

‘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 ‘inadequate’ 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.”

Another said: “Ireland will become a provincial legal wasteland in 15 years’ time if regionally based solicitors are not encouraged to practice outside of the main population centres. This proposed step by the Department of Justice is but another nail in the coffin of provincial and regional legal representation.”

High response rate

The Law Society’s anonymised survey was sent to practitioners on the Garda Stations Solicitors’ Panel and to other

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.

Briefly, the department’s proposal provides for the replacement of an appearances-based system by a flat-fee system, consisting of three types:

- Basic,
- When a barrister is involved, a fee of €600 is shared equally between the solicitor and barrister (that is, €300 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 disquiet

The solicitor responses showed extreme disquiet at the proposals:

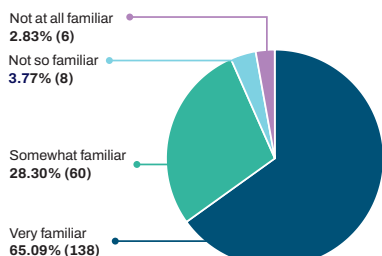
- 51.09% of respondents

described the proposals as a ‘fundamentally unacceptable reform that should be abandoned entirely’, while a further 35.24% responded that it is a ‘seriously flawed reform that should be substantially revised’,

- 82.55% 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 8.1% said that it would affect it ‘to some extent’ (yielding a total of 96.2%),
- 78.1% responded that it was ‘very likely’ that the proposals would lead to delays for defendants in securing access to legal representation, while 13.33% said that it would be ‘somewhat likely’ (giving a total of 91.45%),
- 81.45% believe that if the proposed reforms are to proceed, there will ‘very likely’ be a similar exodus from the panel, as occurred with the Civil Legal Aid Family Law Panel (a further 11.45% responded that this would be ‘somewhat likely’), and
- In relation to the fact that the Department of Justice did not consult directly with criminal-law solicitors prior to proposing this reform, 95.26% responded that such consultation was

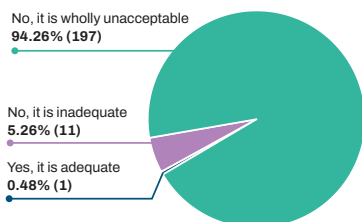
Survey on the proposed flat-fee reform of the District Court Criminal Legal Aid Scheme

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



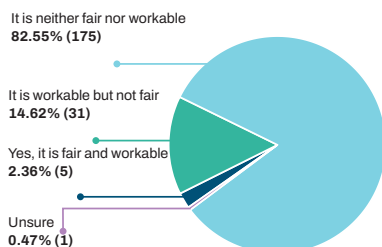
Answer choices	Percentage	Responses
Very familiar	65.09%	138
Somewhat familiar	28.30%	60
Not so familiar	3.77%	8
Not at all familiar	2.83%	6
Total		212

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?



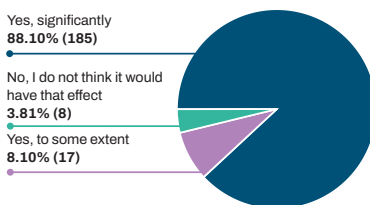
Answer choices	Percentage	Responses
Yes, it is adequate	0.48%	1
No, it is inadequate	5.26%	11
No, it is wholly unacceptable	94.26%	197
Unsure	0%	0
Total		209

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?



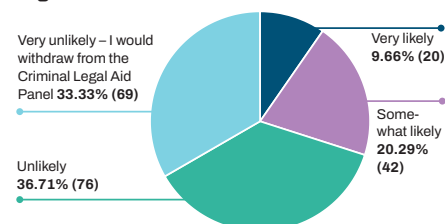
Answer choices	Percentage	Responses
Yes, it is fair and workable	2.36%	5
It is workable but not fair	14.62%	31
It is neither fair nor workable	82.55%	175
Unsure	0.47%	1
Total		212

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



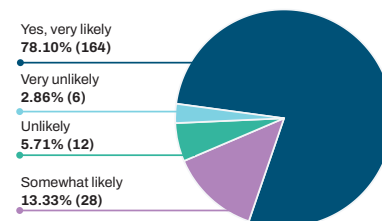
Answer choices	Percentage	Responses
Yes, significantly	88.10%	185
Yes, to some extent	8.10%	17
No, I do not think it would have that effect	3.81%	8
Unsure	0%	0
Total		210

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?



Answer choices	Percentage	Responses
Very likely	9.66%	20
Somewhat likely	20.29%	42
Unlikely	36.71%	76
Very unlikely – I would withdraw from the Criminal Legal Aid Panel	33.33%	69
Total		207

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?



Answer choices	Percentage	Responses
Yes, very likely	78.10%	164
Somewhat likely	13.33%	28
Unlikely	5.71%	12
Very unlikely	2.86%	6
Total		210

'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.

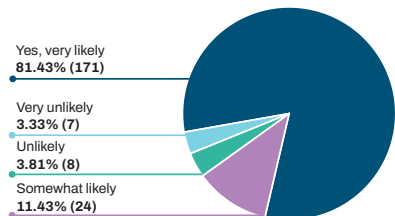
Crucially, the reforms would result in a situation where access to justice, legal representation, and a fair trial would be reserved for those who can afford it.

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.

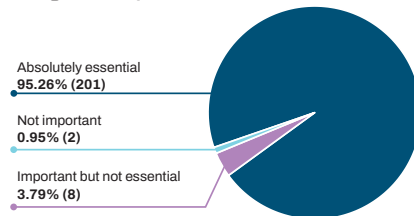
The likely failure of the current proposals would serve no one's interests and certainly not the wider public – whose safety and confidence in the criminal-justice system depend on its effective operation.

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 proceed?



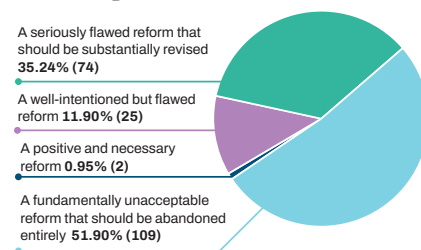
Answer choices	Percentage	Responses
● Yes, very likely	81.43%	171
● Somewhat likely	11.43%	24
● Unlikely	3.81%	8
● Very unlikely	3.33%	7
Total		210

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?



Answer choices	Percentage	Responses
● Absolutely essential	95.26%	201
● Important but not essential	3.79%	8
○ Of limited importance	0%	0
● Not important	0.95%	2
Total		211

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



Answer choices	Percentage	Responses
● A positive and necessary reform	0.95%	2
● A well-intentioned but flawed reform	11.90%	25
● A seriously flawed reform that should be substantially revised	35.24%	74
● A fundamentally unacceptable reform that should be abandoned entirely	51.90%	109
Total		210

Exodus of solicitors

When questioned in the Dáil on 14 May 2026, Justice Minister Jim O’Callaghan reaffirmed his intention to implement the reform by way of regulation to commence on 1 July 2026. While he recognises “the crucial role played by the legal professions 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 find 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 not be financially viable for solicitors to continue to practise 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

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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.