



An Roinn Dlí agus Cirt
Department of Justice

Review of Criminal Legal Aid in the District Court



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Introduction

Expenditure on criminal legal aid has grown dramatically in recent years. The current model, based on legislation dating back to 1962, ties payments to legal professionals to the number of appearances, certificates, and clients represented on a single hearing date.

Since 2015, in the District Courts alone, annual costs have almost doubled — rising from €19 million to €37 million by 2024 — despite an overall decrease in the volume of criminal cases before the District Courts.

This upward trajectory is driven by a combination of factors: the increase in offences that more frequently attract legal aid, the granting of multiple certificates, and a disproportionately high number of appearances in criminal legal aid cases. Importantly, these patterns are not matched by differences in case outcomes when criminal legal aid cases are compared to cases without criminal legal aid, suggesting inefficiencies and systemic weaknesses in the current model.

This paper analyses data compiled by the Courts Service on approximately 350,000 District Court cases in the period 2022-2023, detailing operational concerns with the current model and setting out the evidence underpinning the case for reform.

Criminal Legal Aid in the District Court

Trends and expenditure

Since 2015, there has been an increase of over 94% in criminal legal aid expenditure, with specific expenditure related to District Court cases rising from approximately €19m in 2015 to approximately €37m in 2024. The number of legal aid certificates granted over this same period has increased by over 82%, from 53,937 in 2015 to 98,230 in 2024.

As the scheme is demand led and the granting of certificates is outside the control of the Department, considering the significant increase in public expenditure and the continuing upward trajectory of the number of criminal legal aid certificates being granted, the Department undertook a necessary review of criminal legal aid in the District Court.

As outlined below, there are a number of key drivers behind the increase in criminal legal aid expenditure, namely:

- An increase in crimes that attract criminal legal aid appearing in the District Courts. According to data available from the Courts Service¹, in the last few years there has been a decrease of approximately 10% in the overall number of incoming criminal cases in the District Courts, from 391,207 in 2017 to 350,852 in 2024. However, crimes that statistically attract criminal legal aid in higher proportions have all increased in the District Courts from 2017 to 2024. Drugs, Fraud and Robbery have increased by approximately 20% and Public Order and Assault by approximately 25%. While it is true that other crimes such as Road Traffic Offences have decreased significantly, from approximately 233,000 in 2017 to approximately 185,000 in 2024, these offences only attract criminal legal aid in approximately 20% of cases. The increase in offences attracting criminal legal aid has resulted in a corresponding significant increase in certificates granted, from 64,181 in 2017 to 98,230 in 2024. The increase in certificates granted has automatically resulted in an increase in expenditure on criminal legal aid for District Court cases.

¹ [Data Portal - Courts Data Reports](#)

- Defendants are frequently granted more than one criminal legal aid certificate for charges heard on the same day and arising out of the same incident, with judges directing separate payments under Regulation 7(4) of S.I. 12/1965, therefore multiplying costs;
- Current regulations allow solicitors to maximise earnings in ways not envisaged by the original legislation, including by distributing multiple certificates across colleagues in the same firm;
- Cases with criminal legal aid have significantly more appearances and take longer to complete, compared to non-criminal legal aid cases, adding to both direct legal aid costs and wider system costs for Gardaí, the Courts Service, and all other criminal justice agencies involved.

Criminal legal aid plays a vital role in ensuring constitutional and human rights, but from a public expenditure perspective the current trajectory, as shown in the table below, is unsustainable.

2017	2018	2019	2021	2021	2022	2023	2024	2025 (Up to August)
€58.1m	€64.8m	€65m	€62.2m	€73.4m	€76.4m	€89.2m	€89.4m	€87m

