in England and Wales has developed its 'Training for Tomorrow' programme in response to a 2013 report of the Legal Education and Training Review, which called for a greater focus of regulatory attention on the standards required of solicitors, both at qualification and on an ongoing basis. A key resulting change is that, with effect from this autumn, the Solicitors Qualifying Examination (SQE) will come into operation providing a new and standardised route to admittance as a solicitor. The reforms in England and Wales also recognise that prospective solicitors need not necessarily have completed a degree provided they can demonstrate competency and skills of high enough standards to join the profession.

4520 Hon. Members, the vast majority of trainee advocates on Island complete their vocational training in the English and Welsh system and most foreign qualified lawyers based in the Isle of Man are from England and Wales. For these reasons, our third conclusion is that the system for qualifications should be brought into line with the qualification system in England and Wales. The Council of Ministers, in its response to this conclusion, has cited that the current system of qualification in the Isle of Man is rigorous and ensures a consistently high standard for all those who wish to practise at the Manx Bar and that, in its view, the new SQE test will consist of multiple-choice questions and will lessen the quality of the Manx legal profession in general.

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We would question this in light of the commentary already made and agreed with by the Council of Ministers, about the adequacy of the current training system for Manx advocates. It is also important to note that the central aim of the Solicitors Regulation Authority is to enable more routes to qualification as a solicitor, including adopting a more flexible approach that will allow individuals to combine study with working, whilst maintaining rigorous standards and, through the SQE, having a consistent means of assessing this. We have also noted that the Institute of Law in Jersey has already established a partnership with a training provider to help students prepare for the new SQE. However, having said that, we welcome in our Report the fact that work is under way by the Isle of Man Law Society to modernise the exam syllabus and reform its system of qualification. We also welcome that this matter as an identified area for reform will be addressed, if supported today by this Hon. Court, in the independent review we advocate as our central recommendation. Thus the Committee can agree the proposed amendment to our third conclusion.

Linked to addressing the qualification route and adequacy of initial training is the matter of ongoing quality assurance. Unlike in neighbouring jurisdictions, there is no requirement for Manx advocates to undertake continuous professional development, and while the Isle of Man Law Society does run training courses, attendance is not compulsory. There is a practice rule that states that advocates must only practise in areas of law in which they are competent to do so, but there is no active monitoring of advocates to ensure they do keep themselves up to date, and thus no clear way of demonstrating to the wider public that an individual remains competent to offer legal services in the Isle of Man.

Our eighth conclusion, that a system of Continuous Professional Development should be introduced, seeks to address this. We welcome the Council of Ministers' support for this and would look to the output of an independent review on this point, to result in a system which should not simply tick a box, but be a meaningful way of requiring ongoing training and providing quality assurance.

Now turning to our second broad theme, that of access. In the course of our Inquiry, we considered the variety of ways in which different groups are able to have access to provide legal services on the Island and the way they are regulated. We identified a number of anomalies that we found difficult to rationalise or justify. We also found that such anomalies create, in some cases, unnecessary access hurdles and result in an absence of local regulation of some providers of legal services. Our conclusions (4), (5), (6) and (7) all speak to these matters.

When considering access, we consider it important to distinguish between those at the start of their legal career and those who have been in practice elsewhere and thus have experience – in some cases, considerable specialist experience. Our concerns thus relate particularly to lawyers who have qualified elsewhere, typically England and Wales, and have gained professional experience often having specialised in a particular area of legal practice. The present position of requiring practitioners qualified elsewhere who wish to become a Manx advocate to take all the heads of the Manx Bar exams, as well as undertake a one-year training contract in a local firm, seems to be disproportionate if that individual would in fact intend to practise only in his or her area of specialism on the Island. Indeed, the present system already recognises that passing the Manx Bar exams and a training period is not required as a gateway to other roles in our legal services system, suggesting that a more nuanced approach could be more widely adopted.

Hon. Members, using the analogy of a door: for *some* the door is currently wide open, and it is possible to walk straight in and be part of our legal services. A good example is off-Island Panel Deemsters who are not required to be qualified Manx advocates. This is also true of other roles, such as the Legal Aid Certifying Officer, the Judge of Appeal, the Attorney General. What matters, quite rightly, in the view of your Committee, is sufficient relevant experience and competency for the post.

There is then a group for whom the door is relatively easily opened to access a particular area of legal practice. This applies in the case of those coming from off Island to be prosecutors, for whom there is currently a legislative carve-out in that they do not have to sit the Manx Bar exam

4585 and, following a three-month training period, are able to appear in court. But the scope of their practice is limited to the criminal bar. Again, the Committee believes this is a pragmatic, proportionate and appropriate approach.

4590 However, in the vast majority of other cases, we do not permit access to the Manx Bar in such a proportionate and targeted way. Thus we have foreign-qualified lawyers working on the Isle of Man who are not members of the Manx Bar and who are thus not able to become partners or directors of their firms and also who, in many cases, are not subject to personal regulation on the Island. The relevant regulator is that in the lawyer's home qualification jurisdiction, an unsatisfactory situation, we would suggest, where they are providing legal advice on Manx law to Island clients.

4595 The picture is further complicated by the category of Registered Legal Practitioner (RLP). This is a group of people who have not qualified in the Isle of Man but who are working as lawyers here and who apply to register as a registered legal practitioner under the Legal Practitioners Registration Act 1986. RLPs are not able to conduct proceedings in Manx courts or prepare documents relating to Manx real estate, as these are areas of practice reserved for Manx Advocates, but they *are* able to draw instruments relating to personal property.

4600 Registered legal practitioners may become associate members of the Law Society – and in our Report at the time of writing we noted, there are 28 – and they may be brought before the Island's Advocates' Disciplinary Tribunal on *some* matters, but we would suggest that the current operation of the Legal Practitioners Registration Act is not fit for purpose and should be reformed.

4605 In addition to these problematic inconsistencies in regulation and oversight, we consider that our present restrictive approach to access risks limiting economic growth. The Clothier Report noted in 1990 that with, and I quote:

the desire of Government to attract financial concerns of substance to the Island, there is some evidence to suggest that the profession is not producing sufficient people qualified to advise and represent clients on matters involving complex and weighty financial disputes.

