



In The Supreme Court of Bermuda
CIVIL JURISDICTION
2025: No. 98

BETWEEN:

CURTIS RICHARDSON

Applicant

-v-

THE ATTORNEY GENERAL'S CHAMBERS
for
THE LEGAL AID COMMITTEE

Respondent

JUDGMENT

Date of Hearing: 4th March and 8th April 2026

Date of Judgment: 11th August 2026

Appearances: The Applicant in Person
Mrs Shakira Dill-Francois, Solicitor General, for the Respondent

Judicial Review – Challenge to Legal Aid Committee's decision to refuse funding for Applicant's legal representation in criminal and civil proceedings

Reporting Restriction

Since this judgment relates, in part, to applications the Applicant made for funding of his representation in ongoing criminal proceedings and narrates certain conclusions reached by the Legal Aid Committee that were critical of the Applicant, I direct that this judgment should not be published until those criminal proceedings have resulted in a verdict.

JUDGMENT of Richards J

Introduction

1. This is an application for judicial review of the decisions of the Legal Aid Committee (“**the Respondent**” or “**the Committee**”) in relation to applications that the Applicant made for publicly funded representation in two sets of proceedings. One of those sets of proceedings is criminal; the Applicant is charged in those proceedings with an offence of Causing Death by Careless Driving, contrary to section 37A of the Road Traffic Act 1947. The other proceedings are civil and in those the Applicant is the Plaintiff and the Defendant is David Burt (the Premier, but not in his official capacity).
2. Leave was granted to the Applicant pursuant to RSC Order 53, Rule 3 by Martin J on 4th September 2025 in the following terms:
“The Applicant is hereby granted leave to issue proceedings for Judicial Review in relation to the decisions of the Legal Aid Committee refusing to entertain the application for legal aid made by the Applicant on the grounds that he was not eligible for legal aid due to the level of his income.”
3. Since legal aid was refused because the Committee was not satisfied that the Applicant’s disposable income fell below the applicable threshold (which was the same in relation to each) it is not necessary to say much about the substance of the underlying proceedings. The Applicant is challenging the Committee’s assessment of his disposable income. He contends that the Respondent acted irrationally and in a procedurally improper manner. He seeks orders quashing the decisions to refuse him legal aid, and orders retroactively mandating the Respondent to grant him legal aid. He also seeks costs.
4. The Respondent contends that it made a proper decision to refuse the Applicant legal aid. Based on the documentation submitted by him over a period of time, the Committee concluded that it could not properly rely on the accuracy and completeness of the financial information supplied. It therefore determined that the Applicant had not satisfied it that his

disposable income was below the statutory threshold. The Respondent refutes the contentions that it acted irrationally or in a procedurally improper manner.

5. This matter was heard across two days, although the first of those was not a full day. On 15th January 2026, I gave directions, which included that the Applicant was to file an agreed hearing bundle by 18th February 2026. He did not do so and so the Respondent prepared and filed one on 27th February 2026. During the proceedings on 4th March 2026, it became apparent that the Applicant wished to refer to documentation that was not before the Court. He maintained that the relevant documents had been filed at the leave stage, although there was only a relatively small amount of documentation on the court file from those hearings. The matter was, therefore, adjourned and in due course both sides filed further documents. The Applicant filed a 508-page hearing bundle. In doing so he said that he had found discrepancies in the Respondent's hearing bundle and had to "reconstruct" it. A volume of such size was certainly far in excess of anything previously filed by either side in these proceedings, even allowing for some repetition. To the extent that the Applicant was critical of the Respondent here, I think his criticisms were unfair. The obligation to file a hearing bundle was his. They did so because he did not. Despite appropriately expressing gratitude to the Respondent for having prepared it initially and having had time to review it before the hearing, the Applicant did not raise issue with the bundle until part way through that hearing. Once the 508-page hearing bundle had been filed, the Respondent filed further evidence highlighting some contents that were new or presented in a different format (e.g. featuring different annotations) than they had seen before. The Court has had regard to all the material placed before it, but does not consider that it is necessary to refer to each and every piece of it in this judgment.

The Law

6. It is not necessary to make extensive reference to legislation or case law in this matter. The two pieces of governing legislation are the Legal Aid Act 1980 ("LAA") and the Legal Aid (General) Regulations 1980 ("LAGR").

