

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
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Belfast BT4 3XX

10 December 2025

Dear Kathy,

ENABLING ACCESS TO JUSTICE REFORM PROGRAMME AND TAXATION

Thank you for your letter of 25 November 2025 in which you requested additional information that officials agreed to provide at the oral evidence session on 20 November 2025, which covered the EAJD Reform Programme and Taxation Reform.

Legal Aid Fraud and Error

The latest position on Fraud and Error within legal aid has been set out in response to AQW 33761/22-27, on 30th October – extract below:

Within the realm of legal aid, fraud and error can result from three potential sources:

- Official error – where the financial eligibility of an applicant is incorrectly determined resulting in either an erroneous grant of legal aid, or a miscalculation in expected contribution. It may also be evident through an error in a payment made to a supplier;
- Practitioner error and fraud – by inaccurate claims or claims with insufficient supporting evidence from members of the legal profession carrying out legal aid work; and



- Applicant fraud and error – by people who are/were in receipt of legal aid services.

To estimate the level of fraud and error in the legal aid budget, the Legal Services Agency NI work in collaboration with the Standards Assurance Unit (SAU) of the Department for Communities (DfC) to test and validate a representative sample of legal aid payments on a monthly basis. This statistics-based approach is similar to that used by DfC, to monitor the levels of fraud and error within the wider benefits system in Northern Ireland. Determination of fraud by SAU is based on a methodological definition used in DfC and does not constitute a legal definition.

The latest estimates of fraud and error, covering the 2024 calendar year, are set out in detail at pages 51 to 56 of the LSA's 2024/25 Annual Report and Accounts.

The fraud and error programme within the LSA operates on a calendar year basis in order to facilitate the production of extrapolated annual estimates in time for reporting within the Agency's Annual Report and Accounts. On this basis, the next reportable update, estimating the levels of fraud and error in 2025, will be available and included within the 2025/26 Annual Report and Accounts to be published in Summer 2026.

Legal Aid Expenditure

Detailed breakdowns of legal aid expenditure are set out annually in LSA's Official Statistics publications and are accessible through the Agency's website. The latest release in this series – Statistical Bulletin 2/2025 – published on 30th September, provides information up to and including the 2024/25 year.

Within this release, "Table A3" (see **Annex A**) provides a granular breakdown of authorised legal aid expenditure for the years 2019/20 to 2024/25 by criminal and civil, with civil categories of service further disaggregated by family vs non-family expenditure. For ease of reference, Table A3 has been summarised below to show the specific, summary information requested:

**Authorised Expenditure, by criminal and civil cases, 2019/20 to 2024/25**

	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
ALL CRIMINAL	£43,069,210	£35,916,726	£48,208,122	£50,679,427	£52,964,144	£60,957,531
Criminal Courts	£39,876,344	£34,006,808	£46,236,261	£48,963,663	£50,677,748	£58,757,397
Criminal Advice and Assistance (PACE)	£3,192,865	£1,909,918	£1,971,861	£1,715,763	£2,286,396	£2,200,134
ALL CIVIL	£39,384,362	£39,547,639	£47,079,215	£51,087,843	£61,043,048	£59,033,369
...of which Family	£27,673,433	£25,495,396	£32,392,313	£37,220,242	£39,542,614	£39,636,306
...of which Non-Family	£11,710,929	£14,052,243	£14,686,904	£13,867,601	£21,500,433	£19,397,064
TOTAL	£82,453,572	£75,464,365	£95,287,337	£101,767,269	£114,007,192	£119,990,900

Source: LSA Official Statistics

Note: Expenditure figures presented in Table 1 are rounded to the nearest £ and may not sum due to the effect of rounding.

In addition, within Statistical Bulletin 2/2025, Section 4.3 presents an aggregated overview of family cases within civil legal services.

The next update to this Official Statistics series, incorporating expenditure for 2025/26, is currently scheduled release in September 2026. While Official Statistics are subject to strict pre-release access conditions, the Justice Committee will be made aware of subsequent publications on the day of release through a letter from the DALO.

Additional information – Top 100 / Ranked Payments

While not formally requested via your letter, the issue arose of the Minister's intentions concerning the reintroduction of the Agency's annual publication of the top legal aid payments. The latest position on this matter has been set out in response to AQW 33859/22-27, on 4th November – as below:

"I set out my intention to reintroduce the publication of ranked payments for the highest-earning legal aid practitioners in Northern Ireland in 2021.

Under my direction, the Legal Service Agency has been working to compile a comprehensive archive of annual legal aid payments at supplier level. This commenced with the 2015/16 financial year, the point at which previous series was halted, and will form the basis for future releases.

While this exercise has taken longer than initially anticipated, primarily due to complexities involved in reconciling multiple financial databases covering the 2019/20 financial year - the year in which the new, digital legal aid case management system



FROM THE OFFICE OF THE JUSTICE MINISTER

(LAMS) was introduced - the Agency has now reached a position whereby it can initiate the first steps in the process to publicly release this information.