Clothier also noted that there was:

... also evidence to show that the supply of suitably qualified people is increasing and that the situation has been alleviated by the appearance of several firms of English Solicitors.

4610 We note that the Manx Bar has grown since then and now there are more specialist practitioners today, albeit not always members of the Manx Bar. But, Hon. Members, we should not rest on our laurels. On the contrary: we should look to how we can expand this area of the economy. As Hon. Members are aware, work is now under way to develop an Economic Strategy for the Isle of Man as well as ongoing work by the Finance Agency to drive forward new business opportunities. The legal services to support and facilitate new economic activity is a key part of  
4615 attracting business here, and as Mr Kermeen of Keystone Law pointed out in his evidence to the Committee:

... the more of a drive there is to having real substance in the Isle of Man, the more you are going to need to see lawyers who have the expertise to service that.

**A Member:** Hear, hear.

4620 **Mrs Poole-Wilson:** Hon. Members, the law has become increasingly complicated with the consequence that commercial practitioners will often specialise and their clients will expect access to high levels of competence across a range of technical and specialist areas: commercial law, pensions, intellectual property, employment law, trusts, tax, and so on.

4625 The present rules on access for experienced practitioners is overdue for reform and is problematic both from an economic and regulatory perspective. We identified proposals to address these issues, which we set out in our conclusions numbered (4) to (7), namely: that there

be a system of practising certificates for Manx Advocates and others practising on the Island; that the process for requalifying as a Manx advocate for barristers and solicitors from other common law jurisdictions should be simplified; that it should be possible for legal practitioners to be given automatic temporary licences, giving them right of audience in the Isle of Man courts if they are briefed by a Manx Advocate; and, that registered legal practitioners should be classed as Manx advocates with a restricted licence based on demonstrable experience and expertise.

*None* of these conclusions seeks to dilute the quality and robustness of the Manx Bar. On the contrary: by recognising the experience and expertise of practitioners from elsewhere and adopting a proportionate and tailored requalification process to enable them to join the Manx Bar and to be licensed to advise on their particular area of expertise, a matter which could be expressly set out within a practising certificate, we have the opportunity to develop our legal services market to the benefit of consumers and our wider economy. We would also have the opportunity to have a more joined-up system that would expand the membership of the Manx Bar, provide for the local regulation of individual lawyers advising on Manx law and provide transparency regarding individual advocates' areas of specialism.

We note in its response to our conclusion, the Government expresses support for improved consumer protection through increased professional oversight for Manx advocates and others practising on Island. We also note some of the questions and notes of caution raised by the Government regarding adopting a more straightforward route for practitioners from elsewhere requalifying, including the idea of registered legal practitioners being able to be classed as Manx advocates with a restricted licence linked to their expertise. We would suggest that our proposals for a more nuanced and targeted approach to requalification and scoped practice certificates would be an improvement and consistent with the open-door approach we already have for certain roles in our system.

So whilst we would differ on some of the commentary in the Government's response, we are able to accept the proposed Government amendments, as they acknowledge all these matters as important areas to be addressed through an independent review.

Hon. Members, our final area of concern is that of representation and regulation, complaints and discipline. This is also an area in which reform is long overdue. Our ninth conclusion is that the Law Society should not be the representative body *and* the regulator, and we welcome the Council of Ministers' recognition of the inherent conflict position and support for including this area of reform within the independent review. This matter and the matter of complaints and discipline are all areas when neighbouring jurisdictions have either already progressed reform or are in the course of doing so. Hon. Members, it is important that in this, as in other areas, we now do see meaningful reform.

As regards regulatory separation, the Clementi review into the position of regulation and representation in England and Wales in the early- to mid-2000s, led to the separation of representation and regulation for solicitors in England and Wales. Ireland took a similar step in 2019 setting up the Legal Services Regulatory Authority as the independent regulator of solicitors and barristers. Of course, our size and scale is relevant to the approach we adopt here, but the principle – as referenced earlier by my hon. colleague, Mrs Lord-Brennan – of robust and effective separate regulation is an important one, and one which we consider should be embraced as part of reform.

As regards complaints and discipline, the evidence we heard left us in *no* doubt that there is considerable scope to improve the current position. Presently, the Isle of Man Law Society requires firms to have an internal complaints procedure but offers no guidance as to what it should contain, nor performs any quality checks on internal complaints handling. We were also unclear how effectively the internal complaints procedure works with regard to sole practitioners, commenting in our Report that we understand the complaint should be referred to an advocate in another firm, but otherwise that there is no specific guidance provided by the Law Society to sole practitioners on how to deal with complaints.

4680 In its recently circulated response to our Report we note that the Isle of Man Law Society plans to issue guidance on this area. Such steps to effect improvements pending the outcome of the review are, of course, welcome. The Isle of Man Law Society also advised us that if a client was dissatisfied with how a firm had handled their complaint, they could approach the Law Society and make use of their conciliation service. We understand that this service is provided by a conciliator who is *not* an advocate or a member of the Manx Bar and that the Chief Executive Officer and the Law Society Council is not involved in any way. Nonetheless, we believe there is a risk of a perception of conflict of interest as this service is provided by the Law Society.

4685 Hon. Members, I was actually telephoned yesterday by an individual to ask for my help, because the firm about which the person wanted to raise a concern, they were worried would not be listened to by the Law Society because of the membership of one of those partners on the Law Society Council. This is a real issue that our citizens do come across here. **(Several Members: Hear, hear.)**

4690 We also understand that the conciliator produces an annual report for the Law Society and any issues in it are raised with the relevant committee of the Law Society and dealt with where appropriate through training. However, there is no publication of the outcomes of complaints, meaning that the wider public cannot easily find out how and whether complaints have been dealt with. **(A Member: Hear, hear.)** There is also no provision for recompense. While we support the provision of a conciliation service, we do not believe it should be the final step for all service complaints before an individual is forced into litigation. The Law Society has suggested expansion of the conciliation service to include a more formal way of resolving complaints. We would suggest that it would need to be administered separately from the Law Society in order to work most effectively.