7. The concept of “disposable income” is defined in the LAA, section 2 and paragraph 2 of the Third Schedule:

“(1) A person’s disposable income is the aggregate annual gross income of the household of which he is a member, less—

- (a) \$2,000 for that person’s spouse;*
- (b) money actually paid annually by that person (whether or not under a court order) for the support of a person under eighteen years of age who is not a member of that household;*
- (c) \$2,000 for each member of that household (whether or not under twenty-one years of age) who the Committee is satisfied is not financially independent; and*
- (d) rent or mortgage interest not exceeding \$9,600 actually paid annually in respect of the premises where that household lives.*

(2) In sub-paragraph (1), the words “annual” and “annually” refer to the period of twelve calendar months immediately preceding the date of the application for legal aid or, if in the Committee’s opinion to take that period would on account of special circumstances distort the true current financial position of the applicant for legal aid, such other period of twelve calendar months as the Committee considers it just and proper to take instead.”

8. To this definition may be added the words of Hellman J in *Okeisha Clarke v The Minister of Legal Affairs*¹:

“Both counsel agreed, in my judgment correctly, that in the Act “disposable income” means the pool of income at someone’s disposal from which she could, in theory at any rate, pay her legal fees. It therefore excludes those Financial Assistance payments which the Department of Financial Assistance insists on making directly to the parties such as utility providers.”

9. Section 10 of the LAA provides:

¹ [2016] SC (Bda) 99 civ

“10 Grant of certificates

- (1) Subject to section 3 a legal aid certificate may be granted to an applicant by the Committee if his disposable income is less than \$18,000 a year: Provided that an applicant shall be refused a certificate if he has a disposable capital of \$20,000 or more.*
- (2) An applicant eligible for legal aid under section 3, other than one entitled as of right under subsection (2) to the grant of a certificate, may, if he qualifies under subsection (1), be granted a certificate by the Committee in their discretion, and in the exercise of that discretion the Committee shall, inter alia, consider whether it is in the interests of justice to grant legal aid.”*

10. Regulation 3 of the LAGR provides as follows:

“3 Application for certificate

- (1) Any person desiring legal aid may apply for legal aid in the Form I set out in the Schedule.*
- (2) Every application for legal aid shall contain such information and shall be accompanied by such documents as may be requisite to enable the Committee to determine—*
 - (a) the nature of the proceedings in relation to which legal aid is sought and the circumstances in which legal aid is required;*
 - (b) the question whether it is proper that a certificate should be granted; and*
 - (c) the disposable income and disposable capital of the applicant.”*

The Facts

11. The Applicant first made his applications for legal aid on 8th/9th August 2024. He actually made three applications at the same time, one of which is not the subject of this judicial review. A certain amount of the same information was relevant to all the applications and it is therefore unsurprising that some pages of the relevant forms contain the same entries. Indeed, the Applicant informed me that some pages were simply duplicated rather than

filling them out repeatedly. On the first page, the Applicant asserted that he had last been employed on 10th August 2023. He confirmed he was in receipt of Financial Assistance. With respect to bank accounts he answered as follows (under the heading “Documents required for Legal Aid Application”):

❖ Any bank accounts in applicants name (solely or jointly with another) ☒ Yes ☐ No
If yes, provide bank statement(s) for all accounts local and overseas including credit unions
from AUG 1, 2023 to JULY 31, 2024

12. In the section about employment, the Applicant answered as follows:

3. Employment and income details of applicant:

employer name and job title or other source of income*	amount	dates
Employer Name: <u>SELF</u> Job Title: <u>TAXI OPERATOR</u> Source of Income: <u>TAXI WORK</u>	\$ ☒ weekly ☐ bi-weekly ☐ monthly	From: <u>AUG, '23'</u> To: <u>JULY '24'</u>
Employer Name: Job Title: Source of Income:	\$ ☐ weekly ☐ bi-weekly ☐ monthly	From: To:
Employer Name: Job Title: Source of Income:	\$ ☐ weekly ☐ bi-weekly ☐ monthly	From: To:

13. In the section dealing with liabilities and income, the following information had been entered:

8. Statement of liabilities - I have the following liabilities: Note: List all liabilities of capital nature - for example, outstanding mortgages, loans and other debts.

a)	Item <u>LEASER BILLS</u>	Balance owing <u>\$71,792.50</u>	
b)	<u>LOANS</u>	<u>\$85,000</u>	
c)	<u>BILLS</u>	<u>\$31,300</u>	Total liabilities <u>\$103,058</u>

I wish the Legal Aid Committee, in assessing my disposable income, to have regard to my income during the twelve months from: AUG 1, 2023 to JULY 31, 2024.

