



THE BAR
OF IRELAND

The Law Library

BARRA NA hÉIREANN

An Leabharlann Dlí

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**Re: Reversal of fee cuts for barristers practising in criminal law
Impending withdrawal of services**

Dear Minister Chambers, A Chara,

I write, on my own behalf and on behalf of the Council Bar of Ireland, to convey our congratulations to you on your recent appointment, and to wish you every success in the role over the coming months. You will recall that we met on the 12th June last, to discuss the Bar of Ireland's concerns about the Family Courts Bill, and we were most grateful for your time on that occasion.

I am now taking the liberty of apprising you of a separate issue that you no doubt will recall from last October, being the level of fees currently paid to barristers practising in criminal law. I have communicated extensively on this issue with your colleague, Minister for Justice, Helen McEntee, and her officials, but unfortunately we are still some distance from a satisfactory resolution.

Resourcing of Criminal Advocacy Services

As I write, barristers working on behalf of the public interest (prosecution and defence) are being uniquely and unfairly treated, in that FEMPI-era cuts continue to apply to their fees. This is against a backdrop of increasingly complex work (e.g. digital evidence, engaging with vulnerable witnesses, requirements under new legislation etc) being undertaken by criminal practitioners and those same practitioners voluntarily delivering on a range of flexibilities (e.g. adopting e-briefs at a significant cost saving to the State, amongst others) for a significant number of years.

Budget 2024 gave rise to a welcome, but partial and minimal, fee restoration of 10%. However, for in excess of 400 members working at the coalface of our criminal justice system, three fee cuts continue to apply, as well as other reductions in terms and conditions:

- September 2008: Non-payment of 2.5% (per public service pay agreement) **and** unilateral severance of the link with public sector pay agreements
- March 2009: Reduction of 8% in fee levels (at the same time as FEMPI cuts imposed)

INDEPENDENCE
EXPERTISE
INTEGRITY

- April 2010: Reduction of 8% in fee levels (at the same time as FEMPI cuts imposed)

It should be noted that since 2018, both the Office of the Director of Public Prosecutions and the Department of Justice, under the auspices of a review sanctioned by the Department of Public Expenditure and Reform (as it was at the time), have conceded that there is no credible reason for non-restoration of fees; and (since 2021) that the matter is a political matter.

Forthcoming Withdrawal

Due to the failure of Government to comply with commitments made on the 10th October 2023 when announcing Budget 2024, and to engage with the profession to identify reforms to fees, the Council of the Bar of Ireland has taken the regrettable step of recommending to its members practising in criminal law that they withdraw their service for all criminal matters throughout the State on three dates this month (Tuesday 9th, Monday 15th and Wednesday 24th July).

The disruption to victims of crime, witnesses, constituents and all others relying on the proper functioning of the criminal courts is wholly regrettable but arises due to what we see as a penalisation of and unfairness towards criminal practitioners, which is having a deleterious impact on the delivery of advocacy services before the courts. Our campaign – www.lawlibrary.ie/fairisfair/ – will continue over the coming weeks.

Our Request

The resolution of the matter, from our understanding and engagement with officials and your colleagues, rests squarely with the Department of Public Expenditure, NDP Delivery and Reform, and by extension the Department of Finance.

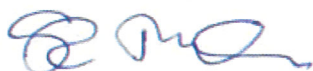
It would appear that while Government is capable of participating in meaningful and time-limited processes to review and agree a pay deal for the public sector, as occurred earlier this year, it is not capable of engaging in a similar mechanism for barristers.

And that is our ask – that Government commits to immediate engagement with the Bar of Ireland to bring about an independent, meaningful, binding and time-limited mechanism to determine the fees paid to criminal practitioners.

As always, I and my colleagues are at your disposal to meet once again, and to outline the issues involved and how we wish to constructively pave a route towards properly resourced advocacy services in the criminal justice sector.

I wish you continued success in your new role.

Yours sincerely,



SARA PHELAN, SC

CHAIR, COUNCIL OF THE BAR OF IRELAND