4700 Separately, complaints about professional misconduct are dealt with by the Advocates' Disciplinary Tribunal, the ADT. Unless there are exceptional circumstances, the Tribunal does not generally deal with matters such as negligence, breach of contract, compensation claims or disputes over advocates' bills and charges. The complaint has to be against a named advocate, and since 2017 a complaint now usually has to be brought against the complainant's *own* advocate. As I explained earlier, there is no requirement for foreign-qualified lawyers who are not Manx advocates to register as a registered legal practitioner; and, if they do not, they will not be subject to the disciplinary regime here. A better model, we would suggest, is that all lawyers working in the Isle of Man and advising on Manx law are subject to some level of personal regulation on the Isle of Man.

4710 There are a number of other shortcomings in the present model for complaints handling and discipline detailed in our Report. In summary, these include the lack of a single entry point for complaints; difficulty in distinguishing in practice between professional misconduct and other complaints such as poor service provision; and a multiplicity of disparate rules governing the conduct of advocates, which makes it difficult for even *lawyers* – as one of them in fact wrote to me to point out – let alone consumers, to navigate the system.

4715 Of further concern, the Committee noted that reforms to the Advocates' Disciplinary Tribunal recommended in the Calcutt Report some 20 years ago remain outstanding. This Report was produced by a Legal Services Commission chaired by Sir David Calcutt and tasked with investigating and reporting on the regulatory and disciplinary procedures applicable to those practising law in the Island. Calcutt concluded that the ADT could not be considered to be independent and impartial within the terms of Article 6(1) one of the European Convention on Human Rights and that it was, quote, 'over-lawyered'. Recommendations to address this included reducing the number of members of the ADT from five to three; that the Chair should not be a practising lawyer or come from a legal background; and of the other two Members, that one could be a practising lawyer, but the other should not have a legal background; that appointment should be for a maximum term of five years; that there should be a pre-hearing assessment stage; that hearings should be in public; and that levels of fines and penalties should be kept under review.

4725 Hon. Members, we have made no progress on those reforms.

4730 Our 10th conclusion, that the disciplinary system for advocates should be reformed, and in particular the ADT in its current form should be abolished, reflects this now long-overdue reform. We note the Government's proposed amendment and the Committee again welcomes that there is recognition of the need for reform and that such reform should be brought forward as part of an independent review.

4735 Hon. Members, I thank you for bearing with me, but I felt it was very important to articulate the many aspects of this Inquiry and why we have brought forward our conclusions in the way we have. Our final conclusion and our central recommendation for an independent review of the regulation of legal services in the Isle of Man to include options for implementing reforms is, we note, supported by the Council of Ministers. Their proposed amendment, we do support, given it reflects the key goal of the Committee, embraces bringing forward options for reform of the areas identified and includes an earlier reporting deadline.

4740 Hon. Members, the Calcutt Review published in 2001, recommended there be a review of legal services every 10 years. A review is thus overdue. However, any review must be supported by action to implement its output. This Committee's First Report recommending that there be ministerial responsibility for justice was supported by this Hon. Court and this executive responsibility will be important to ensure commitment to the delivery of reforms in due course.

4745 In addition the Constitutional and Legal Affairs and Justice Committee will, I hope, going forward, take an active role in scrutinising the progress of implementation of recommended reforms.

4750 This has been an extensive Inquiry and I would like to thank fellow Committee Members, the Hon. Member for Douglas East, Mr Robertshaw, and the Hon. Member for Ramsey, Mr Hooper, for their work throughout. I would also like to thank, latterly, the Minister for Justice and Home Affairs who, unfortunately, is not with us today, as well as the Minister for Policy and Reform for their full engagement with the Committee and the opportunity to discuss our conclusions and our thinking.

4755 On behalf of the Committee I would also like to thank our Clerks for their enormous work effort and support. I would like to highlight the extensive contribution in particular of Francisca Gale, Inge Perry (**A Member:** Hear, hear.) and Rachel Mundilo.

4760 Finally, I would also like to thank the Law Society for its extensive engagement with the Committee during this Inquiry. We recognise that there is work ongoing by the Law Society to undertake reform. I hope, Hon. Members, that if our Report is supported today, we can all look forward to the proposed review getting under way and for accelerated positive reform to address the areas we have identified for improvement, as well as to harness the economic opportunities for future legal services growth.

4765 Thank you, Mr President.

**The President:** Thank you, Hon. Member.

Hon. Members, this would be a good point at which to take our refreshment break. The Court will now adjourn until 10 minutes to six.

Thank you.

*The Court adjourned at 5.23 p.m.  
and resumed its sitting at 5.52 p.m.*

### **Announcement of Royal Assent**

4770 **The President:** Hon. Members, before we resume the debate on Item 6, I can announce that Royal Assent has today been given to the Communications Act 2021, the Elections and Meetings (Local Authorities) Act 2021 and the Medicines (Amendment) Act 2021.

**Members:** Hear, hear.

**Constitutional and Legal Affairs and Justice Committee –  
Debate continued –  
Motion carried**

4775 **The President:** Now I call the Hon. Member for Douglas East, Mr Robertshaw.

**Mr Robertshaw:** Thank you, Mr President, and I take real pleasure in seconding the motion before Hon. Members.

4780 Our Chairman has presented the case with her usual absolute clarity and therefore I will not return to the specific areas that she has highlighted to Hon. Members. With your permission, Mr President, I will allow myself a little bit of latitude here and go slightly broader.

4785 I think what I want to pick out is this whole issue of time: how long it has taken us to get here. You will recall our Chairman talked about the Clothier Report 1990 – that is 30 ... 31 years ago, I got that right! – and Calcutt, 20 years ago. For me this started when I first stood for the House of Keys in 2006 and there were two stand-out issues as I was canvassing that struck me very forcibly. One was the issue of a limited number of landlords who were conducting themselves in an unacceptable way, and it is only now that we are struggling to get to the point, with some issues still to recover about the interrelationship of the Equality Act with the Landlord Bill; but the other one, the big one, was a feeling that people were unhappy about how legal services were working for them, and that kept coming back.

4790 On the occasions since then that I have canvassed as the various general elections went by, the same thing has come up and up and up again. For that reason it has always been a matter of deep concern to me. It would be easy to blame the legal profession, but I think that would be wrong because if we reflect back I think we as an Hon. Court recognised the fact that there was a gap in what we were doing. Hon. Members, you will recall that you recognised that also and a few years ago introduced the Constitutional and Legal Affairs and Justice Committee. In turn, the Constitutional and Legal Affairs and Justice Committee recognised that there was nothing opposite us on the executive side and, again, Tynwald recognised that and introduced the Minister for Justice.