9. Statement of household income - My income, the aggregate gross income of all members of which I am a member for the twelve (12) month period immediately preceding the date of this application, is as follows:

	Name	Employer/source of income	Sum received in 12 months
a)	<u>CHRISTIAN RICHARDSON</u>	<u>SELF</u>	<u>75,000.00</u>
b)	<u>—</u>	<u>—</u>	<u>—</u>
c)	<u>—</u>	<u>—</u>	<u>—</u>
	Total household income		<u>75,000</u>

14. These entries appeared to relate to the period 1st August 2023 to 31st July 2024 and appeared to reflect income over that period in the sum of \$75,000. The declarations at the end of the application forms were affirmed before a Commissioner for Oaths on 9th August 2024. That declaration solemnly and sincerely declared and affirmed that the contents of the form were correct, to the best of the Applicant's information, knowledge and belief and acknowledged his potential criminal liability for knowingly making any false statements or supplying any false information².
15. Amongst the supporting documentation in relation to the application for legal aid in the criminal matter, was a retainer agreement with his then Counsel in that matter dated 8th November 2023. That agreement required payment of \$25,000 (half of a fixed fee of \$50,000) by 1st December 2023 (and the balance before the start of the trial). There was also a letter dated 7th August 2024, headed "*Legal Aid Application, Supporting Document, Banking Statement Clarification*". This indicated that he was supplying bank statements in respect of two accounts: a Butterfield Bank account [REDACTED] that was said to be his "*primary banking account*" and a Clarien account, that was described as "*on the verge of being classified as dormant*". However, the only bank statements supplied at that stage were for the Butterfield account. The letter of 7th August also contained the line "*On occasions I have completed architectural work.*" Following a meeting with a member of the Legal Aid Office staff (during which it was pointed out that the activity on the Butterfield account suggested that the Applicant was transferring money to that account from another account that had not been supplied), the Applicant also supplied a statement for an HSBC account [REDACTED] that he labelled his "*HSBC individual account*". This revealed written off loans of nearly \$500,000 and transfers into the account from another HSBC account that had not been disclosed.
16. On 9th and 13th September 2024, emails were sent to the Applicant, attaching letters from the Secretary to the Legal Aid Committee, all dated 3rd September 2024. These letters indicated that the applications had been declined "*as your income declared over the past twelve (12) months exceeds the statutory limit*". By email dated 9th September 2024, the Applicant

² Section 15 of the LAA

asserted that his income between 10th August 2023 and 9th August 2004 had been only \$9,540.28. He asserted that *“there has been an error with the understanding of the bank statements that I submitted”* and said that he would like to appeal the decision. On 11th September 2024, Legal Aid Counsel, Ms Susan Mulligan, wrote to the Applicant. She sought briefly to explain the Respondent’s decisions and observed *inter alia* that (as per the section of the applications reproduced in paragraph 13 above *“you indicated your income from driving taxi over the past 12 months was \$75,000”*). The Applicant responded the next day via email. Amongst other things, he wrote *“I have no idea where the notion that I made \$75,000 came from. I informed [a staff member] of this in my email to her. There has obviously been a misunderstanding of my application. I can accept that I may have filled out the forms incorrectly but I did provide informative notes for better understanding.”*

17. In his same email the Applicant asked if a face-to-face meeting with the Committee was possible. Ms Mulligan responded to the Applicant’s email later the same day. Her email began: *“Please let me apologize for any error made with respect to your income over the past 12 months. You may certainly appeal on that basis by writing a letter to the Committee to explain that your actual income over the past 12 months was \$9540.28.”* It is clear to me that, although Ms Mulligan used the word “appeal” as the Applicant had done, what she was really referring to was a reconsideration of the application by the Committee.
18. After this correspondence the Applicant then provided annotated copies of the Butterfield Bank statements that had been filed with the original applications, seeking to identify the sources of credits showing in those statements with colour-coded highlighting. Some were labelled as “loans”, some as “income” and some as payments from Financial Assistance.
19. On 16th September 2024, the Applicant made another application for legal aid. This time in the employment section *“taxi driving”* had been crossed through and it said simply “UNEMPLOYED”. The liabilities and income sections were as follows:

8. Statement of liabilities - I have the following liabilities: *Note: List all liabilities of capital nature - for example, outstanding mortgages, loans and other debts.*

Items	Balance owing	
a) PERSONAL LOANS	1,500.00	(6,000.00)
b) <u>LOANS</u>	<u>49,453.00</u>	
c) <u>EXPENSE ARREARS</u>	<u>39,898.62</u>	
	Total liabilities	<u>\$89,351.62</u>

I wish the Legal Aid Committee, in assessing my disposable income, to have regard to my income during the twelve months from: _____ to _____.

9. Statement of household income - My income, the aggregate gross income of all members of which I am a member for the twelve (12) month period immediately preceding the date of this application, is as follows:

	Name	Employer/source of income	Sum received in 12 months
a)	<u>CAROL P. RICHARDSON</u>	<u>SELF</u>	<u>9,540.28</u>
b)	_____	_____	_____
c)	_____	_____	_____
	Total household income		<u>\$9,540.28</u>

20. This information obviously differed significantly from the equivalent entries on the forms submitted just over a month earlier (i.e. those dated 8th/9th August 2024). This application included the statement that *"This is for the expert report required for an open Supreme Court matter. This is a legal expense."*
21. The letter of 7th August 2024 (that had accompanied the original applications) was redated (16th September 2024) and annotated. Next to the assertion about architectural work, the Applicant had added *"outside of this 12 months"*.
22. Some limited statements from Clarien were also supplied by the Applicant. It appeared as though the on line banking system had been asked for transactions between 1st August 2023 and 31st July 2024, but the information supplied was more limited, only covering the period 19th June 2024 to 31st July 2024. This was a merchant account capable of receiving credit/debit card payments. In a subsequent filing, the transaction history on this account between August 2023 and June 2024 was asserted to be nil in an annotation. Most transactions on the account were said to have been the result of identity theft.
23. On 30th September 2024, following reconsideration by the Committee, a long and detailed letter was sent to the Applicant by a member of staff in the Legal Aid Office. This set out

the Committee's concerns, particularly in reference to the application related to the criminal proceedings. A number of questions were posed.

24. The letter noted a number of payments into the Applicant's Butterfield account from an MB that were asserted (via colour-coding) to be loans and not income. In particular, the sum of \$25,000, paid in on 20th November 2023 and straight out to the Applicant's Counsel in the criminal matter, was highlighted. The Applicant was asked to supply copies of all relevant loan agreements. He subsequently supplied a "Personal Loan Agreement and Terms" between himself and MB. This document was dated 15th October 2024 (i.e. created after the Respondent's enquiry) and contained a number of assertions that have the appearance of being crafted in response to some elements of the Respondent's question (e.g. "*all credits applied to the Borrower's bank accounts from the Lender are not to be regarded as income as they are debts to be repaid to the Lender*"). The agreement was not specific as to a sum or sums lent nor as to the terms of repayment. The Respondent also sought an explanation as to whether any of the \$25,000 paid to the Applicant's Counsel by way of retainer remained available to satisfy their fees. The Respondent's position is that it would not have authorised a brief fee in excess of this amount, had legal aid been sought at and granted from the outset. No answer was forthcoming. A number of new/more detailed explanations were offered for various credits that had previously been asserted to be loans. The response identified a total of six accounts in the Applicant's own name, in addition to those declared originally and one joint account.
25. A document entitled "*Bank Account Transactions, Transactions August 11, 2023 through to October 14, 2024*" was provided by the Applicant to the Respondent. This listed a total of ten bank accounts. One at Clarien, two at HSBC (one of which was joint) and seven Butterfield accounts. At least one of those was joint (with the Applicant's daughter), two were said to be unused saving accounts and one was a US dollar account. The original version of this document supplied to the Committee contained a handwritten annotation next to the US dollar account: "**Cash Deposits = US\$ Cash on hand*". An amended version of that document was produced by the Applicant in his 508-page bundle (the original is also

included). The stated date range had been amended to “*August 1, 2023 through to July 31, 2024*”. The annotation about US cash does not appear on the amended version.

