JUSTICE MATTERS

AN UPDATE ON JUSTICE AND LAW REFORM

Law Society of Ireland

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VULNERABLE PEOPLE WILL PAY THE PRICE for Changes to Criminal Legal Aid

Changes to Criminal Legal Aid will lead to an exodus of solicitors and curtail access to justice

The Department of Justice, Home Affairs and Migration has proposed significant changes to Criminal Legal Aid at District Court level through the introduction of a flat fee per case regardless of the actual complexity, duration or workload involved.

These proposals may look like a matter solely for solicitors and barristers. The impact will be felt more widely - and the people who stand to lose most are among the most vulnerable in society.

Criminal Legal Aid has underpinned the constitutional right to a fair trial since the 1960s, ensuring equality before the law. Justice is a right for all, not a privilege for those who can pay. The proposed changes would undermine a defendant's right to a fair trial by failing to take account of the complexity, duration, or personal circumstances of individual cases.

The Irish Council for Civil Liberties (ICCL) revealed on 28 May that it had written to the Minister for Justice, Home Affairs and Migration, Jim O'Callaghan, expressing its deep concerns about the Department of Justice's plans. The ICCL warned that the proposed changes would "undermine confidence in the justice system" and were "not in the public interest".

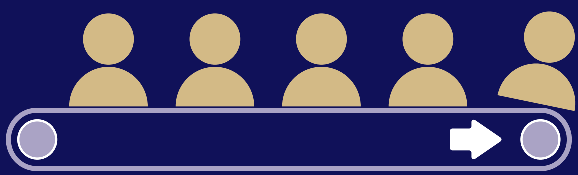
Criminal Legal Aid proposal is A Cap. A Cap on Justice.

The clients solicitors represent are:

Children In trouble for the first time	**People with addiction** Or other health conditions	**People who are homeless**
Non-English speakers Navigating a foreign system	**People who have literacy challenges**	**People in crisis** Acute and urgent

Their cases don't fit neatly into a flat fee.

The risk:



The justice system is not a conveyor belt.

Who actually relies on the scheme?
The clients before the District Court every day are not other people. They are:

- children in trouble for the first time
- people experiencing homelessness
- people with addiction
- people living in poverty
- people suffering ill-health
- people with cognitive impairment
- people who are non-English speaking
- victims of trafficking
- people in acute crisis

Their cases almost always require additional time and engagement with various State Agencies and patient, repeated engagement with a solicitor - none of which is accommodated by a flat fee.

A flat fee model pursues a form of "express justice" that simply cannot accommodate them, and risks creating perverse incentives toward early guilty pleas where they are not appropriate, undermining rehabilitation and producing worse outcomes for the people least able to speak up for themselves.

Experience in civil legal aid, particularly in family law, has shown that the introduction of flat fees has led to an exodus of solicitors working under the Civil Legal Aid Scheme, as it became unsustainable to provide the service. The introduction of a flat fee in Criminal Legal Aid will undoubtedly bring about a similar outcome. This would reinforce criminal legal aid deserts, with rural and regional areas hit hardest.

A person charged with an offence should not, in a modern democracy, find that there is simply no solicitor available to represent them. The knock-on effects would be serious, including:

- more remands in custody
- added strain on an overcrowded prison system
- weaker bail representation for those least able to advocate for themselves
- delays in advancing cases (no possibility to seek legal advice)

The Law Society has made its position clear. Reform is needed, and the profession supports reform - but it must be evidence-based, developed through genuine consultation, and built around fairness as well as efficiency.

INSURER COSTS AND PROFITS Are Driving Premium Hikes - Central Bank Data Confirms

The cost of insurance in Ireland - long a political flashpoint for households, employers, retailers, hospitality operators and the farming community - is being driven primarily by insurers' own costs and profits, not by claims, legal fees or compensation awards, according to Central Bank data.

A fresh analysis of figures from the Central Bank's National Claims Information Database (NCID) makes it clear that the recently launched Motor Insurance Transparency Code, introduced as part of the Government's *Action Plan for Insurance Reform 2025–2029*, does not go far enough. Without enforcement, audits or penalties, the voluntary Code cannot deliver the openness and accountability that consumers and businesses were promised.