Criminal Legal Aid data analysis

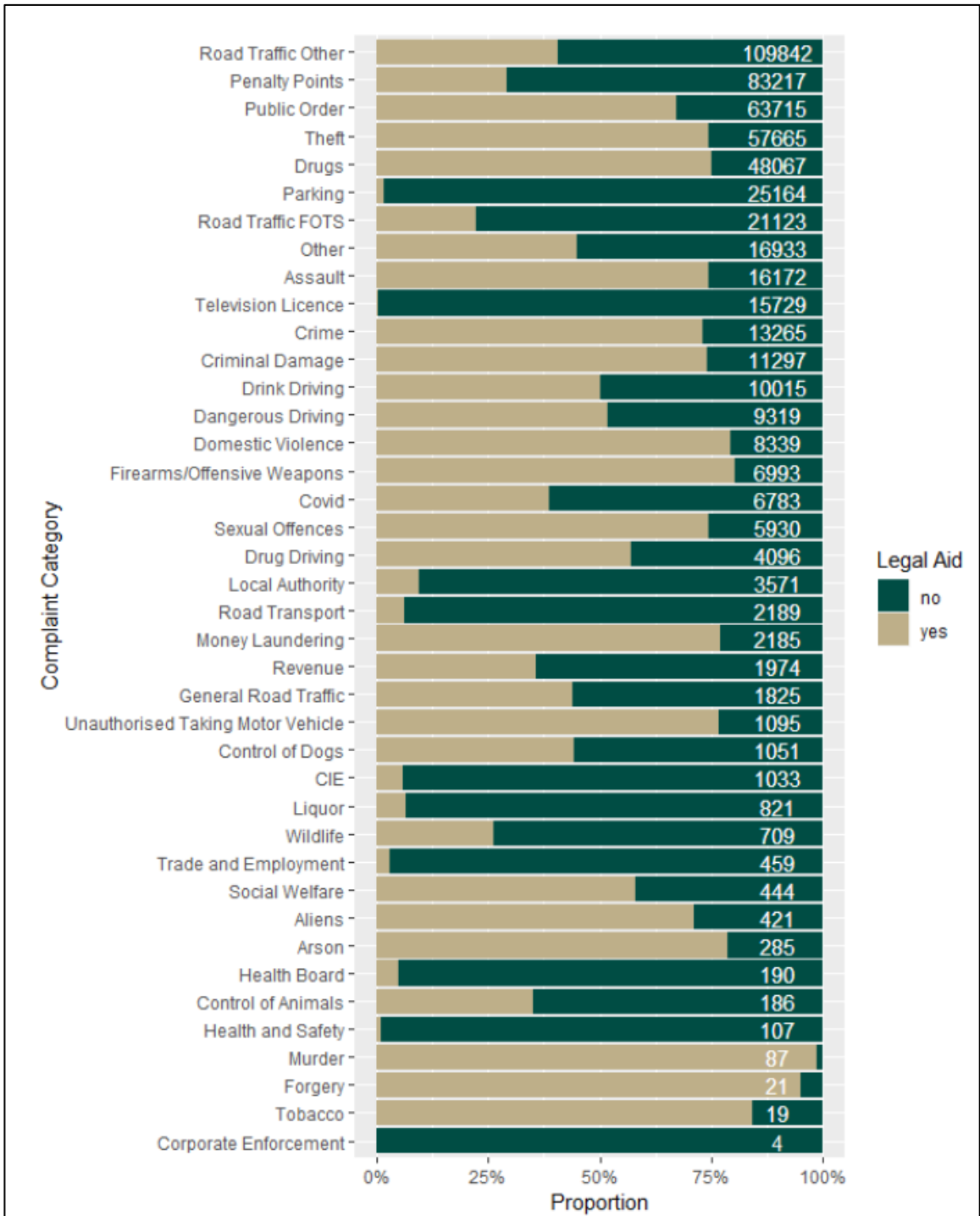
An analysis of District Court Cases was performed by the Department with a view to determining the trends and patterns related to criminal legal aid. The total number of cases included in the analysis was 339,019, and they related to District Court cases nationwide for the years 2022 and 2023. The analysis focused on:

- The proportion of cases that receive criminal legal aid;
- The difference between the duration of cases that receive criminal legal aid versus those that did not receive criminal legal aid;
- The number of appearances for cases that both received and did not receive criminal legal aid;
- The outcome for offences with criminal legal aid compared to those without criminal legal aid.