26. After further consideration, the Respondent confirmed its denial of legal aid to the Applicant. On 19th November 2024 Ms Mulligan sent an email to the Applicant setting out that decision. In that email she wrote “*you had initially indicated your income was -\$75,000 which had been incorrectly conveyed to the committee as +\$75,000*”. That was not correct. As we have seen, the original application forms submitted by the Applicant declared his income simply as \$75,000.

The Applicant’s Case

27. The Applicant contends that, at the core of this application for judicial review lies a fundamental mistake of fact, which he attributes to the Respondent. He contends that “*incontrovertible evidence*” demonstrates that his income over the twelve months prior to his application(s) for legal aid was well below the statutory threshold.
28. The Applicant seeks to characterise Ms Mulligan’s email to him of 12th September 2024 as an acceptance of a calculation error in the assessment of his applications. He also relies upon his receipt of Financial Assistance during the relevant period, which he points out has a very similar threshold to legal aid. He says that it is “*legally incoherent for one arm of Government (Financial Assistance) to certify the Applicant as destitute while another arm (Legal Aid) certified him as earning \$75,000.*”
29. The Applicant says that, having admitted an error, the Respondent acted irrationally in confirming its earlier decisions to refuse him legal aid. He characterises the Respondent’s subsequent reasons for maintaining its earlier refusal of legal aid as a “pivot” or a moving of the goalposts.
30. Drawing attention to section 9(d) of the LAA, the Applicant points out that the Respondent has the statutory authority “*where an application for legal aid is made*” to “*require the applicant to attend personally before the Committee*”. As I understand him, he contends that

it was irrational or at least unfair for the Committee to decline to meet with him, especially given that he had requested a meeting and given the conclusions they reached as to his credibility. The Applicant complains that he has been found to have provided false information by the Respondent acting in private, which he characterises as a breach of natural justice.

31. The Applicant also asserts that the complexity of the criminal matter, involving expert reconstruction evidence and the severity of the potential sentence, mean that his representation in those proceedings is essential to ensure a fair trial under the Constitution.
32. During the course of his correspondence and filings, the Applicant has also suggested that the Committee has been influenced in some way, alleging that they exhibited bias against him. However, I noted that he chose not to emphasise this element of his case during the hearing.
33. The Applicant maintains that the Respondent's refusal to fund his representation should not only be quashed, but that they should now be ordered to provide him with legal aid as if it had been granted when first sought. He, therefore, argues that any suggestion that he may more recently have secured employment is irrelevant.

The Respondent's Case

34. The Respondent argues that, when considering an application, the Committee has the right to inquire into the Applicant's means to ensure that he is entitled to legal aid (section 9 of the LAA). The Committee includes a Chartered Accountant by law and, as the Applicant requested, that member of the Committee examined the financial records he submitted during the course of these applications.
35. The Respondent characterises the Applicant's disclosure of supporting financial records as incremental, incomplete and inconsistent with the declarations he signed at the start of the process. Initially he provided only Butterfield statements, then HSBC, then Clarien (the last of these being for only a fraction of the relevant period). On more than one occasion an

account was disclosed only after it was pointed out that the previously disclosed material indicated its existence. This was so despite the original declaration being that all bank accounts had been disclosed and that there were no joint accounts, which was subsequently shown to be inaccurate. The Respondent also highlights changes in the Applicant's explanations for some things. For example, in the 7th August 2024 letter that accompanied the limited banking material he originally supplied (ostensibly to demonstrate his income over the relevant period) he mentioned working as an architect. Subsequently this was asserted to have been outside the period for which he had supplied statements. The document purportedly listing all his accounts, supplied with the letter of 15th October 2024, has also been amended since it was supplied to the Respondent.

