



THE BAR
OF IRELAND

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BARRA NA hÉIREANN

An Leabharlann Dlí

Minister Paschal Donohoe

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21st June 2024

RE: BARRISTERS' WITHDRAWAL OF PROFESSIONAL SERVICES IN CRIMINAL LAW

Dear Minister Donohoe

I refer to my correspondence of 10th June 2024 and our request for an urgent meeting with you to present the case for pay restoration for barristers, in both criminal and civil matters, in order to resolve the longstanding unfairness without further disruption of the justice system. Unfortunately, to date, we have not received a response and I regret to inform you that the Council of The Bar of Ireland has been left with no option but to recommend to our members, *again*, that they withdraw their services on three further dates in July 2024, an escalation of the action that occurred in October 2023.

Why is this action occurring again?

You will recall that in October 2023, barristers practising criminal law withdrew their professional services for one day arising from a loss of confidence in the Government's commitment to the preservation of the highest standards in the administration of criminal justice and, in particular, a loss of confidence in the existing mechanisms and procedures for the determination of fees payable to barristers.

Arising from this unprecedented withdrawal of service by barristers practising criminal law, a 10% restoration of fees was announced by the Government as part of Budget 2024 last October, representing an unwinding of the 10% cut that was uniquely applied to barristers in 2011. This 10% restoration, a welcome and important first step, was in the context of barristers enduring a pay cut in real terms of more than 40% over the past twenty years, while others working in the criminal justice system have seen pay restoration implemented.

We also welcomed the Government commitment given, as part of Budget 2024, to a review process looking at the structure and level of fees paid to criminal barristers.

Despite repeated requests to commence this review since the Budget announcement of October 2023, the process has not yet commenced, and this has led to growing frustration amongst criminal law practitioners and a loss of confidence in the intention of Government to meaningfully engage in a process to review the structure and level of fees paid to criminal barristers. Our hope that Government would respond to our request to be treated fairly and reasonably, consistent with the approach taken in relation

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to other groups of workers and independent contractors where the State is the paymaster, has unfortunately not been realised.

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.

Dates of the recommended withdrawal of services

The Council greatly regrets having to pursue this course of action, again. The dates that the Council is recommending to members to withdraw service, as an initial course of action, are:

- Tuesday, 9th July 2024
- Monday, 15th July 2024
- Wednesday, 24th July 2024

The Council is acutely conscious of the disruption that will inevitably occur, in particular for the victims of crime. However, the flexibility delivered by barristers, and their cooperation with reform of the criminal justice system over the past decade, as acknowledged and accepted by both the Department of Justice and the Office of the DPP as far back as 2018, have enabled a range of improvements and efficiencies to be implemented for the benefit of all stakeholders. The Bar has not been found wanting in that respect.

Opportunity to avert the withdrawal of services by the criminal bar

While we were encouraged by the efforts of Minister McEntee last year in advocating for the restoration of the cuts applied to the Bar when she said in June 2023 that *"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"* and subsequently providing for the unwinding of the 10% cut that was uniquely applied to barristers in 2011, the failure to complete, or even commence, the review that was promised in October 2023, demonstrates a lack of urgency to restore the remainder of the cuts that were applied to the professional fees of our members during the period 2008 – 2011 and reinstate the link to the national wage agreements that had been in place up until 2008.

I urge you to meet with representatives of the Council in the hope of avoiding the disruption that will inevitably occur arising from the withdrawal of services of our members commencing on 9th July 2024 which will impact on victims of crime, those accused of criminal offences, juries and other stakeholders involved in the administration of criminal justice.

Yours sincerely



Sara Phelan SC

CHAIR, COUNCIL OF THE BAR OF IRELAND