4800 I have to say that when I first heard the Chief Minister announce that we were going to get the Minister for Justice I thought the Chief Minister was ticking a box and I thought, wow, this is not going to get us very far. Well, how wrong can you be, and I look at the Chief Minister and say, I was wrong!

4805 **A Member:** Ooh!

**The Chief Minister:** It is a good job I was sitting down, isn't it! *(Laughter)*

4810 **Mr Robertshaw:** Because I want to bring forward this motion before you today, the process that we have gone through to get to the point where we are really addressing the issues that we need to address. Let me be frank, when the Constitutional and Legal Affairs and Justice Committee first sat down it was almost overwhelming, wasn't it, the amount of work that was before us and this is only step one really, but an important step forward.

4815 But I was really pleased with the way the executive, through the Minister for Justice – and although he is not here, I hope he can hear me. *(Interjection)* He can. There is little joke between us because I got into the habit when we were on virtual meetings that I would often start, Mr President and Mr Speaker, you will recall, with 'Can you hear me?' and every so often I would

4820 get a text from the Minister for Justice saying, ‘Can you hear me, mother?’ and there was a wind-up joke going on there. So I do hope that the Minister for Justice can hear me now and a little wind-up for him, I hope he is keeping at least *one eye* on us today – if anybody knows why he is not with us. He will understand that. (*Laughter*) That took time, didn’t it! (**A Member:** Oh, my Lord!)

4825 But I really am grateful to him and the sub-committee for the engagement. To me, it has been the epitome of how the policy review process should work with the executive. There were differences between us, we worked those through and we got to a point where we could meet on the amendments to be brought forward by the Council in the form of the Minister for Policy and Reform this afternoon. So the work begins, and what an awful lot of work there is. I do hope that Hon. Members can support both this Report and the amendments today.

4830 I want to, in closing, just say something else. Normally it is up to the Chairman to thank everybody, as she has done, for the work put into this but I want to take the opportunity to thank the Chairman, (**Several Members:** Hear, hear.) because she has done an absolutely remarkable job on this – endless, endless hours – and we owe her true thanks for that. (**A Member:** Hear, hear.) Also, as I said, CoMin.

4835 I am going to step outside of normal process slightly and also, as he arrives at his remaining months, I would like to thank the Clerk of Tynwald for his tremendous commitment to the Committee in the work that he helped us with, and I hope he looks back with some satisfaction in his retirement on where the Constitutional and Legal Affairs and Justice Committee started, where it got to, and perhaps hopefully he and I when we are sitting in our retirement can see continued excellent work on the part of the Justice Committee.

4840 So with that, Mr President, I am very happy indeed to second.  
Thank you.

**The President:** Hon. Member for Peel and Glenfaba, Mr Harmer.

4845 **Mr Harmer:** Thank you, Mr President.

Obviously, I am providing a response today, because unfortunately, the Minister for Home Affairs and Justice is self-isolating, but I would echo the thanks to the Committee for their work in looking at the legal services in the Isle of Man. They have spent an enormous amount of time considering the matter diligently, and put a good deal of thought into their recommendations.

4850 This is the first major matter to be considered by the Council of Ministers’ Sub-Committee on Justice, and I would also like to thank the Committee for their work in advising the Council of Ministers on the most appropriate responses. I would especially like to thank the Member for Douglas North, Mr Peake, and the Member of Council, Mrs Sharpe, for their input that they have provided from their respective Departments to the Council of Ministers’ Sub-Committee on Justice.

4855 Both I and Minister Cregeen have had useful engagement with the Tynwald Committee on the Report, and I am grateful for the constructive approach they have taken. Whilst we do not see eye to eye on some of the recommendations or wording on some of the conclusions, I think we broadly agree on the direction of travel. For that reason, I know Mrs Poole-Wilson, as Chair of the Constitutional and Legal Affairs and Justice Committee, has agreed to support the amendments to the recommendations proposed by CoMin.

4860 Mr President, to summarise, the Council of Ministers supports the approach of the Committee that an independent review of legal services in the Isle of Man takes place and that the review will address the main points in the Report and offer options for implementation where appropriate.

4865 I think it is important to say for *Hansard* that the Council of Ministers agrees that the legal services in the Isle of Man are in need of reform, but the Report’s conclusion that the legal system in the Isle of Man is in urgent need of reform does not give an accurate reflection of the area of the Committee’s concerns. In discussions with the Committee, we raised the issue and agreed, on reflection, it had not been their intention to make such a broad and far-reaching statement.

4870 Language is important, Hon. Members, as is the impression we give to those who might wish to do business here and who rely on the rule of law here to be free, fair and impartial.

For these reasons, Council of Ministers seeks an amendment to this recommendation. We cannot consider legal services in the Isle of Man without also reflecting on the role of the Law Society. I am aware they have strong views on the Committee's Report. I do believe that the issue of how advocates and other legal professionals practising in the Isle of Man are regulated needs to be examined. I share the views of the Tynwald Committee that the idea of a society which is a regulator and also the representative body does not sit comfortably with me. (A Member: Hear, hear.)

4880 I do hear the views of the Law Society who argue that the scale is an important issue to consider when looking at the subject, but it is still an area of concern. The Law Society plays a key role in the education and development of advocates in the Isle of Man and in access to the Manx Bar. So I am pleased that the Law Society has committed to implementing the planned reforms to the education and qualification roles, reflecting the changes made to the entry requirements to the legal profession in England and Wales. This addresses the recommendations made by the Committee in this respect and the Council of Ministers seeks to amend the recommendation to direct the Law Society to make the changes as soon as possible. I am also pleased that the Law Society will be addressing the issue of continued professional development for its members, and I look forward to hearing their plans for this in due course.

4890 Now turning to the matter of eligibility to practise in the Isle of Man. This is a theme which spans several of the recommendations, particularly those linked to practising certificates, entry to the Manx Bar for those already qualified and temporary rights of audience. These are complex issues and reflect both the constitutionally separate position of the Isle of Man and also the specific nature of our economy. They also correctly capture issues relating to the protection for customers – a point which is often missed when considering how best to regulate legal services. 4895 For that reason, the Council of Ministers is grateful to the Committee for highlighting the issues in these areas and supports further investigation by independent review.