36. In relation to the various credits identified by the Applicant as income, loans and money from Financial Assistance, the Respondent formed the view that the amounts of some of those payments (e.g. \$2141, \$3103, etc.) did not have the appearance of personal loans. Having sought explanation, in some instances the Applicant changed his position (e.g. a payment of \$2000 which he recharacterized as a settlement from the Bermuda Police Service). In others, he maintained that they were loans, but the only supporting documentation is that relating to MB, who was not said to be the source of all the sums identified as loans.
37. The Respondent says that the Applicant has adopted too narrow a definition of "income", seeking to exclude not only various asserted loans, but cash deposits and sums received from Financial Assistance (despite the narrower view taken by Hellman J in *Clarke* – see above).
38. Specifically as regards legal fees (and an expert's fees), that the Applicant had already incurred, it is argued that the Committee was entitled not to sanction this. The Applicant had signed a retainer agreement with Counsel in December 2023, but did not seek legal aid until 8 months later. Under section 12 of the LAA, had the Applicant been successful in securing legal aid, he would have had no right to assume that his existing Counsel would simply have been instructed to continue work on the matter. The default position under subsection (1) is that one of the Legal Aid Counsel will be assigned to the assisted person. It is only if such

an assignment is impractical, not appropriate given the nature of the proceedings or might result in a conflict of interests that section 12(2) empowers the Committee to assign external Counsel. Moreover, when the need for an expert's report arises, it is the practice of the Committee to require Counsel representing the assisted person to provide an opinion on the need for such an expert so that it may consider whether or not to authorise the expenditure. The application of 16th September 2024 sought to circumvent that by seeking reimbursement for a report that had already been commissioned by someone who did not even have a legal aid certificate.

39. It is argued on behalf of the Respondent that it exercised considerable patience in allowing the Applicant to submit documentation that should have accompanied the first application on a number of subsequent occasions. The Committee was also willing to reconsider its conclusions at the Applicant's request.
40. The Respondent submits that the Applicant has produced no evidence to support any suggestion of bias or improper influence affecting the Committee's decision.
41. Ultimately, the Respondent contends that it was justified in concluding that it could not be satisfied that the Applicant had provided honest, reliable financial information to them. It could not therefore be satisfied that his disposable income was, as he asserted, below the \$18,000 threshold. It was therefore not only entitled, but obliged to refuse legal aid.

Analysis & Decision

42. In my judgment the Applicant's substantial reliance on Ms Mulligan's email of 12th September 2024 is out of all proportion to its true significance. In placing it front and centre of his submissions, he is either being obtuse (which I have not otherwise found him to be) or deliberately disingenuous. Since I have not heard oral evidence from him, tested by cross-examination, I will not make a finding about which it is. However, it seems pellucid to me that, in apologising "*for any error made with respect to your income*", Ms Mulligan was not conceding that an error had actually been made by the Legal Aid Office. She was simply being courteous and yet the Applicant seems unwilling or unable to see that.

43. This clear mischaracterisation of Ms Mulligan’s email undermines a good portion of the Applicant’s other submissions. The suggestion that the Respondent had somehow admitted error was something of a refrain throughout them and, in my judgment, it is simply not true.
44. In fact the clear error that had been made (on the Applicant’s current case) from the very moment that his legal aid applications were first submitted was the Applicant’s own error and it is one that is difficult to understand. His initial applications very clearly asserted that he had received income of \$75,000. He now says that that figure actually represented his “*absolute borrowing cap*”, which is a very different thing (and not something the forms asked for). He actually asserted therein that he could not borrow any more money. The Applicant seeks to deflect from his own error by placing the responsibility on the Respondent to discern from the bank statements that were submitted with the applications that the declared income could not have been correct. I reject that submission. In his initial applications, the Applicant had denied holding any bank accounts jointly with anyone and asserted that he had supplied statements for all his accounts. Neither assertion was accurate. He initially submitted only one statement (the Butterfield account) and then an HSBC account, when asked about transfers into the former. That was very far from the full picture that he was obliged to and that he solemnly affirmed he had given the Committee. Further, it would have been reasonable, given the nature of the Applicant’s work, for the Committee not to expect every dollar received by him as income (from driving taxi) to have passed through his bank account. It is also concerning that, of all the accounts that he held and might have disclosed at the outset, the only one that he mentioned (aside from the Butterfield “*primary banking account*”), was the Clarien account. That account was described by him as “*on the verge of being classified as dormant*” and, based on the subsequent disclosure, exhibited only limited activity.
45. I reject the contention that the Respondent was obliged to interview the Applicant. It has the power to do so and it does concern me that the Committee seems, on the material before me, to adopt a blanket practice of not meeting with applicants. That sounds as though it is fettering its own discretion to me. It may be that the circumstances in which such meetings

are appropriate will be few, but in my view a refusal to meet with a particular applicant cannot properly be justified by a refusal to meet all. That said, I do not see how meeting with the Applicant in this instance could have produced a different result. The Committee had plainly formed certain conclusions about the reliability of the information being supplied to them by the Applicant. In my judgment, that was a view to which they were properly entitled to come in the circumstances. What they no doubt thought they needed was a complete and transparent picture of his finances and not more commentary and narrative. There was no reason to suppose that a face-to-face meeting was going to assist with that. Moreover, the Applicant chose not to engage with the offer of a meeting with Senior Legal Aid Counsel; responding simply *“I will make the request if deemed necessary”*.

