



Law Society
of Ireland

CRIMINAL LEGAL AID

Information Meeting

9 June 2026



Current Legal Aid Rates (S.I. No. 742 of 2024)

For the First Two Cases

First Appearance € 239.38

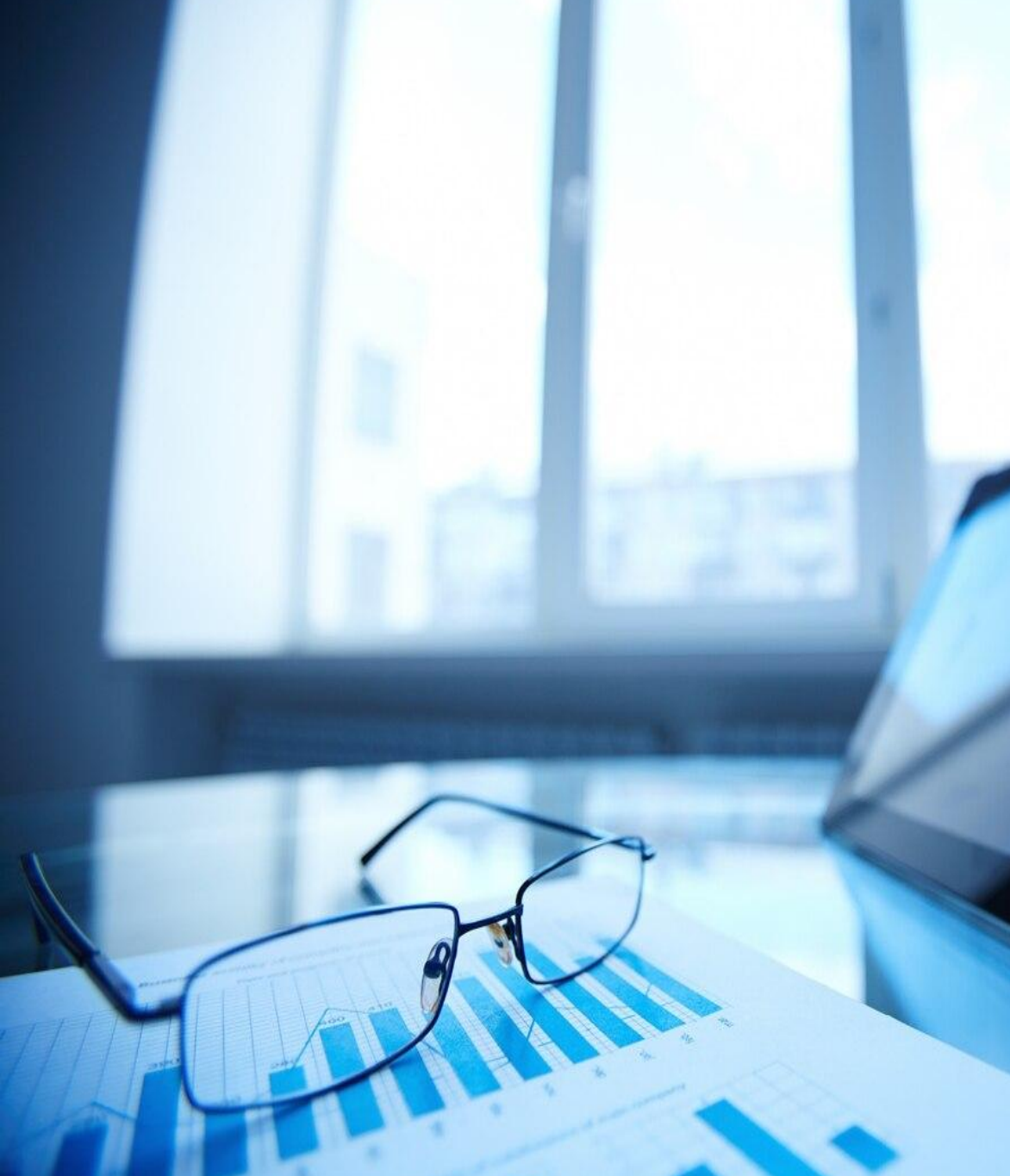
Remand € 59.86

For Each Subsequent Case

First Appearance € 143.61

Remand € 59.86

Reduced rates apply in
respect of co-defendants



Background to the current rates

Section 10(1)(b) of the Criminal Justice (Legal Aid) Act 1962 is the basis for the making of Regulations prescribing the fees

The current rates are fixed by **S.I. No. 742 of 2024**

After a slow and steady increase over the years the rate culminated at (S.I. No. 41 of 2007):

For the First Four Cases	
First Appearance	€ 271.13
Remand	€ 67.80

Chronology of the FEMPI cuts

FEE FOR THE FIRST APPEARANCE

31/12/2008 €271.13

01/01/2009 €264.52

01/03/2009 €243.36

01/04/2010 €223.89

01/07/2011 €201.50

A total reduction of 25.68%

THEN A SLOW PARTIAL RESTORATION OF FEES

01/10/2024 €221.65

01/01/2025 €239.39

Key Elements of the Flat Fee Proposal

A single one off payment per case

- Basic fee calculated on the basis of four appearances + 8% increase
- A fixed amount of money for an unlimited amount of work

One case = One fee

- Flat fee payable for each co-defendant
- Case must be heard separately and arise from a different incident

Three different rates:

- Basic: €455
- Indictable cases: €100
- When counsel is instructed: €600 to split evenly between solicitor and counsel

No clarity on many issues, including for example:

- what will happen when there is a change of solicitor,
- what will happen if different counsel are used at different appearances,
- what will happen when multiple cases are heard on the same date,
- the execution of bench warrants, etc etc