Looking at individual offence types, the table below shows the total number of offences (with the highest occurring listed at the top and the value of the number of offences noted on the right-hand side) and what proportion received legal aid or not. As noted above, 46% of all offences receive legal aid. It is evident that some offences are more likely to attract legal aid than other offence types:

- Three of the top five highest volume offences (public order, theft and drugs) are more likely to receive criminal legal aid;
- Offences involving harm to individuals (such as assaults, domestic violence, sexual offences and murder) are more likely to receive criminal legal aid. Weapons and firearms offences also receive a comparatively high level of criminal legal aid;
- Offences involving damage to property (such as criminal damage and arson) are also more likely to receive criminal legal aid.

There are offences that are also less likely to attract legal aid, such as offences that attract penalties and fines (for example, penalty points, parking, road traffic offences and television license), however more serious road traffic offences (drink driving, drug driving and dangerous driving) attract average levels of criminal legal aid support.



In addition to the above, data analysed shows that, from first to last appearances, cases with legal aid take significantly longer to complete than those without. In fact, research shows that cases with legal aid take an *average* of 313 calendar days to complete, compared to 133 days for cases without. As shown in the table below, cases with legal aid have a *median* of 186 calendar days to completion compared to 28 days for those

cases without legal aid, and “0” in median duration means that the case was finalised on first appearance.

Complaint(s)	No - median duration	Yes - median duration	No - total cases	Yes - total cases
Theft	97	181	12310	31685
Public Order	63	175	15055	22821
Penalty Points	0	126	28772	3135
Drugs	77	223	9242	21749
Parking	0	47	23597	264
Road Traffic Other - Penalty Points	0	139	10614	6137
Television Licence	0	63	15711	16
Crime	78	157	3434	9136
Assault	158	206	3168	7532
Road Traffic Other	0	185	7351	3157
Road Traffic FOTS	0	70	8999	538
Penalty Points - Road Traffic Other	0	133	5873	3597
Other	63	95	4819	3053
Domestic Violence	175	197	1623	5969
Drink Driving	208	265	3470	3092
Covid	91	147	4048	2490
Criminal Damage	140	217	2073	4457
Firearms/Offensive Weapons	141	215	937	3011
Road Traffic Other - Penalty Points - Road Traffic FOTS	50	219	1767	1667
Dangerous Driving	185	266	1926	1259

Research shows that cases with criminal legal aid have significantly more court appearances and adjournments than cases without. Across all offences, the average number of appearances for cases with criminal legal aid is 5.8, which is much higher than the number for cases without criminal legal aid (i.e., 2.8).

The table below shows the mean appearances for offences that attract criminal legal aid in higher proportions.

Offence	Average appearances with CLA	Average appearances without CLA
Drugs	4.6	3.3
Theft	6.6	4.8
Assault	6.3	5.0
Sexual Offences	4.2	3.4
Domestic Violence	6.2	5.5
Criminal Damage	6.6	5.2
Public Order	5.4	3.4
Penalty Points	3.6	1.9

Finally, the table below reports the outcomes of the cases analysed. When looking at the outcomes that represent high volumes going through the system, we see that:

- for cases with criminal legal aid, the main outcome is that it is struck out (in 21.3% of cases), that the offence is taken into consideration (16.2%) and a fine is applied (15% of cases).
- for cases without criminal legal aid, the main outcomes are relatively the same, although the proportions differ. For example, the main outcome is a fine (38.1% of the time compared to 15% above), struck out (31% of the time compared to 21% above), or are taken into consideration (6.2% compared to 16.2% above).

Overall, cases with criminal legal aid are less likely to have an outcome of a fine, are less likely to be struck out, although more likely to be struck out following poor box payments and are marginally less likely to be withdrawn.

