

True crime

The Law Society’s Criminal Law Committee is staunchly opposed to Government proposals for changes to the legal-aid system. Mary Hallissey gets out of jail free

Criminal defence solicitors have warned that proposed changes to the legal-aid system risk undermining access to justice, creating a two-tier system, and driving practitioners out of the sector.

From 1 July, a fixed €455 fee will apply to all cases, regardless of the number of appearances.

Amanda Connolly, vice-chair of the Law Society’s Criminal Law Committee, says the Department of Justice proposals will leave solicitors effectively unpaid for significant portions of their work. The partner at Connolly Finan Fleming argues that it fails to reflect the volume of behind-the-scenes labour involved, including client communication, case preparation, and ongoing court supervision – and shows a poor understanding of the workload involved.

The committee is staunchly opposed to the proposals, and is particularly aggrieved at what Connolly perceives as the insufficient consultation and poor understanding of legal practice inherent in the plan.

Exodus

She says that the changes will inevitably lead to a “mass exodus” of solicitors from criminal legal-aid work, particularly in rural areas,

exacerbating existing shortages and making legal deserts worse. She points to similar reforms in legal aid for family law, where a flat-fee model has already resulted in significantly reduced participation by private practitioners, and long waiting lists for clients seeking representation.

The proposals could incentivise minimal-effort representation, she warns, with some lawyers taking on quick guilty pleas rather than more complex cases requiring sustained engagement. This would undermine defendants’ rights and the overall functioning of the justice system.

She also predicts judicial reviews based on the constitutional right to a legal defence, and feels that these changes will end up being more costly to the taxpayer.

“Everybody takes for granted the rule of law and the precedent that our justice system is based on innocence until proven guilty in court, and that’s very important. And if you undermine that, or create a two-tier legal system between those who can afford a defence and those who cannot, that’s a very dangerous road to go down.”

Job

Aside from the contentious issue of legal-aid funding, the Criminal Law Committee works collaboratively with Government when requested.

How can you say that someone in custody could be represented ten or 11 times for €100? It’s just impossible to provide services

The committee also works widely around the country engaging with colleagues with particular queries on difficult circumstances. It acts, too, as a liaison with the Irish Prison Service, with subcommittees working to create more efficient, streamlined systems.

Senior criminal defence solicitor Yvonne Bambury, who is also a long-standing committee member, runs her own practice, Fahy Bambury, in Dublin’s Smithfield. She reiterates that the proposed changes could make representation in serious cases “financially not viable” and risk leaving vulnerable defendants without proper legal support. The likely consequences are stark: “Solicitors are going to refuse to do indictable offences – or, alternatively, start coming off the legal-aid panel.”

She echoes the complaint that the changes were introduced without meaningful consultation. A meeting with the department took place earlier this year, which Bambury describes as a *fait accompli*.

“This wasn’t a consultation meeting; this was to inform us that this is what was coming in, and there was no debate or argument about it.”

She describes the plan as “pure cost cutting”, adding: “How can you say that someone in custody could be represented ten or 11 times for €100? It’s just impossible to provide services.”

With almost 40 years of experience in criminal law, Bambury says that the proposal comes after years of financial pressure on the sector. Fees have remained largely unchanged since austerity-era cuts, while additional reductions were made to expenses and eligibility criteria.

“The fees have been static for 15 or 16 years,” she says. “They



Photos: Cian Redmond

Amanda Connolly (committee vice-chair) and Dr Shane McCarthy (chair)

haven't restored what they took. The hidden cuts were nearly as bad as the actual cuts."

She adds that legal-aid practitioners are now effectively being asked to subsidise the system: "They're expecting us to subsidise the State for indictable offences – the most serious categories of offences."

The impact is already being felt within firms. Bambury said she is considering stepping back from practice earlier than planned to protect the livelihood of younger colleagues with growing families and mortgages. "If someone has to go, it's better me than them. If you're going to have a 40% reduced income, you have to cut back somewhere. My company won't be able to afford to continue with salaries at this level," she says.

Judges

Bambury also criticises how legal-aid lawyers are portrayed in official reports. A recent review suggested excessive remands were being

driven by practitioners – a claim she strongly rejects: "No judge is going to give you an adjournment just because you asked for it," she says. "There has to be a justification – whether due to disclosure, clients in hospital, clients in treatment centres, etc."

She describes the report's conclusions as "insulting" adding: "It conveyed an impression that we were charlatans. Nothing could be further from the truth. I feel I'm being smeared to be honest, and I have a thick skin – that report made me angry"

The proposed flat-fee model, she argues, risks incentivising rushed case-handling. "Some people will just plead guilty. They won't bother looking into things the way you should," she says. "That's what this kind of flat-fee culture creates. It's not healthy.

"It's so egregious that it just makes absolutely no sense."

Numbers

The cumulative impact of funding cuts, administrative pressures, and policy changes

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could undermine the fairness of the system: "The mark of any democracy is how they treat the most vulnerable," she says. "They don't care about people being effectively forced into pleading guilty on day one."

Both lawyers feel that a system of public defenders will inevitably cost more to the State in the long run.

And both criticise the laborious payment-claiming process for legal-aid work, which could be massively simplified by the use of AI, Amanda points out. Ironically, she also fears that the new payment system could actually incentivise less-committed practitioners, who might opt to pick up the flat fee without putting in any defence efforts.

Anyone who is on minimum wage currently does not qualify for legal aid for a garda station interview, Yvonne adds. "There's a lack of awareness of the nuances of the job we're doing," she says. "They think you just go in, you plead guilty, and that's it – your job is done. But it's nothing like that. You're in prisons in the evenings and garda stations at the weekends and courts on Saturdays to try and get the work done."

The perceived 'pro-prosecution' Government trend also needs checks and balances, Amanda argues. "Who protects the separation of powers?" she asks. "Criminal-defence lawyers are the ones with the education and the experience to do that. If you take us out of the equation, it's a dangerous precedent," she says.

Yvonne concludes: "There are people among us who think that 'express justice' is fine. But it's not healthy in a democracy. It will create inequality – I see that coming, and I really don't want to be here when it happens." 📧

Mary Hallissey is a journalist with the Law Society Gazette.