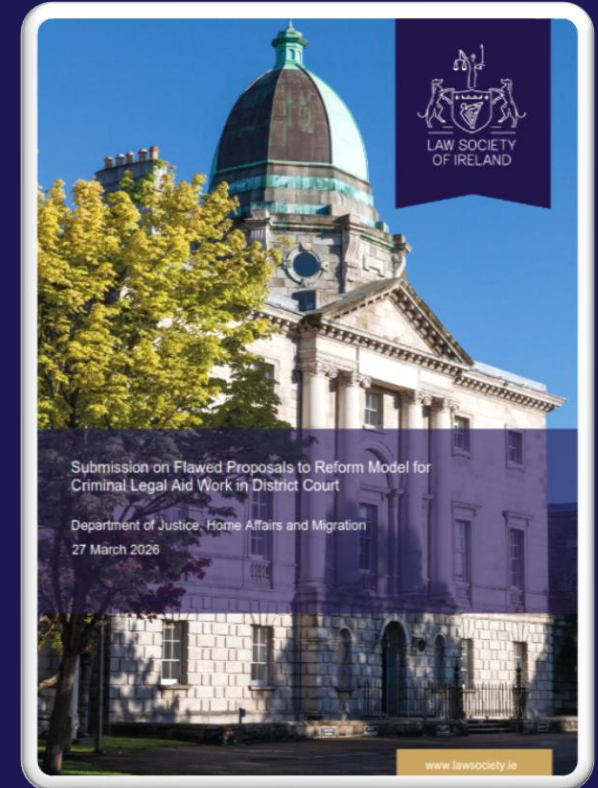


**Massive
Information
Gap**



The Objections Raised by the Law Society

- Based on a **flawed review** of the system that ignore systemic issues.
- **An indeterminate amount of work for a fixed fee.**
- The One-Size-Fits-all model **ignore reality** – workload, duration, complexity, client's needs and personality vary significantly from case to case.
- This model **threatens access to justice** and the right to legal aid.
- **Vulnerable defendants and children** will be **disproportionately affected** by the difficulties to secure representation
- The **flat fee model** has **already failed** in Civil Legal Aid leading to an exodus of solicitors in that area.
- This is not a restoration of fees but **a cut**, in complete contradiction with the Programme for Government commitment to fully restores the FEMPI cuts.



Law Society's Gazette Survey of May 2026

- 212 answers (response rate of 80%)
- Shows an extreme alarm within the profession at the proposal.

86%

of the respondents consider that the proposal should be abandoned entirely or substantially revised.

88% declare that the proposal would "significantly" negatively affect a defendant's ability to secure legal representation.

88%

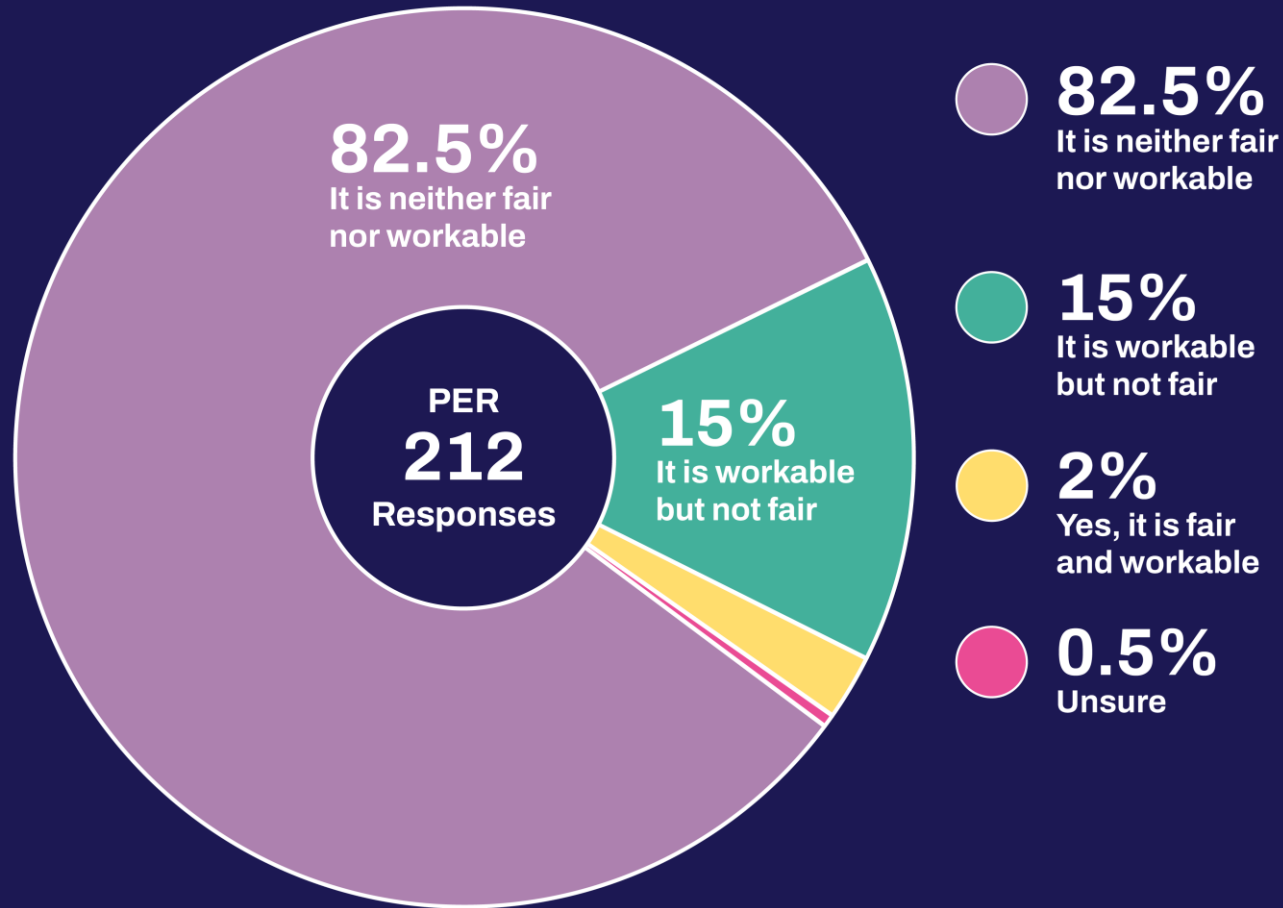
78%

deem that it was very likely that the proposal would lead to further delay to allow defendant to secure legal representation.