Finally, turning to the matter of the disciplinary system for advocates and the recommendations of the Committee for the abolition of the Advocates' Disciplinary Tribunal. The Council of Ministers acknowledges that this is an area in need of reform. Council believes that any new system should be more transparent and the constitution should be properly considered. At this stage Council requires further information to inform a decision as to whether the Committee itself should be abolished and, if so, how it should be replaced. So the Council of Ministers supports this matter being included in the scope of an independent review.

4900 Mr President, to conclude, this Report on legal services in the Isle of Man is welcome and timely. I am grateful to the Committee for their consideration of the matter. The legal profession in the Isle of Man plays a vital role in driving our economy, providing independent and expert legal advice to those in commercial and family disputes and, importantly, representing those accused of committing a crime, ensuring that justice is seen to be free, fair and available to all.

4910 Legal services sits within the broader legal system in the Isle of Man. Hon. Members, this is important. Our legal system is fundamental to our constitutional position, our society and our economy. It is the bedrock of who we are and what we stand for. It is right, therefore, that those who practise law in our Island and the framework with which they operate are subject to scrutiny and review, and the customers offered appropriate protection and the best choice. I hope that the independent review will consider and address these issues raised by the Committee and identify appropriate options to introduce change where needed. I can commit to this Hon. Court that the review will be concluded no later than December 2021.

4915 I therefore, Mr President, would like to move the following amendments that have been circulated in my name on behalf of the Council of Ministers and its Justice Sub-Committee.

Thank you, Mr President. I beg to move:

*As amendments to the motion:*

*Recommendation 1*

*To leave out all words and insert the words “Aspects of the Manx legal services framework are in need of review and that the Council of Ministers is committed to ensuring that reform is considered and undertaken following such a review;”*

*Recommendation 3*

*To leave out all words and insert the words “Tynwald should note the changes being made to the entry requirements to the legal profession in England and Wales and directs the Law Society to revise its system for qualification to ensure there remains a clear path to qualification for Manx students which addresses the issue of a route to the Manx Bar for those without a legal degree;”*

*Recommendation 4*

*To leave out all words and insert the words “The use and value of practising certificates for improved consumer protection and oversight of all who practise law on the Island, including barristers and solicitors from other common law jurisdictions, should be explored by an independent review into the provision of legal services in the Isle of Man;”*

*Recommendation 5*

*To leave out all words and insert the words “The process for re-qualifying as a Manx advocate for barristers and solicitors from other common law jurisdictions should be explored by an independent review into legal services in the Isle of Man;”*

*Recommendation 6*

*To leave out all words and insert the words “An independent review should assess whether the current system of right of audience requires amending and, if so, what alternatives there may be to this system;”*

*Recommendation 7*

*To leave out all words and insert the words “The process by which non-Manx qualified legal professionals are permitted to practise on the Island and how they are regulated should be considered by an independent review of Manx legal services;”*

*Recommendation 10*

*To leave out all words and insert the words “The disciplinary system for advocates should be reformed and that this should be considered as part of the independent review of legal services on the Isle of Man;”*

*Recommendation 11*

*To leave out all words and insert the words “The Council of Ministers should commission an independent review of the regulation of legal services in the Isle of Man, chaired by a person who has not practised law in the Isle of Man. The review should also consider options for implementing identified reforms.*

*The Review should report by December 2021.”*

4920 **A Member:** Hear, hear.

**The President:** Hon. Member, Mrs Barber.

**Mrs Barber:** Thank you, Mr President.

4925 The only thing I would say is just to reiterate the comments by Minister Harmer, but also to pass on Mr Cregeen’s apologies that he cannot be here in person but he very much did want to be here and be part of this debate, and supports very much the work of the Committee and the collegiate way in which it has been approached to come up with recommendations and amendments to them that everyone can coalesce around.

4930 So thank you and I second the amendments.

**Mr Harmer:** Hear, hear.

**The President:** You second, thank you.

4935 Hon. Member of Council, Mr Greenhill.

**Mr Greenhill:** Thank you, Mr President.

4940 I would like to thank the Constitutional and Legal Affairs and Justice Committee for their very thorough and in-depth Report containing a number of recommendations on changes that will help to protect citizens *and* companies on Island, and also to encourage economic growth on Island.

I am extremely pleased that this Report has been reviewed in detail by the Law Society and that, following discussions with CoMin, a number of suggested amendments have been made and then agreed by all three parties. This reform of legal services is very welcome and is overdue so I believe this is a major step forward.

4945 Thank you.

**The President:** Hon. Member for Middle, Mr Shimmins.

**Mr Shimmins:** Thank you, Mr President.

4950 I would also like to thank the Committee for their considered and comprehensive report. The Isle of Man legal profession is a closed shop. A number of my friends, good friends, are lawyers and they freely acknowledge this fact; and there are pros and cons of a closed shop, Hon. Members. Most of the pros tend to favour the members of the closed shop. In this day and age closed shops are really increasingly unacceptable and calls for change are difficult to resist.

4955 The Chair of the Constitutional and Legal Affairs and Justice Committee is aware that I have constituents who have significant grievances about the conduct of Manx advocates. They have raised Tynwald petitions and provided evidence to a Select Committee, and it is clear if you read the extracts that they have no confidence in the Advocates' Disciplinary Tribunal. They do not feel it is impartial and they are concerned about cronyism and a kind of 'good old boy' mentality.

4960 So Recommendations 9, that the Law Society should not be both the representative body and the regulator, and 10, the disciplinary system for advocates should be reformed and, in particular, the tribunal in its current form should be abolished, I think are absolutely the way to go and I fully support those. Indeed, I support all the Recommendations being brought forward by the Committee.

4965 The Chair highlighted, I think, for me two items of important context. Firstly, that the calls for change in this area are not new, and they have been going on for a long time – 20 years since the Calcutt Report and my hon. friend from Douglas East, Mr Robertshaw, talked about 30 years for other reports. It seems that actually not that much progress has been made in tackling some of the fundamental issues here. So that, I think, is really important context.