The €1.4 billion question for motorists

In 2024, Irish motorists paid €1.4 billion in premiums. The Central Bank data shows that, for every €100 paid:

- **€46** was retained by insurers in costs and profits
- **€45.50** was paid out in claims
- **€7.60** covered legal costs
- **€0.88** covered other costs, including medical costs

Over the past five years, the insurers' costs and profits ("price-cost mark-up") have consistently dominated motor premiums, accounting for the majority of gross premiums:

- **2020:** 59.7% (€790m)
- **2021:** 61.2% (€794m)
- **2022:** 60.7% (€755m)
- **2023:** 50.6% (€655m)
- **2024:** 46% (€674m)

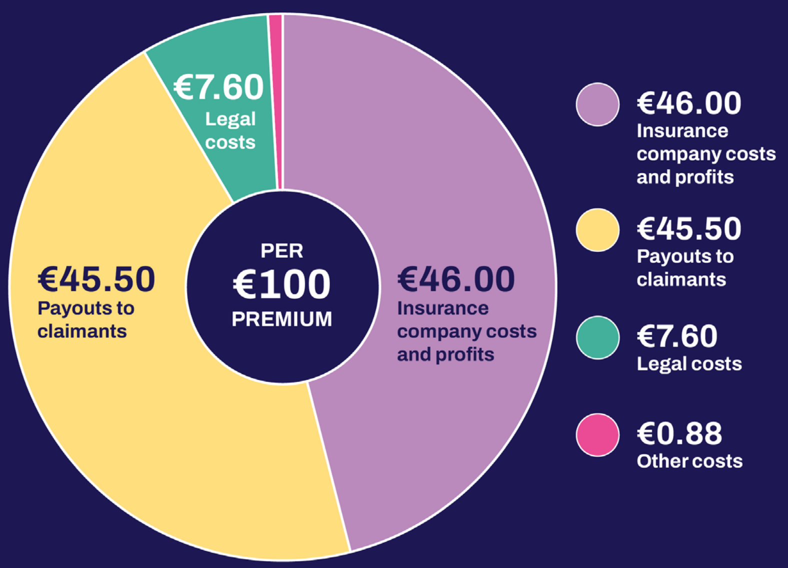
In nine of the past ten years, insurer costs and profits exceeded the compensation paid to claimants. And yet motor premiums rose 9% in 2024 alone, as the Injuries Resolution Board reported a 30% fall in road traffic accident claims and a 41% drop in total award values between 2019 and 2024.

The business angle: employers, retailers, farmers and the hospitality sector

The pattern is not confined to motor insurance. Central Bank data on Employers' Liability, Public Liability and Commercial Property Insurance shows that, in each of the past nine years examined, insurer costs significantly outweighed the amounts paid out to insured businesses.

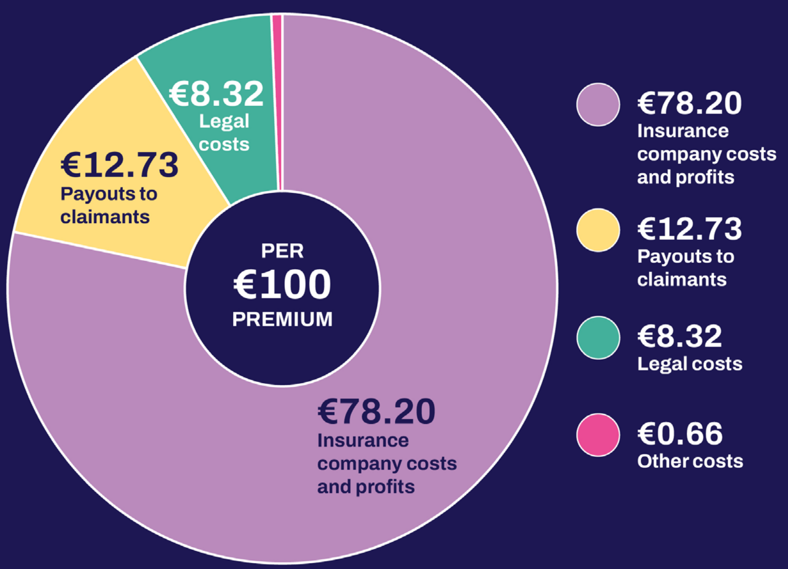
For Irish SMEs, farms, community groups, festivals, crèches, sports clubs and family-run pubs and shops, this matters. High public and employers' liability premiums have

