

Changes to Legal Aid Remuneration

Consultation

**Response from the Commissioner Designate
for Victims of Crime for Northern Ireland**

March 2025

Enabling Access to Justice Division

Via email (EAJDConsultations@justice-ni.gov.uk)

GENERAL COMMENTS

The Commissioner for Victims of Crime Office has a strong interest in a justice system that effectively delivers for victims of crime.

In that context she welcomes the opportunity to provide input into the consultation regarding proposals to enhance the levels of remuneration paid to solicitors and barristers for criminal and civil legal aid.

The long-term viability and sustainability of both criminal and civil legal aid is of the utmost importance to victims of crime in Northern Ireland.

The impact of the industrial action by the Criminal Bar Association (CBA), first announced in November 2024, is being felt most acutely by victims of crime. One of the major reasons for this action given by the Bar Council, was a demand that legal aid fees be increased.

This withdrawal of services and the failure by the Department of Justice and the CBA to reach an agreement to fully restore services is adding further delay and actively harming victims of crime. The Commissioner Designate looks forward to a swift resolution to this dispute. We must prioritise collaboration and compromise over continued disruption.

PROPOSED INCREASES

Victims need a justice system that is viable, which requires that remuneration paid to solicitors and barristers for criminal and civil legal aid be of a level that allows them to provide their services in a fair and sustainable way. Fees must reflect the time and effort required for the case and be proportionate to its complexity and skill level required. This work must be delivered to a quality standard while also ensuring value for public funds.

Criminal Legal Aid

The current dispute therefore between the Criminal Bar Association and the Department of Justice is an ongoing concern for the Commissioner Designate as it is ultimately victims of crime going through criminal courts who are paying the price for a situation which has long been foreseen and therefore avoidable.

It is deeply disappointing that efforts made by all parties, including barristers, to work to address the impact of the pandemic on delay in the system has now been negated as a result of the recent two month strike action. It is essential that once this dispute is resolved, that the Department uphold their statutory duty to review these fees at least every three years as outlined.

Civil Legal Aid

Outside of the criminal court arena, victims of crime in contact with the office will also cite the impact that civil legal aid has on them. This is specifically in relation to victims of domestic abuse who often rely upon solicitors and barristers for support in securing protection orders or in representing their interests at family proceedings.

More must be done to make sure that victims of crime are able to access civil legal aid quickly and effectively. It is clear from 'A Steep Learning Curve' report and other feedback received by this office that victims of domestic abuse are often unclear of the process or financial thresholds involved. The uncertainty regarding financial support arising from a complex legal aid system is a cause for further stress and harm to victims.

The Commissioner Designate is also concerned that whilst the domestic abuse waiver is beneficial for victims the evidential requirements and complicated procedures may act as a barrier to both victims and solicitors in pursuing this option. Any review of civil legal aid should look to simplifying procedures to remove barriers for victims and ensure fair remuneration for the time required by solicitors supporting applicants for such waivers.

Fees

This office is not best placed to determine the rate at which legal aid fees should be increased, however given the need to safeguard public money there needs to be a clear supporting evidence base underpinning any fee structure.

The Commissioner Designate therefore supports the proposal arising from the independent report by HHJ Burgess CBE to increase fees by an interim 16% and increase travel and mileage rates as proposed. She welcomes the proposal that these increase will be implemented in family and civil proceedings as well and encourages the Department to work at pace to implement these changes.

She understands however that such a blanket increase in fees may not take account of specific complexities in certain cases and believes in principle that, notwithstanding the need to balance affordability concerns, where the evidence is such to indicate a need for further increases in certain areas, that such consideration is actively pursued.

Immigration and Asylum

The Commissioner Designate **supports the changes suggested for legal aid payments for asylum and immigration civil legal services.** Given the comparative law and policy governing immigration and asylum across England and Wales and Northern Ireland it seems sensible to rely on the evidence from our neighbouring jurisdiction to inform increases to the fee structure here. Victims of trafficking, torture or other forms of prosecution seeking asylum will often require specialist legal support to navigate the asylum process. Such victims will have experienced trauma and face language and cultural barriers that can act as a barrier to effectively stating their case. It is essential that solicitors are properly compensated for the skill and standards required to undertake this work.

SERVICE QUALITY

Fair remuneration is not the only factor that will ensure a sustainable justice system and the Commissioner Designate welcomes the Minister's ambition in reforming our justice system as demonstrated in the Department's Enabling Access to Justice Programme Delivery Plan.

It is important that when we consider how to improve our criminal justice system, to make it as beneficial as possible to victims of crime, all of these issues are taken together and considered holistically.

A Sustainable legal aid framework can help ensure fair, speedy trials and the swift delivery of justice, which is important to victims of crime.

That is also why **it is so important that our legal aid system encourages timely resolution of cases, avoiding unnecessary delays or costs.** Incentivising early resolution supports lawyers to provide high quality advice at the earliest stages of the case and supports government objectives to ensure efficient, effective case progression and value for money for taxpayers. Most importantly, swifter resolution helps reduce delay which reduces the further harm caused to victims.

If you would like to discuss any of these points in further detail, please contact the office via:

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