4970 The second context is actually when you do this sort of jurisdictional benchmarking, it does appear that, regrettably, the Manx Bar has fallen behind practice elsewhere in similar places and neighbouring jurisdictions. I think that is unfortunate. But as I say positively, I am very supportive of the Recommendations being brought forward and I think this will actually assist the Manx legal profession. I understand they have got reservations, but I think in the long term they will be greatly beneficial for the Manx legal profession because there is a danger in any closed shop that you become complacent; and famously, complacency breeds failure and complacency can be the death of innovation. Complacency is not good for anyone, whether you are inside or outside the legal profession, and a strong and successful Manx Bar is an essential component of our national and legal independence.

4980 I look forward very much to the independent review and, given the importance of this matter and the established models and recent reviews elsewhere, I do think this should be relatively straightforward and, for me, this should take months not years. So I also welcome my hon. friend Mr Harmer's amendment, which brings the date for that review forward to December 2021, rather than July 2022.

4985 In summary, I would conclude by saying speedy reform will be greatly welcomed by the wider Manx community, but it will also enable the Manx legal sector to prosper long-term in a more balanced way.

Thank you, Mr President.

4990 **A Member:** Hear, hear.

**The President:** Hon. Member, Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.

4995 I was also going to talk about Recommendations 9 and 10 just very briefly, because I think this matter about the Advocates' Disciplinary Tribunal has probably been brought to the attention of various Members in different ways (**A Member:** Hear, hear.) of being really serious and almost as part of some kind of deeper darker systemic issue where people cannot get redress that is symptomatic of an industry where, to put it kindly, it has fallen behind the times. It is not surprising because there has been no way to kind of get fresh blood in. It has felt like a closed shop.

5000 I hope actually following this it is going to support younger people coming into this industry to revitalise it and shake it up in a different way that is not just about an offshore jurisdiction doing its behind-the-scenes corporate stuff. Because if you are a student at university and you are thinking about coming back to the Island, by the time you have done your degree and maybe you need to do a conversion course if you have not done law and then you need to do an LPC, the idea of doing the Manx Bar on top of that, people just are not going to do it actually, so many people close that door. So I really welcome that reform.

5005 I congratulate very much the Chair. I actually think that it is only Mrs Poole-Wilson that could have brought this forward (**A Member:** Hear, hear.) and the Committee has done a great job in a really complex and thorny, potentially controversial area. In that respect also I think the way that the Council of Ministers have been able to respond to that through the Minister for Justice, who I have also found to be very collegiate and collaborative, certainly in dealing with legislation in the Branches, I think all those things coming together will make a difference.

5010 But it really does show how much we need this Constitutional and Legal Affairs and Committee to continue doing the work it is doing, because these issues have been, some of them, identified before so it is going to take keeping an eye on over the period of time. But it is very good that this stuff will be advanced with the review reporting in only a few months' time. I think that is largely to do with the good solid base of the Committee's work, so well done, thank you for providing that redress and opening up for the industry.

5020 Thank you, Mr President.

**The President:** Hon. Member, Mr Thomas.

**Mr Thomas:** Thank you, Mr President.

5025 The preliminary point I would like to make is that in those three decades since the Clothier Report, we should all acknowledge that the legal profession in the Isle of Man has mushroomed in size and somebody should put that on record, and I am doing that. We have now got many more advocates on the Isle of Man than we had three decades ago. At the beginning of elections in the Isle of Man we used to have elections on several days because there were not enough advocates to help us with the process of elections. Now we have got hundreds of advocates working from the Isle of Man, and that should be put on record because it leads to substantial export revenues for the Island in the services sector, and it is important to say that and not only leave the bad stories.

5030 I am, like many of you here, inundated with constituent issues and more general all-Island issues from the other side, but I also think it is important to celebrate the success over those three decades of the new lawyers and the new firms. It is a place where lots of young people can be in

their career very successfully on the Island, and I can think of lots and lots of examples of that, some of whom were very disappointed to read what was being read in this Report, so they are very considered about it.

5040 The second point I wanted to make, and I hope the Committee will take this in the right spirit, but part of the issue with the Law Society's disappointment just before Christmas was that they felt that their submissions were going nowhere for a couple of years because they were not being published. So I would like us all to think about when we do committee work, might it be better to actually publish on receipt the evidence that is submitted from people so that we do not end up  
5045 with backbenchers getting pestered, or even Ministers getting pestered, to actually say, 'Where are our reports going? Is anybody reading the reports that we are submitting?' And so on. Because the only question we can ask of a committee is, 'When will you report?' It might be better for actual transparency in that process and that might have minimised some of the frustration that was held during 2018-19, even 2020, as this process ... It is only a small point, but it is something  
5050 that we can all reflect on.

The other point is that we can make anecdotal submissions about what legal services users believe, but I do not think as yet we have actually systematically surveyed legal services users, and that is a hell of a challenge to put to the Council of Ministers in this independent review; but I am a firm believer in evidence and there might be lots of people out there who are really happy with  
5055 the service they had from the legal community. We have not as yet fully explored that. It was beyond the possibility of the Committee. It is not a criticism of the Committee. You had lots of evidence, you had lots of submissions, but it is not the same as a stratified random sample. It is just a small point.

Also the fourth preliminary point is just that we have to look at ourselves as well as the Law  
5060 Society when we make suggestions about how we could have done things over the last decade better. So, for instance, I was a founding member of the reconstituted Legal Aid Committee 10 years ago. We have not exactly made great progress in terms of legal aid transformation over that last decade, which a lot of the Law Society time will have been sucked into dealing with that sort of issue. Likewise, more recently, with Public Defender Units. So sometimes we have to look  
5065 at ourselves when we offer criticism of other people, because this independent review has got massive challenges for the next six months, and there are lots more challenges behind that to do with the way that the legal system works in the Isle of Man.

In terms of the three themes that the Chair so eloquently laid out, in terms of the first two, qualification and practising and so on, I just wanted to put down the position that I hold, I believe,  
5070 which I am sure the independent review will consider.