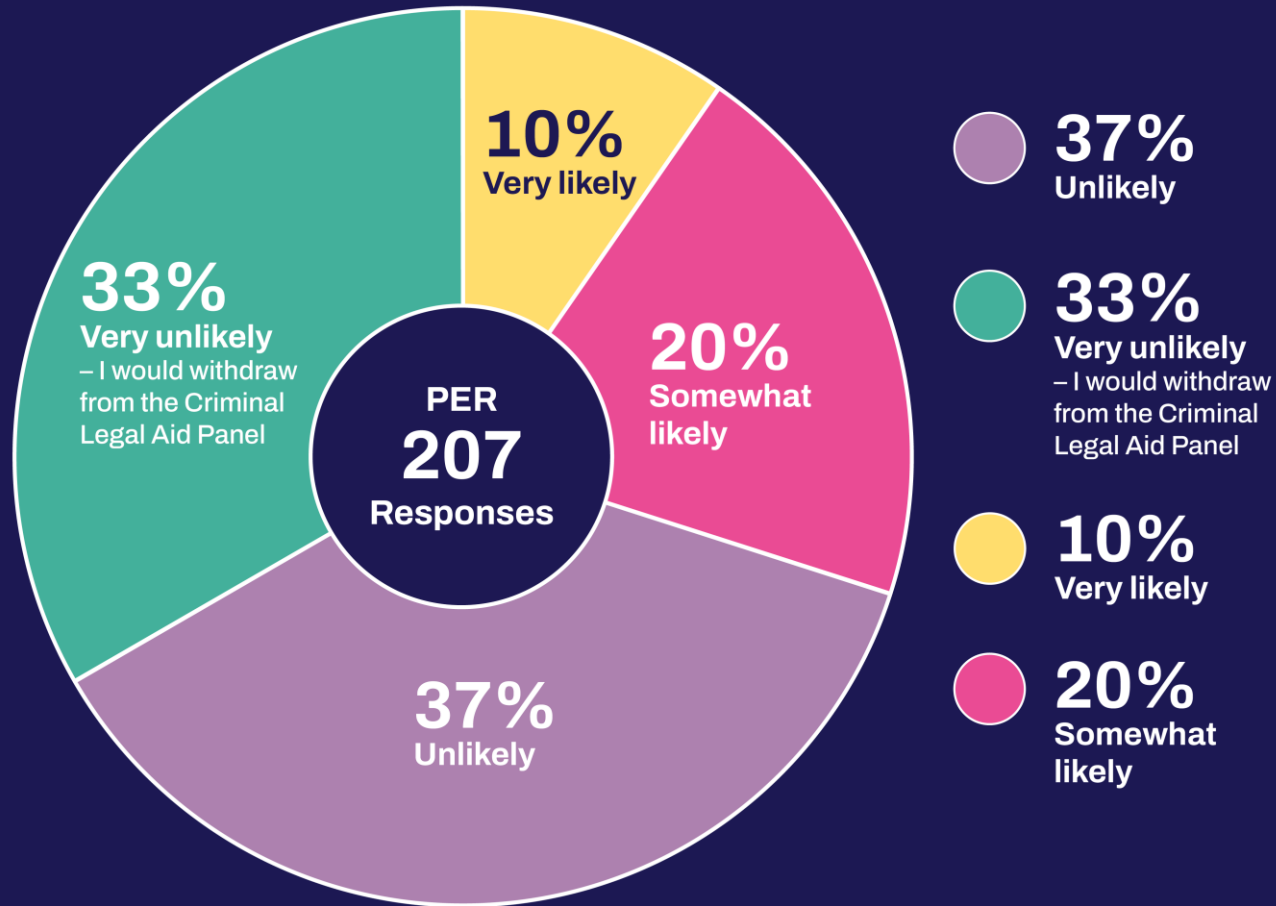
81% believe that a similar exodus from the panel as seen in family law is very likely to occur if the proposal goes forward.

81%

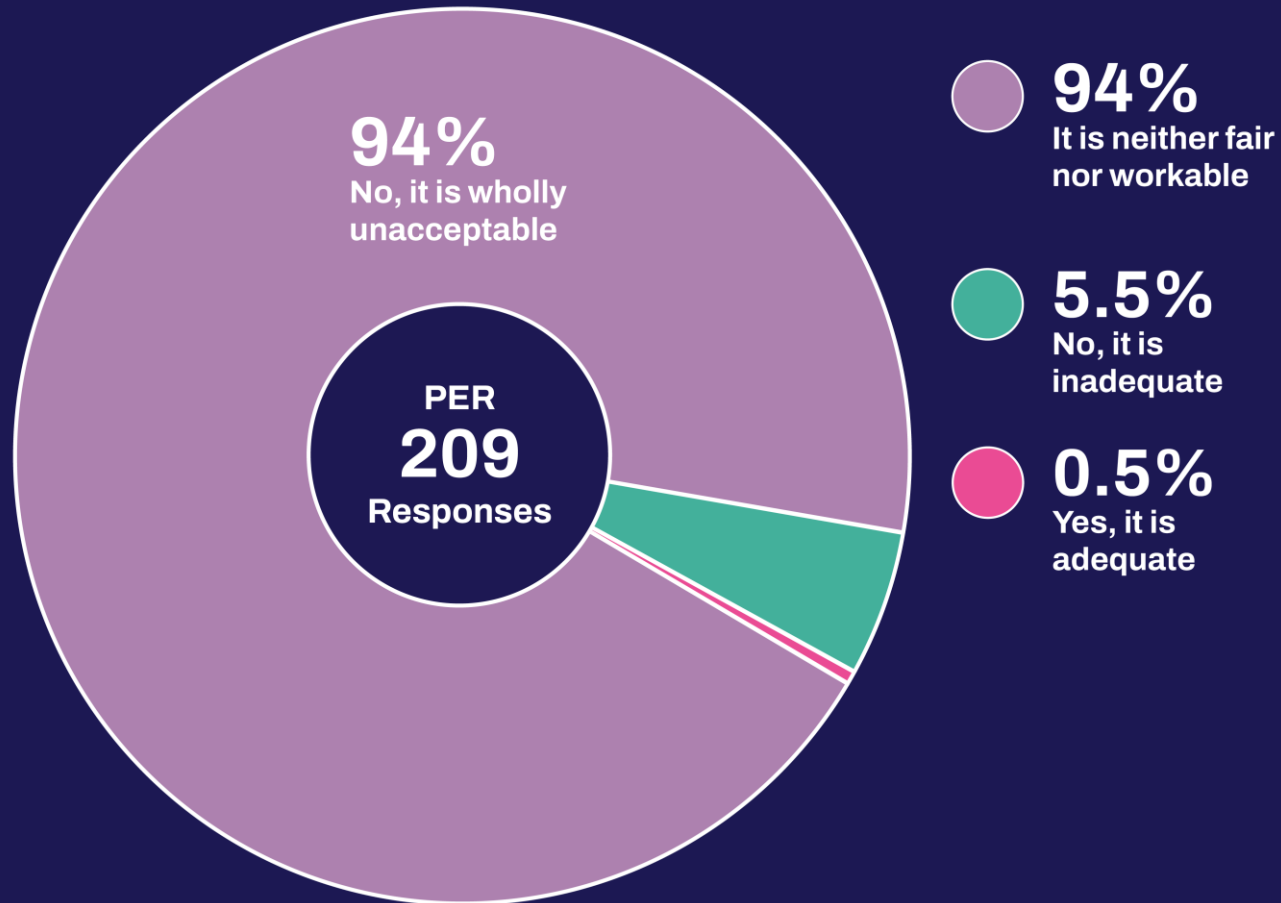
If the proposed flat-fee model is introduced, do you believe that it will lead to delays for defendants in securing access to legal representation?