Breakdown of every €100 portion of a typical motor insurance premium in 2024



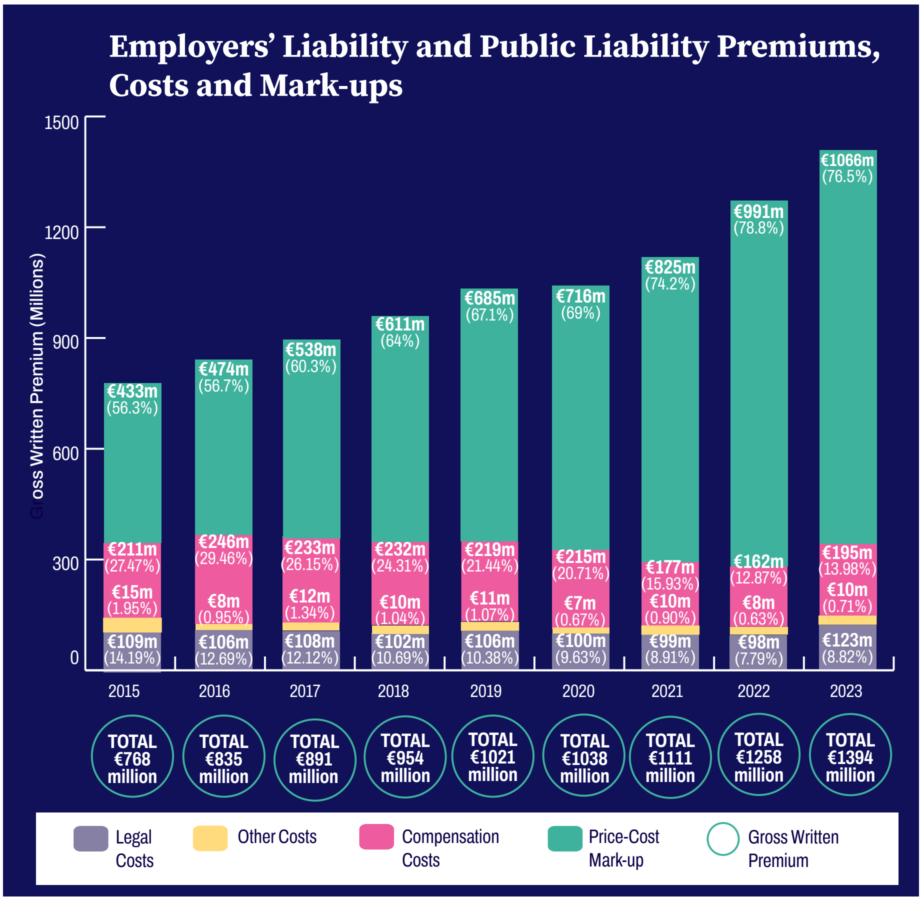
SOURCE: CENTRAL BANK OF IRELAND • PRIVATE MOTOR INSURANCE REPORT 7 (OCT 2025)

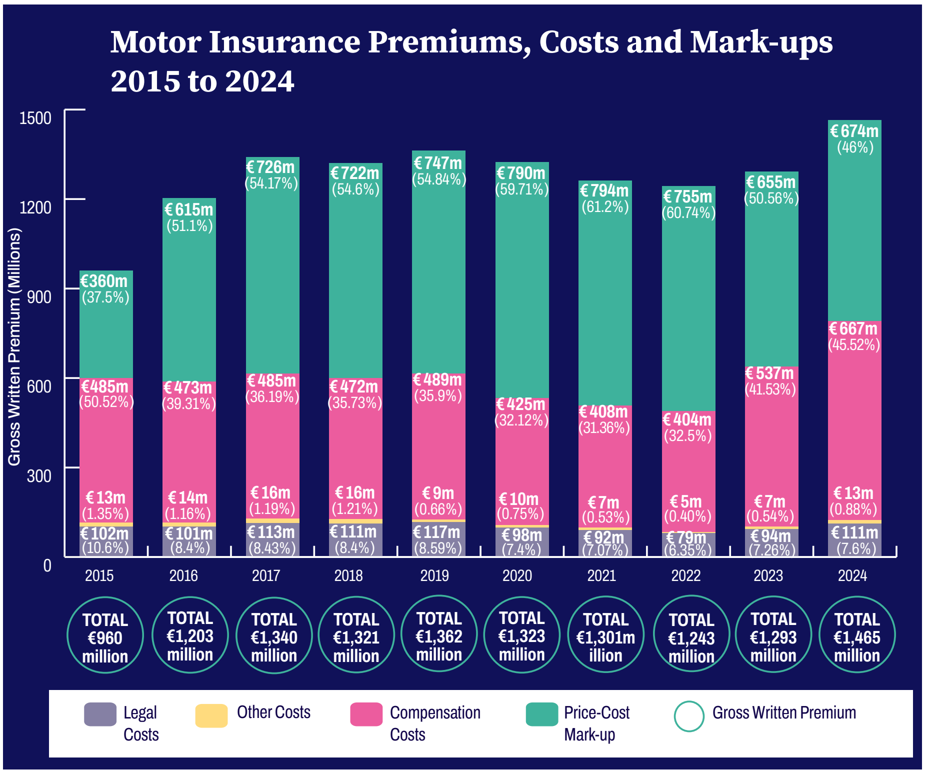
Breakdown of every €100 portion of a typical employers' liability, public liability and commercial property insurance premium in 2024