My two points, which I have discussed at great length over the last 10 or 15 years, are that we first of all have to maintain standards in the legal services community; and, secondly, we have to make sure that we do have a body of Manx law where we need to have Manx law. We need to accept that you can be a Deemster, for instance, not necessarily being completely imbued in Manx  
5075 law, because a Deemster profession is about weighing up the different positions you have from different sides. But in certain areas of law you do need to have the Manx Bar, so we have got to make it right, that we make sure that we do actually acknowledge what Mr President put, which is, 'No legal system in the Isle of Man: no need for us,' to be frank. So there is that perspective as well. So I am pretty happy with those two themes, those two perspectives.

The one I wanted to raise is the same one that other people have been focusing on, which is  
5080 Recommendation 9. I think the words in the Council of Ministers' amendment need to be read very carefully. So basically the Council of Ministers has agreed that there is an inherent conflict in the dual roles of regulator and representative body and would support further consideration of this matter. This matter should be considered by the review so, to me, what they have actually  
5085 put down there is that there is still stuff to look at in this perspective.

And why might that be? Well, if we look to Scotland, in Scotland the Scottish Law Society actually has the regulator as a committee of the Law Society under statute. It is an independent committee, it operates independently, but it is a committee of the Law Society of Scotland. In

5090 Northern Ireland, the Law Society of Northern Ireland is still both the regulator and the  
representative body. This has been reviewed over the decades and there is research and findings  
that suggest it has to be thus in Northern Ireland to achieve the critical mass of a professional  
body.

5095 So to my mind, the independent review needs to look at that evidence and that analysis and it  
needs to be considered further. Perhaps the Isle of Man needs to look to Scotland and Northern  
Ireland rather than to England and Wales. So, as the Law Society put it in its submission to Council  
of Ministers in February, the Society suggests that it is not practical for the Committee to  
continually compare regulation of solicitors in England and Wales by the Solicitors Regulation  
5100 Authority, because that regulates around 55,000 solicitors, with the Isle of Man Law Society, which  
regulates 246 advocates. Then they go on and they basically say, in the conclusion of that  
paragraph which is right near the end of their submission, the Isle of Man is a small but pragmatic  
jurisdiction. Let's come up with small, appropriate, pragmatic responses, given the nature of the  
Isle of Man, which meet the inherent conflict objectives but do not actually end up with something  
that we cannot possibly sustain.

5105 With that, Mr President, I applaud the Council of Ministers and the Minister for Justice for  
working so closely to end up with a series of recommendations, and what is absolutely crucial now  
is for this independent review to reconsider the long list of issues that need to be considered very  
carefully, and then we need action to actually take things forward.

Thank you.

5110 **The President:** Hon. Member for Douglas South, Mr Quine.

**Mr Quine:** Thank you, Mr President.

May I too start by thanking the Committee for their diligence to their task and the hard work  
which they so evidently put into compiling their Report?

5115 Although I speak as a layman, I can say with certainty that our Manx legal system forms one of  
the many integral parts of our Manx identity and thereby, and without question, is one of our  
enduring strengths. This is something which was always championed by the Island's most  
distinguished advocate, Sir James Gell.

5120 I welcome the comments from the Hon. Member of Council, Mrs Poole-Wilson, when she  
makes reference to the fact that the framework of the Island's legal services is long overdue for  
reform and her assertion that such reform must therefore continue to ensure that the work of our  
practising advocates should be of the highest standard.

5125 Indeed, Mr President, I have received correspondence from a constituent who is employed in  
the legal profession and who makes that very same contention. I am therefore pleased that the  
Committee in their Report have identified such a continuous improvement programme which will  
thereby ensure the competency of all who seek to practise law. Therefore, I am pleased that,  
having reviewed the Committee's Report, the Council of Ministers have taken a pragmatic  
approach to it which they have highlighted in their response with a series of amendments I can  
fully support.

5130 Thank you, Mr President.

**The President:** The Hon. Member for Garff, Mr Perkins.

**Mr Perkins:** Thank you, Mr President.

5135 I rise and find myself concurring with the Hon. Member for Middle, Mr Shimmins.

Hon. Members, we have all had some pretty harrowing emails over the last few weeks  
concerning the legal process. I have had a number of other people contacting me directly about  
the system. Their concerns include adverse possession, the lack of understanding or non-  
consideration by advocates regarding the mental capacity of certain individuals. It is clearly set  
5140 out in the 1996 Mental Health Act, the requirements that should be observed. I am told of

problems with the Land Registry of proving ownership of a property, despite the fact the owner having deeds to show that this is indeed the case.

5145 Hon. Members, the common denominator in all these issues is members of the public being sucked into a legal battle through no fault of their own. (**A Member:** Hear, hear.) The side with the deepest pockets wins; the side that does not have deepest pockets loses all – and literally can lose all. To add insult to injury, the lack of recourse to justice or a totally independent review of the conduct involved with the whole process is sadly lacking. The disciplinary tribunal certainly needs abolishing and a complete open and transparent independent body put in its place.

5150 Let's not be stonewalled by the legal profession, because they are particularly good at doing that. There is serious work now required in conducting this review, and I would completely concur with the Hon. Member, let's get it done by December of this year.

Hon. Members, this affects real people and real lives. Hon. Members, I will be giving this my full support. Thank you.

5155 **The President:** I call on the mover to reply.  
Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President, and thank you to all Hon. Members who have spoken in the debate.

5160 I sense the full support for the Committee's work and that is greatly appreciated; and that the Court as a whole is behind the direction of travel and the desire to now see a review and reform progress. So I do not feel I have a case to make, as it were, if I were standing in a different type of court. I would just like to reflect on some of the contributions though, if I may.

5165 Firstly, to thank my seconder, Mr Robertshaw, who I think was spot on when he moved a motion to create the Constitutional and Legal Affairs and Justice Committee. And there is a lot to do. I am privileged and pleased to be able to chair this Committee and I hope the work that the Committee has done so far, and I hope will continue to do in the future, will really, as Mr Perkins has referenced, make a difference on so many levels to people's lives, but to the robustness of our system and the strength of our economy and future.

5170 I think he and others have reflected on the point of time, and I agree. These things take too long. I think what is different now going forward is that we do have executive responsibility and we have a Standing Tynwald Committee to provide parliamentary oversight, but we must progress now with action. So thank you to him.