Outcome	No	Yes	No %	Yes %	Total Cases with Outcome
Fine	53077	15092	38.1%	15.0%	68169
Strike Out	43187	21436	31.0%	21.3%	64623
Taken Into Consideration	8602	16373	6.2%	16.2%	24975
Withdrawn	9373	5500	6.7%	5.5%	14873
Trial Order on Section 4A(1) Consent Bail - Multi	5462	6327	3.9%	6.3%	11789
Imprisonment	1703	7615	1.2%	7.6%	9318
Dismiss	4414	4121	3.2%	4.1%	8535
Dismiss Probation Act 1(1)	2724	4280	2.0%	4.2%	7004
Imprisonment - Suspended	1275	5429	0.9%	5.4%	6704
Strike out following poor box payment	2084	2123	1.5%	2.1%	4207
Imprisonment - Consecutive	756	2454	0.5%	2.4%	3210
Probation Order - Forthwith	903	2271	0.6%	2.3%	3174
No Order	2166	873	1.6%	0.9%	3039
Trial Order on Section 4A(1) in Cust. Multi Off.	669	2176	0.5%	2.2%	2845
Forthwith Fine	989	1398	0.7%	1.4%	2387
Unusual Result	678	1528	0.5%	1.5%	2206
Peace Bond - No Default	202	633	0.1%	0.6%	835
Trial Order on Guilty Plea on Bail	451	377	0.3%	0.4%	828
Community Service Order	171	572	0.1%	0.6%	743
Dismiss Probation Act on Payment	489	239	0.4%	0.2%	728

In conclusion, the analysis of data available strongly points towards three critical points:

1. Inefficiency: Criminal legal aid cases take significantly longer and involve more appearances than necessary, consuming valuable court time and resources.
2. Perverse incentives: The current fee structure encourages repeated appearances, with little impact on case outcomes.
3. Systemic costs: because of the higher number of appearances, criminal legal aid cases create additional resourcing burdens for the Courts Service, An Garda Síochána, the Office of the Director of Public Prosecutions, the Irish Prison Service and the judiciary, as well as higher direct costs for the Department.

Current fee structure, payment process and operational vulnerabilities

The current fee structure in the District Court operates on a sliding scale basis. This fee structure is provided for in the Criminal Justice (Legal Aid) (Amendment) Regulations 2024 (S.I. No. 742 of 2024), as follows:

Defendant/Appellant	First day of hearing		Subsequent days of hearing
Fee in respect of defendant / appellant where only one defendant / appellant represented and in respect of first defendant / appellant where solicitor assigned in respect of more than one defendant / appellant.	€239.38 in relation to first 2 cases.	€143.61 in relation to each subsequent case.	€59.86
Fee in respect of second defendant / appellant where solicitor assigned in respect of more than one defendant / appellant.	€143.61 in relation to first 2 cases	€85.77 in relation to each subsequent case.	€59.86
Fee in respect of each defendant / appellant (other than the first and second defendants / appellants) where solicitor assigned in respect of more than two defendant / appellant.	€95.79 in relation to first 2 cases.	€59.86 in relation to each subsequent case.	€59.86

While the fees provided for have been amended regularly throughout the years, the text of the current Regulations dates back to the Criminal Justice (Legal Aid) Regulations, 1965. Sliding scales for payment regarding multiple defendants were introduced in the Criminal Justice (Legal Aid) (Amendment) (No. 2) Regulations, 1993. The wording in respect of first, second and subsequent defendants was amended in 1997, and its current wording first appeared in the Criminal Justice (Legal Aid) (Amendment) Regulations 2002.

The unintended consequence of the current wording is a fairly complex system based on the number of appearances, the number of defendants and the number of certificates granted to each defendant. This system gives rise to several issues, namely:

1. Complex District Court payment processes

The Criminal Legal Aid Unit of the Department has conducted a mapping exercise in conjunction with the Financial Shared Services (FSS), to create visual charts of the current processes relating to District Court payments. These processes clearly show that the current fee structure needs a multi-layered and complex system of checks and approvals before payments can be authorised. The process is time consuming and resource intensive and is one of the reasons why delays in payments may occur for cases in the District Court.