SOURCE: Central Bank of Ireland Employers' Liability, Public Liability and Commercial Property Insurance Report 5 (December 2025) closed activity centres, shuttered small businesses, and forced community events to fold. Legal costs, by contrast, have averaged just **9% of Employers' Liability, Public Liability and Commercial Property premiums** over the past five years - and have fallen as a share of gross premiums.

In short: the businesses paying these premiums are not being squeezed by claimants or solicitors. They are paying for an industry pricing structure that has remained opaque.





Source: Central Bank of Ireland - National Claims Information Database

A voluntary Code with no teeth

The new Transparency Code allows insurers to opt in if they wish - but does not require them to do so. The 18-page document devotes significant space to "risk mitigation" and driver behaviour, but contains only minimal reference to insurer costs and profits. It also fails to distinguish between genuine third-party reinsurance and intra-group "self-reinsurance" arrangements, where an insurer effectively buys cover from itself or its parent company - a practice the *Irish Times* has reported can muddy how earnings are presented.

The Law Society is calling on members of the Oireachtas to:

- **Enhance the Transparency Code** with audits and meaningful penalties for non-compliance
- Require insurers to publish a **clear breakdown of every premium** - covering operating costs, profits, reinsurance, internal transactions and intra-group transfers
- Mandate **transparent disclosure of intra-group reinsurance arrangements**
- Support the Injuries Resolution Board's call to be empowered to award legal costs in a broader range of cases, which will help resolve more claims at an earlier stage and reduce overall system costs
- Hold the sector to account against **the Central Bank's published data** rather than industry narratives

A fairer system for consumers and businesses alike

A profitable, sustainable insurance market is essential to a healthy economy and to ensuring that policyholders can exercise their right to claim when they need to. But, sustained high profits at a time of falling claims show that consumers and businesses are not sharing in the efficiency gains delivered by reform, despite the Government's best efforts.

Households deserve to know why their motor premium keeps rising. Employers, farmers and small businesses deserve to know why their liability cover keeps climbing. Partial visibility is not transparency.

ACCESS DENIED: Vulnerable Individuals Locked Out of Enduring Powers of Attorney

The Law Society calls on public representatives to:

- Ensure the Decision Support Service offers accessible ways to apply for an EPA, including assisted and paper-based options.
- Confirm a timeline for delivery of the solicitor portal as per the Programme for Government.
- Immediately initiate the statutory review of the 2015 Act.

Recent legislative developments have not addressed the practical barriers that continue to delay or prevent many people from setting up an Enduring Power of Attorney (EPA).

Before the Easter recess, the Government expedited the passage of the Assisted Decision-Making (Capacity) (Amendment) Bill 2026 through the Dáil and Seanad. The Act's primary purpose is to enable the High Court to extend, on a case-by-case basis, the timeframe for discharge from wardship.

The legislation represents a missed opportunity to address well-documented challenges within the Assisted Decision-Making (Capacity) Act 2015, particularly for those seeking to establish an EPA.

In principle, any individual should be able to put an EPA in place. In practice, this is not currently the case. The process is fully digital and must be completed via the Decision Support Service's online portal. This system has proven complex and difficult to navigate, leading to delays and, in some cases, abandonment of the process by members of the public. As a result, individuals are left without appropriate protections at a time when forward planning for capacity is essential. People are hugely frustrated with the process, and some have aired their exasperation on the airwaves and in the media.

The Programme for Government commits both to a review of the 2015 Act and to working with the Law Society to develop a portal for solicitors to assist with EPA applications. While the statutory review is awaited, there has been no meaningful progress on the development of that portal.

In the interim, many members of the public remain effectively excluded from accessing a critical legal protection. Those most affected are often the least able to advocate for themselves - individuals experiencing vulnerability, ill-health or diminished capacity, whose exclusion is largely silent. Without timely reform, the gap between legislative intent and practical accessibility will continue to widen, to the detriment of those most in need.

ABOUT THE LAW SOCIETY

The Law Society works to support and shape a just and accessible legal system that works for all. It educates, regulates and supports solicitors throughout their career.

CONTACT US

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