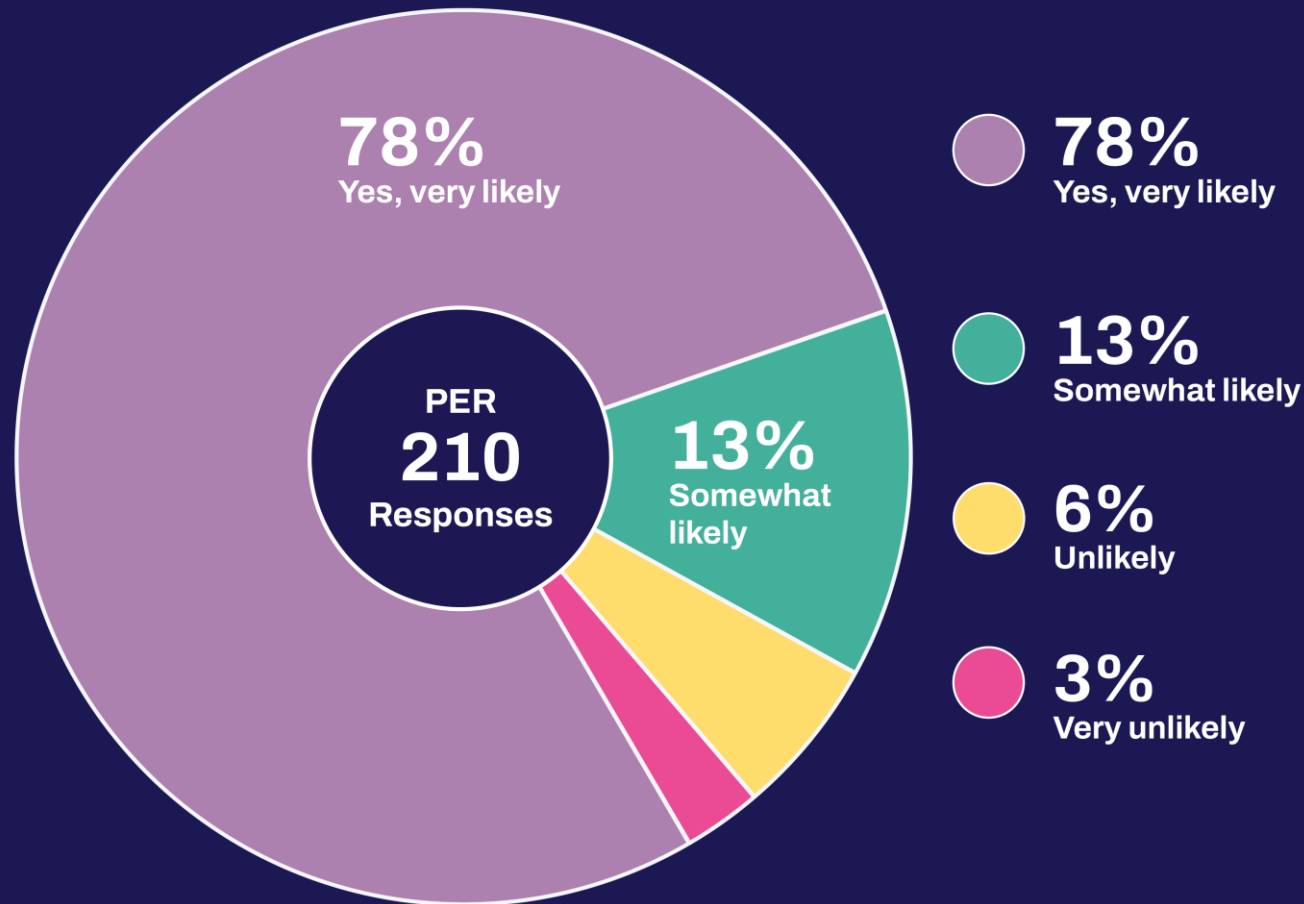
If the proposed flat-fee model is introduced, do you believe that it will lead to delays for defendants in securing access to legal representation?



The proposed reform would reduce the flat fee for cases being sent forward on indictment from the basic rate of €455 to €100. Does this reduced fee adequately reflect the complexity and workload involved in indictable cases?



If the proposed flat-fee model is introduced, do you believe that it will lead to delays for defendants in securing access to legal representation?



National Media Coverage

Mayo solicitor criticises changes to legal aid system

June 5, 2026 | 1:20 pm




The President of the Mayo Solicitors' Bar Association has warned of the consequences of new legal aid rules coming in to force next month.

Currently, a solicitor receives a starting fee of €239 for an initial appearance for a criminal legal aid case in the district courts and then €59 for each subsequent appearance.

However, new rules set to be introduced from the beginning of July will lead to a flat fee of €455 regardless of how many court appearances there are.

RTÉ RADIO 1
Home Stations Shows Podcasts Search



Special report on criminal legal aid

CLIP • 6 MINS • 04 JUN • NEWS AT ONE

00:00
-15
▶
+30
06:50

[Share](#)

[← Back to Show Page](#)

Notes

Lawyers and civil liberty groups are urging the Minister for Justice to reconsider plans to introduce a new fee structure for Criminal Legal Aid cases in the District Courts. Our reporter Kate Egan has more on this.

Irish Independent

Solicitors' body urges Justice Minister to shelve planned legal aid fee reforms

Law Society says new model flawed and undermines right to a fair trial

SHANE PHELAN

The body representing solicitors has urged the Justice Minister to abandon planned reforms to criminal legal aid payments, claiming they will undermine the rights of accused persons to a fair trial.

The Law Society says the "one flat fee" model Jim O'Callaghan is seeking to introduce from July 1 is "seriously flawed and will not work".

It also predicted it would lead to an exodus of solicitors working in the area, similar to that seen in family law, where there is a flat-fee scheme in place.

Data underpinning the decision to introduce the new payment model was also described as "blatantly incomplete", with the society claiming it appeared to be used "to support predetermined conclusions". The minister was informed of the concerns in a meeting with senior figures from the society last week.

The Irish Council for Civil Liberties has also criticised the plan, saying it would incentivise legal practitioners to curtail their representation and undermine access to justice, the right to a proper defence and the right to a fair trial.

His department found that the weighted average number of appearances in a legally aided case was 5.04, compared with 3.24 for a case without criminal legal aid.

Cases with criminal legal aid took an average of 313 days to complete, compared with 133 for cases without it, but outcomes were "relatively the same".

This, the Department of Justice says, supported a conclusion that a high number of appearances had little impact on the outcome, but added to costs in terms of legal aid and systemic costs by increasing the burden on the Courts Service, garda, the Office of the DPP, the Irish Prison Service and the judiciary.

In the Dáil last month, Mr O'Callaghan said a system of payment per appearance only incentivises additional adjournments. He also said criminal legal aid spending in the district court had nearly doubled, from €19m in 2015 to €37m in 2024, despite the number of cases having decreased.

In its submission, the Law Society said the new model amounted to a unilateral cut, contrary to Programme for Government commitments to fully restore austerity-era cuts in legal fees.