5175 Also, it was my omission not to reflect, of course, on the Clerk to the Committee, Mr Roger Phillips (**Two Members:** Hear hear.) and I have found his insight, advice, support and unwavering ability to answer my endless questions of huge value, so I would like to personally thank him as well.

5180 I would also like to express again my great thanks to Council of Ministers and, in particular, the Minister for Justice and Home Affairs and the Minister for Policy and Reform. It has been a very constructive engagement. We have been able to understand and discuss the issues, and he is correct. We broadly agree on our direction of travel, and I am glad that we have been able to have a constructive debate here today that focuses on the next steps and action. So I welcome that engagement and that collaboration. I also absolutely, as others have said, welcome the suggestion of bringing forward the deadline, which I think speaks to the urgency that the Committee does believe applies in this situation.

5185 I would like to thank Mr Greenhill for his support; and Mr Shimmins, Hon. Member for Middle. He spoke on a theme that Mr Perkins touched on as well. There are *real* concerns from individuals. The Committee did not publish individual submissions, because for the obvious reason that where they link to particular matters that are ongoing it is not appropriate for us to do that.

5190 The Committee also recognises that people will often look to the Committee to try and change their situation, and I feel so sorry that I find myself saying over and over again, 'I am so sorry, I cannot interfere in your individual case.' 'I cannot interfere in a matter before the courts.' But

5195 the theme is that people have these concerns, need better support, need to have more  
 transparency and clarity about the system and how it works. Because perception is *all* here as  
 much as reality, and so this is why it is important. And absolutely, the situations of some  
 individuals, it is really difficult to read about and to realise the situation that has transpired. But I  
 hope this wider review and reform will ultimately speak to improvement for those people who  
 have raised their hands about their concerns and for people in the future.

5200 I would like to thank Mrs Lord-Brennan again for her fulsome support. She, too, touched on  
 the reform of the Advocates' Disciplinary Tribunal and the Committee strongly agrees and we look  
 forward to seeing progress now – long overdue progress. I am just thinking about whether I have  
 left anybody out, I do not think so ...

5205 I would like to thank the Member for Douglas Central, Mr Thomas, for his comments. He rightly  
 has referenced the growth in the profession, which is something I touched on in my opening  
 remarks; and in fact it was seen as a *problem* in 1990 that we were *not* going to be able to keep  
 pace with a growing economy based on financial services.

5210 Hon. Members, that is true, we have grown; but let's not, as I put it, rest on our laurels. Let's  
 recognise that if we are bringing forward new areas of growth, if we are investing in an Economic  
 Strategy for the Isle of Man, we absolutely need to be front and centre to make sure that all of  
 our services step up to the plate; and that we can attract high-calibre businesses of substance to  
 drive forward our economy because they know there are people on the ground here who are  
 expert and can be trusted and are well-regulated to provide that advice. So those who spoke about  
 moving forward and it being in the interests of the profession in the long term, so we move  
 forward with prosperity, they were absolutely right: prosperity for the legal services market and  
 for all of us.

5215 I think Mr Thomas also touched on the issue of standards and of training, and I would agree  
 with him. I do not think there is anything in our Recommendations, our Report, that suggests that  
 we are about a dilution of standards. On the contrary, we are about making sure we have a robust  
 legal services system. I would say that, again, if we do not keep pace with our neighbouring  
 jurisdictions, if we do not look at changes like the Solicitors Qualifying Examination, we are in  
 danger of getting out of step. We are in danger of shutting people off from opportunities, including  
 people who may not, for whatever reason, have been able to get a degree but who absolutely,  
 through an apprenticeship scheme or otherwise, can demonstrate their quality and calibre to join  
 the legal services industry. Indeed, in his evidence before the Committee, the First Deemster did  
 talk about the fact that at one time we did have an apprenticeship system on the Isle of Man, and  
 there are very experienced advocates even today who joined the profession through that route.  
 So let us not confuse good standards with modernisation and improving access overall to the  
 profession. (**A Member:** Hear, hear.)

5230 The Committee and the Council of Ministers agrees on the principle of separation of regulation  
 from representation. Mr Thomas made points about Scotland and Northern Ireland. Obviously,  
 different jurisdictions do look through different lenses, but I would suggest, having read the Bain  
 review into the regulation of the legal services in Northern Ireland, that there are particular issues  
 in that particular part of the United Kingdom, not least about perceptions of political interference  
 with regulation. So there were very particular issues that were borne in mind when bringing  
 forward an approach.

5235 It is not true to say either that it is as simple as the Law Society being the regulator and the  
 representative, because actually they have an Ombudsman facility as well. So there are models  
 that exist that speak to the particular needs of an area, but the principle must be right.

5240 I would just like to quote from the Clementi review that said the particular relevance in  
 determining whether regulatory and representative functions need to be separated, we need to  
 bear in mind:

- (i) that the regulatory arrangement chosen should promote the public and consumer interest;
- (ii) that it should promote competition;

(iii) that it should promote innovation; and  
(iv) that the regulatory arrangement should be transparent.

Hon. Members that is exactly what we need for our legal services market for the future.

Finally, I would like to thank the Hon. Member for Douglas South, Mr Quine, for his support; and for the support, also, from Mr Perkins.

5245 I think one more thing that I overlooked to reference in Mr Thomas's remarks was the contrast between the role of a Deemster and the role of an advocate. Deemsters make law, Hon. Member. The idea that they would not be in a position ultimately to pronounce with confidence and clarity on a decision in our courts, that then influences the state of our Manx law, seems to me something that we should not suggest is an issue in this Hon. Court.

5250 So the point being that we recognise that people with sufficient experience, competency and skills can master the differences in our law; and, in order to make sure that we can retain our unique legal Manx system, we should do everything we can to facilitate those who have the skills, experience and competency to be able to join our profession, to be able to work in legal services *and* for there to be good, transparent oversight about how they deliver their particular part in our legal system.

5255 With that, Mr President, I beg to move.

**The President:** Hon. Members, the motion is set out at Item 6. To that there is an amendment to a number of the recommendations.

5260 If the Court is content, I will put the amendment to the recommendations *en bloc*. (**Several Members:** Hear hear.) Thank you.

Putting then the amendment moved by Mr Harmer. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

5265 I put the motion, as amended. Those in favour say aye; against, no. The ayes have it. The ayes have it.