46. The Constitution does not afford defendants with a right to Counsel at public expense. Section 6(2)(d) clearly provides that *“Every person who is charged with a criminal offence... shall be permitted to defend himself before the court in person or, at his own expense, by a legal representative of his own choice or, where so provided by any law, by a legal representative at the public expense;”*³ (emphasis added). The argument that the complexity and seriousness of the charge he is facing means that the Applicant should be represented cannot, therefore, overcome the clear terms of the LAA.
47. I do not accept that the fact that the Applicant was in receipt of Financial Assistance means that the Respondent must be in error. The Legislature could have provided that anyone in receipt of Financial Assistance would automatically be deemed to meet the means test in section 10 of the LAA, but it has not done so. The responsibility for determining whether or not the Applicant had satisfied them that he properly qualified for legal aid rested on the Committee. It would have been an abdication of their responsibilities under the Act simply to have assumed that his income must not exceed the relevant threshold just because Financial Assistance had decided to support him. I am not in a position properly to evaluate the assessment that Department must have made before granting assistance. Instead, I must confine myself to the question whether the Respondent was properly entitled to make the

³ See also my recent judgement in *Devon Hewey v LAC* [2026] SC (Bda) 8 civ

decision it did, based on all the information it had available to it (not all of which would necessarily have been available to Financial Assistance).

48. The Applicant has not substantiated any suggestion of influence or bias in the decision making of the Respondent. He is entitled to suspect these things if he wishes, but as I think even he had realised by the time of the hearing, there is no foundation for any such suggestions beyond inuendo and speculation. I unhesitatingly reject these points.
49. The Applicant complains that he has effectively been branded a liar by the Legal Aid Committee, sitting behind closed doors. The correspondence informing him that the Respondent had decided to maintain its decision did not actually say this. It simply reiterated the conclusion that the Committee was not satisfied that he met the financial criteria set out in the Act. It seems to me that it may have been better if the correspondence had been plainer. The Committee having come to the conclusion (as is now apparent) that it could not rely upon the information the Applicant was putting forward, that could simply and directly have been stated. The reality is that, in order to discharge its statutory functions, the Committee must be able to reach these sorts of conclusions. It cannot be required to believe everything it is told, no matter how incredible it may appear. Nor can it be required to hold a formal proceeding every time it thinks it may have been lied to or not told the whole truth. The Committee's conclusion on the Applicant's applications was never, nor would it have been published. But for his decision to bring this judicial review claim, their conclusions would have remained between the parties.
50. If I had found that the Respondent's decisions should be quashed, I would have to have gone on to consider whether also to grant mandatory relief. However, given the view to which I have come, that assessment is unnecessary.

Conclusion

51. I consider that I should not try to place myself in the position of the Respondent and attempt to remake the decisions they had to make. The question for me is not whether I agree with

their decisions, but whether they were ones to which they were properly entitled to come in the circumstances.

52. The Applicant has not done himself any favours in the inaccurate way in which he completed application forms and the creeping, piecemeal fashion in which he provided supporting documentation. To the Respondent's credit, however, it is apparent that they never said to themselves "*he lied in his application, so it's refused*". They patiently and conscientiously afforded him opportunities to provide them with further information and reviewed the matter thoroughly. Having done so, they were not satisfied that the Applicant met the financial criteria and accordingly had no discretion to grant him legal aid.
53. I am quite unable to say on the evidence before me that the Respondent has acted unlawfully, irrationally or improperly. I accordingly dismiss this application for judicial review, granting none of the relief sought.
54. I will hear the parties as to costs.

Dated this 11th day of August 2026⁴


THE HONOURABLE MR JUSTICE ALAN RICHARDS
PUISNE JUDGE

⁴ Since this judgment was formally handed down some typographical errors have been corrected and all bank account numbers redacted.