It also claimed the minister had misdiagnosed the problem by blaming defence solicitors for systemic delays.

"The reality is that adjournments are most often driven by statutory requirements and state-side delays, such as disclosure (including CCTV/body-cam footage), DPP directions, books of evidence, probation and restorative justice reports, interpreter availability and judicial oversight of rehabilitation," the society said.

The submission argues that the flat fee would function as a "de facto cap on advice and representation".

"Vulnerable defendants such as children, people with mental health and addiction issues and those experiencing homelessness or language barriers invariably require repeated court attendances and intensive engagement," it said.

"Seeking to compress these cases into a single flat fee will reduce effective advocacy and increase unjust outcomes. By limiting meaningful defence work at the earliest stage, the flat-fee

proposal increases the risk of inappropriate guilty pleas and weaker rehabilitation pathways."

The submission said the plan failed to recognise the substantial out-of-court work carried out by solicitors, such as engaging with clients and families, reviewing disclosure, liaising with agencies, prison and station attendances and on-call duties.

The plan also ignores the complexity of some cases heard at district court level, the society said.


It pointed to one case, involving a child with a brain injury charged with 20 separate offences before the Children's Court. There had been around 40 adjournments to allow for the preparation of probation and fitness-to-plead reports, the holding of a family welfare conference and the appointment of a guardian ad litem.

The society said the adjournments were not discretionary, but driven by statutory obligations and welfare considerations. Other examples cited included a drug trafficking matter in which there were nine appearances, at the request of the prosecution, to allow time for directions and the service of a book of evidence.



Law Society of Ireland

Social media posts



Law Society of Ireland
48,852 followers
2w


The Department of Justice's proposal for Criminal Legal Aid will lead to slower court processes and increased delays for both victims and defendants.

This proposal will drive solicitors out of the Criminal Legal Aid Scheme. The people who will pay the price are some of the most vulnerable in society.

Director of Policy, **Brian Hunt**, speaks from Leinster House where he outlines how this proposal is based on flawed assumptions from the Department of Justice.

The Law Society will continue to engage with Government, opposition and other stakeholders. A person charged with an offence should not, in a modern democracy, find that there is no solicitor available to represent them.

[Sligo Solicitors Bar Association](#) [Mayo Solicitors' Bar Association](#) [DSBA \(Dublin Solicitors Bar Association\)](#) [Southern Law Association](#) [Donegal Bar Association](#) [Limerick Solicitors Bar Association](#) [Galway Solicitors Bar Association](#)




Law Society of Ireland
48,852 followers
1w · Edited

Criminal Legal Aid has been raised in the Dáil with striking regularity in recent months.

Deputies across the parties - including Paula Butterly, **Matt Carthy**, **Padraig O Sullivan**, **Catherine Ardagh TD**, **Mairead Farrell**, **Barry Ward SC TD**, **Willie O'Dea** and Tom Brabazon have kept the issue firmly on the agenda. That sustained attention matters, because the changes proposed by the Department of Justice are a de facto Cap on Legal Representation.

The proposed changes will replicate the experience of civil legal aid in family law, where a flat-fee approach drove practitioners out and left vulnerable clients without representation.

A Criminal Legal Aid system that practitioners cannot sustainably participate in is not a Criminal Legal Aid system at all. It is a paper guarantee.



Law Society of Ireland
48,852 followers
23h

We know the Department of Justice's proposed changes to Criminal Legal Aid will not work.

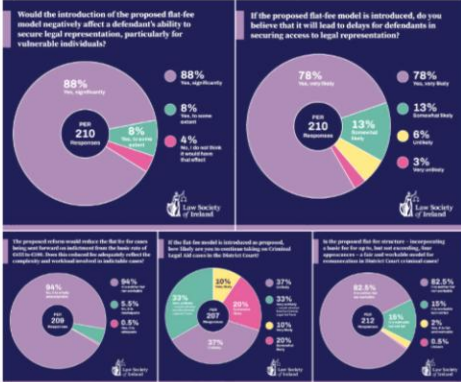
Law Society President, **Rosemarie Loftus**, outlines how these proposals, if introduced, will have serious and lasting consequences for access to justice.

Law Society of Ireland
48,852 followers
9h

"Wholly unacceptable"

That's how 94% of the 200+ solicitors working in criminal legal aid describe proposed changes to the Criminal Legal Aid fee structure - in a major survey by the Law Society Gazette.

[Penal Reform Trust](#) [The Bar of Ireland](#) [Rosemarie Loftus](#) [Mark Garrett](#) [Brian Hunt](#) [Shane McCarthy](#) [Mayo Solicitors' Bar Association](#) [Galway Solicitors Bar Association](#) [DSBA \(Dublin Solicitors Bar Association\)](#) [Laos Solicitors Association](#) [Southern Law Association](#) [Sligo Solicitors Bar Association](#)



Would the introduction of the proposed flat fee model negatively affect a defendant's ability to secure legal representation, particularly for vulnerable individuals?

88% Yes, significantly	8% Yes, to some extent	4% No, the flat fee model would not affect
210 Responses		

If the proposed flat fee model is introduced, do you believe that it will lead to delays for defendants in securing access to legal representation?

78% Yes, very badly	13% Somewhat badly	6% Somewhat well	3% Yes, very well
210 Responses			

Do you believe that the proposed flat fee model will lead to a reduction in the number of solicitors available to provide legal aid?

84% Yes, significantly	12% Yes, to some extent	3% No, the flat fee model would not affect
208 Responses		

If the flat fee model is introduced, will you be able to continue to provide legal aid to vulnerable individuals?

37% Yes, very well	23% Somewhat well	20% Somewhat badly	20% Very badly
207 Responses			

Is the proposed flat fee model a barrier to legal aid for vulnerable individuals?

82.5% Yes, very badly	15% Somewhat badly	2% Somewhat well	0.5% Yes, very well
212 Responses			

National Media Coverage

THE IRISH TIMES

Flat fee proposals 'seriously flawed', says Law Society

MARY CAROLAN
Legal Affairs Correspondent

A criminal legal aid payments system due to come into effect next month is "seriously flawed" and open to legal challenge, the Law Society has warned.

The solicitors' group says the flat-fee proposals for criminal legal aid work in the District Court are unworkable, will lead to an exodus of solicitors from such work and undermine fair trial rights, particularly for vulnerable defendants.

The society's detailed submission opposing the proposals is being published today. It follows a meeting last week with Minister for Justice Jim O'Callaghan and discussions with his department, which failed to assuage its concerns.

The scheme was proposed after the department reviewed more than 350,000 District Court cases during 2022 and 2023. The review noted that expenditure on criminal legal aid in the District Court had risen from €19 million in 2016 to €37 million in 2024.