2. Disproportionate amount of adjournments

The current fee structure inadvertently rewards additional court appearances with payments for each, therefore incentivising legal practitioners to maximise the number of court appearances for each criminal legal aid case they work on. This is reflected in the data, which shows criminal legal aid cases cost more than those without and take significantly longer to complete. In addition to multiplying costs for criminal legal aid in itself, the additional court time taken up by criminal legal aid cases has resourcing and cost implications for all criminal justice agencies, namely the Courts Service, An Garda Síochána, the Irish Prison Service, the Director of Public Prosecutions, as well as for the judiciary.

Regulation 3(2)(b) of the Criminal Justice (Legal Aid) (Amendment) Regulations 1978 (S.I. No. 33 of 1978) provides that:

“No fees shall be paid under the Act to a solicitor assigned in relation to any particular case in the District Court in pursuance of a certificate for free legal aid in respect of any day which the hearing consists only of an application for an adjournment by or on behalf of the solicitor, or the prosecution, made, in the opinion of the court, for the purpose of the solicitor’s convenience”.

However, there is currently no method of recording the reasons for an adjournment in the District Court. This, combined with the current fee structure remunerating solicitors for multiple appearances in the District Court, makes it difficult for the Department to ensure compliance with the above Regulation.

As acknowledged by the “Practice Direction for Criminal Proceedings”² in the District Courts, “*there are many uncomplicated summary cases where adjournments are unnecessary*” and “*such cases include drunkenness in a public place, illegal begging, no insurance, no driving licence, no NCT and failure to produce documents*”.

Most of these cases do not attract custodial sentences, with penalties usually being fines or donations to the poor box. Such crimes and penalties are neither grave nor exceptional, yet are for the vast majority in receipt of criminal legal aid, and are nearly always adjourned multiple times.

The fact that criminal legal aid cases present a disproportionate number of appearances is not only shown in the data presented above, but it is also confirmed by the analysis of payment forms submitted to the Department in respect of District Court cases (i.e., LA1 forms), with the below table (which consists of single charge cases) providing some examples for illustrative purposes.

Court	Charge	No. of Appearances
Arklow	Possession of Drugs	16
Bray	Theft	18
Bray	Public Order	10
Carlow	Public Order	7
Cavan	Criminal Damage	12

² [Criminal Proceedings in District No. 21 | The Courts Service of Ireland](#)

Cork	Public Order	10
Cork	Possession of Drugs	8
Cork	Theft	16
Dublin	Making Gain or Causing Loss by Deception	14
Dundalk	Possession of Knives and Other Articles	14
Ennis	Production of an article in course of dispute	10
Ennis	No Driving License	5
Galway	No Insurance	7
Galway	Burglary	11
Galway	Failure to Cause Pupil to Attend School	6
Galway	Failure to Appear on Some Other Date	13
Kildare	No Insurance	9
Kilkenny	Possession of Knives and Other Articles	9
Letterkenny	Drink Driving	13
Letterkenny	Public Order	16
Letterkenny	Failure to Produce Licence/Learner Permit	17
Letterkenny	Assault	20
Limerick	Threatening/Abusive/ Insulting Behaviour in a Public Place	11
Limerick	Violent Disorder	8
Monaghan	Criminal Damage	12
Portlaoise	No Insurance	7
Sligo	Entering Building with Intent to Commit Offence	13
Tipperary	Intoxication in a Public Place	8
Tipperary	Burglary	9
Wexford	Theft	8
Wexford	Giving False Name/Address/Date of Birth	10

3. Multiple certificates being granted for no stated reason

In addition, Regulation 7(4) of the Criminal Justice (Legal Aid) Regulations, 1965, dealing with the granting of and payment for multiple certificates, has become a major issue in recent years and has placed an additional strain on the criminal legal aid budget.

Regulation 7(4) of the Criminal Justice (Legal Aid) Regulations, 1965 states the following:

“where two or more certificates for free legal aid are granted to a person and the cases in relation to which they are granted are heard together or in immediate succession, one certificate only shall (unless the Court, being satisfied that there is good reason for so doing, otherwise directs) be deemed, for the purposes of these Regulations, to have been granted to the person”

In the past, the Department made separate payments in respect of Legal Aid Certificates under Regulation 7(4), without enquiring as to the reasons they were granted. Over the past two years, the Department has queried such claims with the Courts Service and solicitors. These enquiries show that in a high number of cases reasons are not being provided for the granting of more than one certificate in respect of cases that are heard together or in immediate succession.

