



THE BAR
OF IRELAND

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BARRA NA hÉIREANN

An Leabharlann Dlí

Minister Paschal Donohoe

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10th June 2024

RE: Restoration of Professional Fees – Barristers

Dear Minister Donohoe

I am writing to you in relation to the continued application of cuts to the professional fees of counsel instructed by the Chief State Solicitors Office (CSSO), and cuts to the professional fees of counsel who prosecute and defend criminal cases under the criminal justice system (Director of Public Prosecutions and Department of Justice Criminal Legal Aid Scheme).

You will be aware of the commitment arising from Budget 2024, following on from an unprecedented withdrawal of services by criminal barristers on 3rd October 2023, that your colleague in Government, Minister for Justice, Helen McEntee TD said in response to a parliamentary question on 11 October last:

“I want to make it clear that this 10% is the starting point in a much wider process. It is the first step on a pathway to further engagement with the profession and with the Department of Public Expenditure, National Development Plan Delivery and Reform.

As I said, this is the start of a process. I want to make sure that a fair system is in place that allows for fair restoration for those who provide a very valuable service to the State’.

The Council refrained from recommending any further action to its members, and discouraged the taking of such action, until the 30th June 2024 to provide the time and space for such engagement to occur. However, concern has now arisen following correspondence with officials in the Department of Justice that any further process of pay restoration will have to await implementation of a complex multi-organisational IT system upgrade (which to date is no more than an idea; no such upgrade has been designed, costed or planned, much less implemented) and, it seems, unspecified “significant reform” of the system, in particular the fee structure.

INDEPENDENCE
EXPERTISE
INTEGRITY

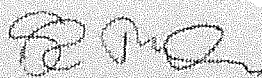
Separately, on 21 May 2024, representatives of the Council met with officials in the office of the Attorney General and the CSSO to raise our concerns about the continued application of the 8% cut in professional fees of counsel, applied in tandem with the Financial Emergency Measures in the Public Interest Act, 2009, and which was designed to be temporary in nature. The Council sought confirmation that this cut will immediately cease given that it is 15 years since the emergency measure was applied and it was always understood to be a temporary measure. Since that time, our members have cooperated with, and implemented a range of, improvements and processes, including implementation of new guidelines, hastening the turnaround of briefs in order to minimise delays and the acceptance of e-briefs. We continue to work with the CSSO and the office of the Attorney General to standardise processes that assist both agencies in achieving further efficiencies.

We are advised by the Department of Justice, the CSSO and the office of the Attorney General that the decisions in relation to pay restoration for barristers, in both criminal and civil matters, rest with your Department. For our members, who have been waiting since 2016 for pay restoration, despite the flexibilities acknowledged and further substantial flexibility and reform provided since then, the absence of confirmation of the approach to restoring the cuts applied to the professional fees of barristers is simply unacceptable.

It is of utmost importance that the State takes a fair and equitable approach to the remuneration of persons who provide services to the State, including barristers, who have at all times cooperated with and provided substantial flexibility and reform for the benefit of the State. This issue was encapsulated by sentiments expressed by Minister McEntee in the course of addressing guests at a dinner hosted by the Chair of The Bar of Ireland in June 2023, when stating *"I see no good reason why those in the legal profession are left waiting for crisis era reductions to be restored, while public and civil servants have had their pay restored."*

I am therefore writing to request an urgent meeting with you to present the case for restoration, in order to resolve the longstanding unfairness without further disruption of the justice system.

Yours sincerely



Sara Phelan SC
CHAIR, COUNCIL OF THE BAR OF IRELAND

Cc **Minister for Justice, Helen McEntee**
Ms Carol Sullivan, Assistant Secretary, Criminal Justice
Ms Catherine Pierse, Director of Public Prosecutions
Ms Maria Browne, Chief State Solicitor
Mr Damien Maloney, Director General, Attorney General Office