A core proposal is for a €455 "one accused, one fee" payment for cases with an individual accused, irrespective of the number of appearances. The current system pays solicitors €239.58 per accused and €59.95 for each subsequent appearance.

The society's submissions include examples of cases involving multiple appearances. One case, involving a brain-injured young male facing 20 separate charges, was before the court 40 times with adjournments granted to get reports related to capacity concerns.

The new scheme takes no account of the individual circumstances of cases and will mean "an actuarial form of justice", Shane McCarthy, chair of the society's criminal legal aid committee, told *The Irish Times*.

The department's own data shows a District Court case referred to the Circuit Court will involve an average of nine court appearances, he said. The proposed €100 flat fee for such a case, meaning an €11 payment per appearance, was "an insult".

There was no prior consultation about these proposals and no real engagement by either the Minister or his department since their publication, said McCarthy.

The society was effectively presented with "a fait accompli" and told the new system will be implemented on July 1st. There is "lots of anger and disappointment" among solicitors about the proposals, he said. Many engaged in criminal legal aid work are defending the rights of the most vulnerable and are dismayed about being portrayed as "out to milk the system".

A spokesman for the department said the fee structure reform was aimed at "improving efficiencies, speeding up case resolution, and reducing unnecessary adjournments, while ensuring fair and sustainable remuneration for legal practitioners".



The cost of defending cases: solicitors push back on plan to change how lawyers are paid through criminal legal aid

There's a world of difference between theft of a Crime Egg and mortgage fraud, says one lawyer

UNDERPINNING THE RULE OF LAW

The Department of Justice's flawed proposals to reform criminal legal aid remain a high priority for me and for the Law Society. A detailed submission made at the end of March has set out the substantive reasons for our opposition, and why these proposals will not work.

Criminal legal aid underpins the rule of law. At its core, it is there to guarantee some degree of fairness: fair access to justice, regardless of means or where you live; fair procedures; the right to a fair trial; and fair remuneration for essential legal work. Any proposal that weakens effective legal representation strikes at the heart of the principles of a fair and accessible justice system.

Yet that is precisely the direction the department has chosen with its flat-fee proposal. It is fundamentally unfair, and we will continue to vigorously oppose it.

What drives delays?

A key element of the argument from the Department of Justice is that a defendant and their lawyers are responsible for all the delays and adjournments in court. We know from real-life cases that many, if not most, of the adjournments, hearings, applications, and delays are driven by the prosecution and the courts. A fixed fee for unlimited, unpredictable work simply places the blame on defendants and their solicitors for a system they do not control.

We know that cases can be profoundly different. A minor summary matter and a lengthy, contested trial are not the same – yet this proposed model treats them as if they were, with predictable and damaging consequences.

We know that this approach has already failed. When a flat fee was introduced in family law, it led to a significant withdrawal of participating solicitors – and there is every reason to expect the same outcome in criminal law.

President's message



The flat-fee proposal is fundamentally unfair, and we will continue to vigorously oppose it

Rosemarie J. Loftus
ROSEMARIE J. LOFTUS
PRESIDENT

We know rural and regional communities will be hit hardest, deepening geographic inequality in access to defence services.

It is 17 years since criminal legal aid was cut. Having finally extracted a commitment to restore fees to their 2009 levels, the Government instead proposes what will amount to a unilateral cut. This is indefensible.

I know how deeply frustrating and demoralising these proposals are for colleagues across all areas of law. We will continue working to secure a more equitable solution that achieves genuine efficiencies, while guaranteeing fairness for all stakeholders in the justice system. Rights are not optional extras, and they cannot be protected on the cheap.

Media coverage

The Law Society's analysis of Central Bank insurance data received widespread media coverage in March and April, including an opinion piece in *The Irish Times* and interviews with solicitors across the country. That visibility matters, because insurance-industry spokespeople continue to blame legal costs and personal-injury claims for rising premiums, deflecting attention from their own pricing decisions and growing margins.

The data is clear. The primary driver of high premiums is insurer costs and profits – not legal costs. This misleading narrative and scapegoating of lawyers will not go unchallenged. It is a disservice to consumers and an excuse for inaction by insurers. The Law Society and I will continue to shine a light on the truth and advocate for greater transparency in the insurance market on behalf of consumers and the profession.

Calcutta Run

I am proud to see a wide range of Calcutta Run events lined up for Dublin, Cork, and Galway this year. It's a great chance to come together and share in the vibrancy of the profession, while supporting our flagship charity fundraiser. I hope to see many of you at the Dublin Run on 23 May.

May 2025 - Law Society Gazette - goetteir - 3



National Media Coverage

Analysis

Blunt verdict

Law Society Director General Mark Garrett has delivered a blunt verdict on the Government's proposed reforms of criminal legal aid - describing them as a cost-cutting exercise that hollows out the rule of law from within.



61 April 2020 - Law Society Gazette - gazette.ie

Analysis

There is a particular kind of frustration that settles over a seasoned executive when they believe an injustice is being done - not to any one client, but to an entire system.

Director General Mark Garrett is no exception that state. The

Government's proposed introduction of Cjg for Year 1000, one-for-payment for criminal legal-aid work, he says, represents not a reform, but a retreat - not a "simplification" as officials have chosen to describe it, but a reversion to a premise.

The current system pays solicitors €320 per appearance per accused, and €30 for each subsequent court appearance. Solicitors in the criminal legal-aid scheme carry out the vast bulk of their work in the District Court, but criminal legal-aid trials also include fees paid for work in the Circuit Court and Central Criminal Court, where higher fees apply.

The consequence, he argues, will be left chiefly in the District Courts, where the people least able to defend themselves will find themselves without legal representation.

"It is basically a renegeing on the Government's commitment to restore legal aid to the pre-financial-crisis level," Garrett says. "Ultimately, it will drive solicitors out of practising in this area - there will be an exodus."

The proposals, recently announced by Justice Minister Jim O'Sullivan, would place what Mark Garrett characterises as effective limits on legal aid for vulnerable individuals who can't afford private representation, and who are clearly eligible for legal aid.

Highly critical
Speaking after a meeting with senior officials at the Department of Justice - convened specifically to discuss criminal legal aid - the director general is highly critical about both the content and the process.

"This seems to be designed devoid of knowledge of how the District Courts work in practice. What is being proposed here

Those who designed these proposals are completely devoid of knowledge of how the District Courts work in practice. What is being proposed here is unsustainable.

is unsustainable," he says. "These proposals haven't come from any level of collaboration. We are fully aware of member referrals required within the criminal legal-aid system, but these proposals were not in any way discussed with the Law Society, the Bar Council, or with anybody who understands the practical workings of the District Courts. To be honest, we're at a loss to understand how the department has come up with them."