In fact, it has transpired that reasons for the granting of separate payments under this regulation are rarely sought or provided in the District Court. There is frequently no signature from the judges granting same. It is usually District Court Clerks who sign the forms confirming the granting of separate payments under this Regulation.

Not only has the overall number of cases where multiple certificates were granted increased, but also the number of certificates granted to one single accused has, in several cases, increased dramatically. For example, the Department has received requests for payment under Regulation 7(4) for one single accused, for:

- 63 legal aid certificates for charges of brothel keeping;
- 221 certificates for charges of theft;

-
- 80 certificates for charges of sexual assault.

Remarkably, on the same day these certificates were granted, each case was directed to be heard in a higher court where higher fees apply, therefore raising the question as to why separate payments under Regulation 7(4) were granted at all.

The financial implications of the misuse of Regulation 7(4) cannot be understated as a rough estimate for one appearance in respect of the above case with 63 certificates is €14,000.

4. Solicitors openly advertising maximising profits under the Criminal Legal Aid Scheme

In order to maximise earnings, multiple solicitors from the same legal firm frequently request legal aid be assigned to them in respect of the same defendant who is facing multiple charges. For example, in a District Court case where 30 separate payments were granted in respect of multiple Legal Aid certificates for one defendant, these 30 separate certificates were divided amongst seven solicitors from the same firm. This same case was subsequently moved to the Circuit Court due to the severity of the charges. In another instance, 10 separate legal aid certificates in respect of the same defendant were assigned to four solicitors from the same firm.

However, it should be noted that in the vast majority of these cases, the same solicitor (and not different solicitors) was in Court representing the client. While Regulation 7 of the Criminal Justice (Legal Aid) (Amendment) Regulations 2011 (S.I. No. 362) allows for colleagues from the same legal firm to stand in for each other in cases where the solicitor on the certificate cannot attend the hearing, the intention of this Regulation was not to allow for the maximisation of profits under criminal legal aid. The rationale for the Regulation was naturally to permit another solicitor, or, where appropriate, counsel, to represent a client where their solicitor, due to unforeseen or exceptional circumstances, was unable to attend court on a specific day.

The Department is aware of a presentation titled “*A Crash Course on Legal Aid Applications in the District Court*” (Appendix 1), informing legal practitioners how they “*can maximise the legal aid by assigning each prosecution in a different Solicitor’s name from the same firm*” when applying for criminal legal aid certificates.

It should be noted that the issues of multiple certificates and assigning different solicitors to them, are the subject of 12 Judicial Reviews where orders of *certiorari* have been sought quashing the decisions of District Court judges on the following:

- refusing to grant separate legal aid certificates to multiple solicitors for charges arising from the same incidents;
- granting legal aid certificates to solicitors where none were sought. In this instance, a solicitor applied for themselves and two other solicitors from their firm to be assigned on three out of five cases being heard with no application for legal aid made for the remaining two. The Judge refused this application and assigned one solicitor to all five cases;
- refusing to grant separate certificates under Regulation 7(4) for charges that were heard together.

5. Statement of means not being provided to judges

Section 2 of the Criminal Justice (Legal Aid) Act, 1962 provides that a criminal legal aid certificate may be granted by the District Court where the applicant satisfies two criteria:

- (a) that the means of the person are insufficient to enable him to obtain legal aid and
- (b) that by reason of the gravity of the offence with which he is charged or of exceptional circumstances it is essential in the interests of justice that he should have legal aid in the preparation and conduct of his defence before it.

The criteria for granting criminal legal aid are also specified in the abovementioned Practice Direction for the District Courts, according to which “*Legal aid will be granted where the accused has insufficient means to privately obtain legal assistance, and owing to the gravity of the offence, the complexity of the case or exceptional circumstances, the interests of justice dictate that the accused ought to have legal aid to conduct their defence*”.

