

Cains' Judgment Journal: *Comment from Cains on Isle of Man Judgments*

Costs – Interest – Rejection of Part 7 Offer

Cains' Comment

This judgment reinforces the principle that litigants who reject reasonable settlement offers and prolong proceedings may face financial consequences, not only in costs but also through elevated interest awards.

Wickers & Otrs v Humbles & Otrs, Civil – Ordinary Procedure, 4 September 2025

In this case, Acting Deemsterⁱ Gough delivered a judgment concerning the award of interest and costs following a substantive ruling in favour of the Claimants. The decision addressed two distinct periods for interest calculation, reflecting both the timeline of litigation and the strategic implications of a Part 7 Offer.

The Claimants had largely succeeded in their claims against the Defendants. Prior to trial, they had made a Part 7 Offer to settle, which expired on 18 June 2019 and was ultimately bettered at trial. This bifurcation led both parties to agree that interest should be assessed in two periods: up to 18 June 2019, and from 19 June 2019 (being the day after expiry of a Part 7 Offer made by the Claimants and which they bettered at trial) to the date of judgment.

First Period (Up to 18 June 2019):

- The Claimants proposed a 4% annual interest rate, citing fairness and conventional practice in the Isle of Man.

- The Defendants argued for 3%, referencing market borrowing rates and delays in bringing the case to trial.
- Acting Deemster Gough rejected the Defendants' argument, noting the delays were due to their own inadequate disclosure.
- The Court awarded 4% interest, deeming it compensatory and consistent with judicial guidance.

Second Period (From 19 June 2019):

- Under Rule 7.65(3)(a) of the 2009 Rules of Court, the Court noted that it may award interest up to 10% above base rate but flagged the penal element to such an award.
- The Claimants sought indemnity costs and higher interest, arguing the Defendants' refusal to settle warranted a penalty.
- Citing *EMA Oil Ltd v Petrodel Resources Ltd* [2013] UKSC 34, the Court emphasised the deterrent purpose of Part 7 Offers.
- A fixed rate of 8%, which had been proposed by the Defendants, was deemed appropriate - high enough to penalise the Defendants but not excessively harsh given the low interest environment since 2007.

The Court awarded interest for the full duration from the expiry of the Part 7 Offer on 19 June 2019 to the date of the order. The Defendants' claim that interest should cease after 25 June 2025 due to delays in disclosure applications was dismissed as a "weak point." Obstructive conduct and inadequate disclosure was deemed to justify the continued accrual of interest.

The full judgment can be found here: <https://www.judgments.im/content/J3376.htm>

Doleance – Legal Aid Taxation – Ultra Vires – Advocates' Duties

Cains' Comment

This ruling reinforces the principle that legal aid taxation must be fair, context-sensitive, and confined to the scope of the bill, not a retrospective judgment on the merits of litigation.

Rogers v (1) General Registry (2) Chief Registrar & The Treasury (Interested Party), Civil – Chancery Procedure, 12 September 2025

In a significant ruling on legal aid taxation, the Isle of Man High Court has quashed a Zero Assessment Decision made by the Second Defendant in a doleance claim brought by a legal aid advocate. The judgment, delivered by Deemster Needham, scrutinised the legality and rationality of the Second Defendant's decision to disallow all costs claimed under a valid legal aid certificate.

The dispute arose after the Second Defendant's costs officer, on 8 October 2024, rejected every item on the Claimant's bill relating to an appeal for which legal aid had been granted. This decision was upheld on review by another assessor on 11 November 2024. Both assessors concluded that the appeal lacked merit and that the legal aid certificate did not validate the appeal's worthiness or justify public expenditure.

The key legal points include:

- **Jurisdiction and Reasonableness:** Drawing on principles from *Quine v DEFA* 2020 MLR 59, the Court emphasised that decision-makers must act within their statutory powers, in good faith, and avoid irrational or unreasonable conduct.
- **Legal Aid Taxation Standards:** Deemster Needham highlighted that legal aid taxation must be approached without hindsight. The taxing officer's role is to assess whether work was reasonably incurred - not to re-evaluate the merits of granting legal aid under section 18 of the Legal Aid Act 1986.
- **Professional Duties of Advocates:** The judgment referenced Rule 3 of the Advocates Practice Rules 2024, which states that advocates are expected to act with integrity and independence. Once legal aid is granted, they are entitled to reasonable remuneration for work done in their client's interest.
- **Limits of Discretion:** The Deemster clarified that the Second Defendant's discretion is confined to evaluating the bill itself. It is not a forum to revisit the original decision to grant legal aid.

The Court found that the Second Defendant's blanket disallowance of all costs was ultra vires - beyond its legal authority - and based improperly on hindsight. Even if the decision had been within jurisdiction, it was deemed "Wednesbury unreasonable" for failing to consider what the advocate knew at the time the work was undertaken.

As a result, the Zero Assessment Decision was quashed and the bill remitted for fresh assessment by a different costs assessor.

The full judgment can be found at: <https://www.judgments.im/content/J3382.htm>

Please note that this note does not constitute legal advice but is provided as non-reliance guidance only. For more information on Isle of Man Litigation Law, please contact: Robert Colquitt , Tara Cubbon-Wood or Charles Williams.

Reference

¹ The term used to refer to judges in the Isle of Man judiciary.

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