What makes the proposals particularly galling, in Garrett's view, is that the Government appears to be reproducing a model that has already demonstrably failed. A similar scheme was introduced for family law some years ago, with consequences that the legal aid board itself has been candid about: specifically, difficulty with recruiting solicitors, significant funding shortfalls for private practitioner panels at District Court level, longer waiting times, and some law centres facing potential closure because of high demand and a staffing crisis.

"This is a fundamental undermining of the justice system in this country. So, it's quite shocking to think that the department would propose a scheme that, clearly, has not worked elsewhere and is only designed as a cost-cutting measure."

He is careful not to frame this solely as a lawyers' grievance. The Law Society, he insists, is raising the alarm on behalf of those who will be left without a voice. "This is about the people it will impact, right across the country."

He is careful not to frame this solely as a lawyers' grievance. The Law Society, he insists, is raising the alarm on behalf of those who will be left without a voice. "This is about the people it will impact, right across the country."

61 April 2020 - Law Society Gazette - gazette.ie

Analysis

Starved of investment
The criminal legal-aid controversy does not exist in isolation. It sits within a broader landscape of chronic underfunding that have real consequences for real people," he warns.

Per head of population, Ireland has one of the lowest spending rates on courts compared with other jurisdictions, and this is leading to delays that have real consequences for real people."

Mark Garrett is direct: "There has been some indication that the investment in the courts in recent years - additional judges that have been put in place - is showing through the data that it is improving the throughput of cases. That is a real indication that investment does work."

The Law Society has been calling for sustained investment across the courts system for many years. "Every stakeholder has talked about the underinvestment in the courts system in recent decades," Garrett says. "We feel it is long-overdue investment. We hope it will continue."

On judging the picture in mind, Ireland's homicide rate is considerably lower than the European average - a genuine positive. Yet the rate of reported sexual offences is more than 60% higher than the EU average - a figure that demands careful interpretation, Garrett is appropriately cautious. Greater resources dedicated to tackling sexual violence in recent years may have increased reporting rates, and historical and recent cases may not be properly disaggregated in the data.

"That's what we don't know," he says. "And that is precisely why we need more data to properly analyse what is happening."

When investment works
The report is not merely a ledger of deficiencies. It also contains a proof of concept - evidence that when resources

are directed at the courts, the system responds. The Court of Appeal stands as the clearest example. Following a targeted increase in judicial capacity, case-disposal times have fallen significantly.

The Law Society has been calling for sustained investment across the courts system for many years. "Every stakeholder has talked about the underinvestment in the courts system in recent decades," Garrett says. "We feel it is long-overdue investment. We hope it will continue."

On judging the picture in mind, Ireland's homicide rate is considerably lower than the European average - a genuine positive. Yet the rate of reported sexual offences is more than 60% higher than the EU average - a figure that demands careful interpretation, Garrett is appropriately cautious. Greater resources dedicated to tackling sexual violence in recent years may have increased reporting rates, and historical and recent cases may not be properly disaggregated in the data.

"That's what we don't know," he says. "And that is precisely why we need more data to properly analyse what is happening."

Supporting solicitors
If the Law Society's outward-facing agenda is dominated by advocacy and reform, its internal practices are equally revealing. The Society has established a new Solicitor Services Department, built directly from feedback from the profession and designed to



The data proves that an increase in judges in the superior courts has led to the discharge of judges in the lower courts, leaving little room to upstart steps to ease program and through.

provide tangible, practical support to solicitors throughout their careers.

The scale of existing activity gives some indication of the need. Approximately 20,000 people participated in CPD courses offered by the Law Society last year. The Society's library fielded over 4,000 legal queries from practitioners around the country. The Solicitor Services Department is intended to consolidate and expand this offering - covering professional development, career support, psychological services, networking, mentoring, and leadership development.

"We want to ensure that solicitors around the country are aware of what's available to them now, and will be in the future, to help them practice law, develop their careers, and assist them in any challenges that arise," Garrett says.

Psychological wellbeing, he notes, is an area where Ireland is ahead of comparable bar associations internationally, a conclusion informed partly by the director general's recent participation in the American Bar Association's Bar Leaders

forum in Dublin and other large urban centres, the prospect of legal deserts is not a theoretical risk, but an emerging reality.

61 April 2020 - Law Society Gazette - gazette.ie

new traineeship concentrated in Dublin and other large urban centres, the prospect of legal deserts is not a theoretical risk, but an emerging reality.

The Law Society's response includes plans for an apprenticeship route for school-leavers who have not experienced third-level education, potentially available from 2021. This route is designed specifically to widen the access pipeline and, in doing so, to keep legal services accessible in the communities that need them most.

Whether the Society's long-term investment in access to legal training bears fruit may ultimately depend on the decisions being made right now in the Department of Justice. Mark Garrett does not hide his frustration: "This is the opposite of a collaborative process," he says of the criminal legal-aid proposals, "and is deeply disappointing."

The rule of law - on both sides of the Atlantic - is under pressure in ways that would have seemed unimaginable a decade ago. Ireland, he believes, should know better than to add to that pressure from within. ■

Mark McCormack is editor of the Law Society Gazette.

61 April 2020 - Law Society Gazette - gazette.ie

National Media Coverage

Viewpoint

'WHOLLY UNACCEPTABLE'

The Government's proposals for a reduction in flat-fee payments for criminal legal aid have provoked strong views from solicitors surveyed by the *Law Society Gazette*. Garrett O'Boyle reports

Almost 95% of respondents to a recent *Gazette* survey of solicitors have described the Government's proposed reduction in the flat fee for criminal legal aid in the District Court as 'wholly unacceptable', with a further 5% describing it as 'adequate' and one solicitor branding the proposals 'absolute nonsense'.

Furthermore, over 70% of respondents said that they would be 'unlikely' or 'very unlikely' to continue taking on criminal legal-aid cases in the District Court. One solicitor added: "I should not be penalised for choosing this profession and defending the basic human right to a fair trial. Criminal legal aid should be available to the general public, but solicitors will withdraw from criminal law, and the justice system will suffer."

After working as a solicitor in the area of criminal law for almost 20 years, it is my intention to leave criminal law this year, as the Department of Justice does not respect what we do

Criminal-law practitioners who interact with the Criminal Legal Aid Scheme. There were 212 respondents (a response rate of 80%, which suggests considerable strength of feeling on the subject).

Solicitors were asked a series of multiple-choice questions (as well as one open-ended, discursive question) on the proposed reform of the District Court Criminal Legal Aid system put forward by the Department of Justice.

Indeed, the department's proposal provides for the replacement of an appearance-based system by a flat-fee system, consisting of three types:

- Basic,
- When a barrister is involved, a fee of €100 is shared equally between the solicitor and barrister (that is, €50 each),
- Reduced for indictable cases.