This provision clearly requires that the Court should establish whether a person is of sufficient means to pay for their defence and that the offence is serious. However, from observing Court practices and consulting with clerks and court managers across the country, the Department has established that the seriousness of the offence is never a factor, and that a statement of means is infrequently requested by Judges when considering granting legal aid. More importantly however, when these are requested, they are rarely furnished to the Court following a request from the judge.

While the Act of 1962 provides that the granting of legal aid is the prerogative of the Courts, this does not obviate the requirement for it to be established whether a person has sufficient means to obtain legal aid.

In addition, the Criminal Legal Aid Unit of the Department regularly receives correspondence directly from defendants, requesting confirmation that they had been granted criminal legal aid as they were not asked to provide any documentation by the Court, or because they were also being charged privately by their solicitor, which is prohibited under criminal legal aid rules.

While the systemic failure to produce statements of means is not linked to the current fee structure, this further shows how criminal legal aid rules and regulations are consistently flouted in practice, with significant implications for the budget.

6. Non-Statutory District Court (Counsel) Scheme

The Non-Statutory District Court (Counsel) Scheme, administered by the Department, was established following the judgment of the Supreme Court in *Carmody v. the Minister for Justice, Equality and Law Reform* in 2009. This judgment ruled that, in exceptional circumstances, and where the issues are particularly grave or complex, a defendant

appearing before the District Court has a constitutional right to seek legal aid which includes counsel as well as a solicitor.

Counsel's fee under the Non-Statutory District Court (Counsel) Scheme is currently set at €679 per case and only one fee per case should be paid. The Department has however received repeated correspondence from various Counsel stating they are entitled to multiple payments if separate payments under Regulation 7(4) of the Regulations of 1965 have been granted in respect of the charges relating to a case. This has created an administrative burden for the Criminal Legal Aid Unit and uncertainty around the application of Regulation 7(4) to the Scheme.

Since 2022, the number of payments and expenditure on Non-Statutory District Court (Counsel) Scheme certificates are as follows:

As of April 2025: 1449 payments totalling €1,078,561.87;

- 2024: 2896 payments totalling €2,019,780.03;
- 2023: 2959 payments totalling €1,930,711.64;
- 2022: 1874 payments totalling €1,271,449.04.

These figures show a 54% increase in the number of payments made and an increase of over 58% in expenditure on the Scheme from 2022 to 2024. Individual barristers have been earning significant sums from Non-Statutory payments. One barrister, since 2023, has earned approximately €100,000 in Non-Statutory payments alone, which accounted for almost one third of his criminal legal aid payments. Another barrister earned over €76,000 in 2024 solely for appearances on the District Courts.

In line with the rationale underscoring the Carmody judgment, a Non-Statutory District Court (Counsel) Scheme certificate should only issue where *“the solicitor has established that the gravity of the charge and complexity of the case, as well as any other exceptional circumstances make it essential in the interests of justice that he or she should have the assistance of counsel in the preparation and conduct of his or her defence of the case before it”*.

The Department has conducted an examination of claims made under the Scheme, and the following are common examples of cases where Non-Statutory District Court (Counsel) Scheme certificates have been issued:

- Criminal damage;
- Theft;
- Road Traffic Offences/No Insurance;
- Refusal to give sample;
- Failure to cause pupil to attend school;
- Failure to produce Luas ticket;
- Public Order;
- Threatening to damage property.

It is clear that gravity, complexity and exceptionality are not being adequately considered when certificates assigning Counsel in the District Court are being issued.

The three District Courts which issued the highest number of certificates in 2024 were as follows:

- Dublin – approximately 1,169 certificates;
- Wexford – approximately 175 certificates;
- Waterford – approximately 84 certificates.

The above District Courts were significant outliers as all other District Courts issued 35 or fewer such certificates.

Appendix 1 – “A Crash Course on Legal Aid Applications”

The following document is a presentation entitled “*A Crash Course on Legal Aid Applications in the District Court*”, delivered by Ferry’s Solicitors. It informs barristers how they “*can maximise the legal aid by assigning each prosecution in a different Solicitor’s name from the same firm*” when applying for legal aid certificates.



Crash Course.pdf