The basic fee is equivalent to four appearances, with an 8% increase. If a case takes more than four appearances to conclude, the fifth and any subsequent appearances will not be paid. For more serious cases, such as indictable cases, the basic fee of €455 will be reduced to €100.

Extreme dispute
The solicitor responses showed extreme dispute at the proposals:

- 51.09% of respondents

described the proposal as a 'fundamentally unacceptable reform that should be abandoned entirely', while a further 35.14% responded that it is a 'seriously flawed reform that should be substantially revised'.

- No. 55% of respondents said that 'it is neither fair nor workable',
- 88.1% said that the proposed scheme would 'significantly' negatively affect a defendant's ability to secure legal representation, while 81.5% said that it would affect it 'to some extent' (yielding a total of 96.7%),
- 78.1% responded that it was 'very likely' that the proposal would lead to delays for defendants in securing access to legal representation, while 15.55% said that it would be 'somewhat likely' (giving a total of 93.45%),
- 81.45% believe that if the proposed reforms are to proceed, there will very likely be a similar exodus from the Civil Legal Aid Family Law Panel (a further 11.45% responded that this would be 'somewhat likely'),
- In relation to the fact that the Department of Justice did not consult directly with criminal-law solicitors prior to proposing this reform, 95.46% responded that such consultation was

'absolutely essential' before any reform changes were implemented.

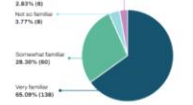
Seriously flawed
The Law Society itself also fundamentally disagrees with the proposed reforms, saying that they are seriously flawed and will not work. Its position is that the proposals would result in substantial difficulties for a defendant in securing legal representation, eroding the rights to legal representation and fair trial, in particular for the most vulnerable members of society.

Crucially, the reforms would result in a situation where access to justice, legal representation, and a fair trial would be reserved for those who can afford it.

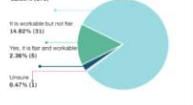
Survey on the proposed flat-fee reform of the District Court Criminal Legal Aid Scheme

Viewpoint

How familiar are you with the Department of Justice's proposed reform to replace the current appearance-based Criminal Legal Aid system with a flat-fee model?



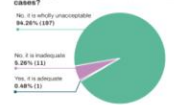
Is the proposed flat-fee structure – incorporating a basic fee for up to, but not exceeding, four appearances – a fair and workable model for remuneration in District Court criminal cases?



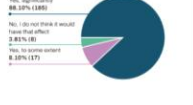
If the flat-fee model is introduced as proposed, how likely are you to continue taking on Criminal Legal Aid cases in the District Court?



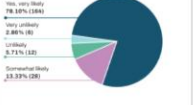
The proposed reform would reduce the flat fee for cases being sent forward on indictment from the basic rate of €455 to €100. Does this reduced fee adequately reflect the complexity and workload involved in indictable cases?



Would the introduction of the proposed flat-fee model negatively affect a defendant's ability to secure legal representation, particularly for vulnerable individuals?



If the proposed flat-fee model is introduced, do you believe that it will lead to delays for defendants in securing access to legal representation?



The Law Society says that it cannot support or endorse a proposal that would remunerate practitioners with a fixed payment for an indeterminate amount of work. As a fundamental principle, the approach to the payment of practitioners under any legal-aid system must be fair. In order to be fair, the system must have a sufficient

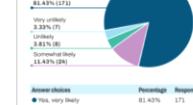
element of flexibility that ensures that remuneration is reflective of the work done by the practitioner.

The likely failure of the current proposals would serve no one's interests and certainly not the wider public – whose safety and confidence in the criminal-justice system depend on its effective operation.

Both the Law Society and survey respondents disagree, pointing to the fact that the introduction of a flat-fee approach in civil legal-aid cases involving family law led to an exodus of solicitors working under the Civil Legal Aid Scheme. It became unviable to provide the service. A similar impact seems inevitable in respect of criminal legal aid.

One solicitor responded

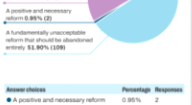
The introduction of flat fees in Civil Legal Aid family law cases has led to a significant departure of solicitors from that scheme. Do you believe a similar exodus from the Criminal Legal Aid Panel is likely if the proposed reforms are implemented?



The Law Society has noted that the Department of Justice did not consult directly with criminal law solicitors prior to proposing this reform. How important do you regard direct consultation with practitioners before any such changes are implemented?



Overall, how would you describe the proposed flat-fee reform of the District Court Criminal Legal Aid scheme?



Exodus of solicitors
When questioned in the *Irish Times* on 14 May 2006, Justice Minister Jim O'Callaghan reaffirmed his intention to implement the reform by way of regulation to commence on 1 July 2006. While he recognises "the crucial role played by the legal professionals in the effective administration of criminal justice, and equally that the Criminal Legal Aid Scheme is fundamental to upholding the constitutional and human right to a legal defence", the minister asserted that this "reform of the criminal legal-aid fee structure in the District Court will not affect the ability of legal professionals to engage in criminal legal-aid work".

Both the Law Society and survey respondents disagree, pointing to the fact that the introduction of a flat-fee approach in civil legal-aid cases involving family law led to an exodus of solicitors working under the Civil Legal Aid Scheme. It became unviable to provide the service. A similar impact seems inevitable in respect of criminal legal aid.

One solicitor responded

in the *Gazette*'s survey: "After working as a solicitor in the area of criminal law for almost 20 years, it is my intention to leave criminal law this year, as the Department of Justice does not respect what we do, the efforts we make on a daily basis to represent those who defend themselves before the courts, in custody in prison, or detained in a Garda station. Payment is not sufficient, and the Department of Justice is adding more work to our already overburdened workload and expects that work to be completed pro bono."

'Not financially viable'
Another said: "The Government should remember that access to justice is an essential part of our democracy. If payments made on the legal-aid scheme are mean and unjustly low, it will be financially viable for solicitors to continue to practice in the District Court, and the system will falter."

Yet another commented: "I am genuinely surprised at how the Department of Justice expects solicitors to keep their doors open and their practices running if they are not paid properly. It's not economically

viable to pay such low rates and expect solicitors to continue to take on these jobs. There will be no one left on their panels. These fees do not cover basic overheads, let alone allow solicitors to earn a living wage."

Engagement plan
The Law Society has put into effect a political-engagement plan, embarking on a series of meetings with opposition spokespersons on justice, members of the Oireachtas, Justice Committee, and party backbenchers to outline the Society's position. In addition, engagement with solicitors and civil-society groups is ongoing. Meetings with a number of leading organisations in the fundamental rights and justice space have already taken place.

The Law Society is calling on all solicitors to directly contact their local TDs and senators to convey the realities of criminal practice. It is urging them to make clear to politicians the level of anger and frustration among the profession at the minister's disturbing proposals.

Garrett O'Boyle is deputy editor at the *Law Society Gazette*.



Law Society of Ireland