However, as there are two legal challenges before the courts which may have an impact on publication, I do not intend to formally publish a road map which will set out timelines for publication of the information in respect of these years until these cases conclude”.

Taxation

The committee requested an overview of the component elements of taxation, examples of how they currently apply and how that will contrast with changes that the Department proposes to make by way of an amendment to the Justice Bill on taxation reform. Additionally, the committee requested comparative rate figures from other jurisdictions for barrister and solicitor legal aid fees.

Current Taxation Process

It may assist the Committee to explain the current taxation process.

Taxation is the procedure whereby a solicitor submits a bill of costs (including counsel costs if applicable) to the Taxing Master (an independent judicial figure) for assessment and certification. The Taxing Master is responsible for assessing the costs claimed by legal representatives in respect of civil proceedings in the High Court and civil and criminal proceedings in the Court of Appeal. At the conclusion of an assessment, a certificate of taxation is issued to the solicitor which details the costs payable by the paying party. Where costs are paid out of the legal aid fund, the certificate is presented to the Legal Services Agency for payment to be made.

Taxation and Legal Aid

There are a wide variety of proceedings which can be funded by legal aid, and which will be subject to taxation including:

- Court of Appeal – Civil and Criminal
- Judicial Review



FROM THE OFFICE OF THE JUSTICE MINISTER

- Children Order – Public and Private
- Matrimonial
- High Court Bail
- Personal Injury
- Land / Property
- Family Homes Domestic Violence
- Maintenance

In 2024/25, legal aid expenditure subject to taxation accounted for £33.8m, or approximately 28% of all legal aid expenditure. This expenditure is not subject to the same audit and accountability mechanisms as other legal aid expenditure which is assessed and paid by the LSA.

Solicitor Costs

With regards to solicitors' costs, the Taxing Master sets an hourly rate against which all work done is itemised. Solicitors will also apply a percentage "uplift" for all elements of the bill, which is for "care and conduct". For the small number of bills we have looked at in detail, we have seen this range from a minimum of 50% to 300% being claimed, with the range assessed by the Taxing Master being 50% to 150%. This uplift is also referred to as the "profit element", in that the hourly rate set by the Taxing Master is seen as covering the cost of providing the service. The Taxing Master will review the work detailed in the bill and will "tax off" hours worked if they deem that the work was not reasonably undertaken and properly done. The Taxing Master will also consider the level of uplift being sought and can reduce this.

We have previously written to the committee in relation to the recent decision by the Taxing Master to increase the solicitors' hourly rate for taxed cases by 52% (from £102 to £155 per hour). Information from the Legal Services Agency indicates that the average "uplift" or profit applied to taxed bills is 64%, resulting in an average hourly rate of £254 per hour. The rate applies to all civil proceedings in the High Court, and civil and criminal proceedings in the Court of Appeal, whether legally aided or not. Prior to the decision being taken to increase the hourly rate, the Department provided a legal aid impact



assessment to the judicial working group gathering evidence

to inform the Master's decision. We advised that an increase resulting in a rate in the region of £150 to £160 would have a direct impact on the legal aid budget of approximately £7m per annum, which was unfunded. The Master ultimately increased the rate to £155, demonstrating the lack of control the Department has with regards to expenditure that accounts for a significant proportion the legal aid budget.

The Department has had an independent analysis carried out in relation to the solicitor hourly rate, including the uplift element. There is evidence that the rate does not provide value for money. Therefore, the Department is seeking to set an hourly rate for solicitors, which compensates for the cost of providing the service and is inclusive of a fixed reasonable profit element, removing the practice of variable and significant uplifts being sought.

Counsel Costs

Unlike solicitor costs, there is no hourly rate for counsel. Instead, counsel submit a brief fee which is a fee for all work up to and including the first day of trial. Counsel submit a report on case to the Master, which is a narrative of the case particulars and may include reference to brief fees paid for other cases. We have noted that where two counsel, a senior and junior are instructed, the junior brief fee will be two thirds of the senior's brief fee. The Master will allow the brief fee as claimed, or will reduce the fee. Unlike the solicitors' hourly rate, which is set and reviewed by the Taxing Master, there is no comparable mechanism in relation to brief fees. The Comerton scale is produced by the Bar and is a guide for setting brief fees in personal injury cases based on the level of damages being sought. However, for all other proceeding types, the level of fee being sought is determined by individual counsel. As we have previously advised the committee, average counsel payments in taxed cases have increased by 200% in the last 10 years, when adjusted for inflation.

The Department is seeking to introduce hourly rates for counsel, and associated arrangements for evidencing the work carried out, and the time expended, to provide greater accountability and transparency for expenditure from the legal aid fund.

Summary of Changes

The Department is seeking to make the following changes to the current system

- The Department will set fees/rates and arrangements which the Taxing Master will apply when assessing costs to be paid out of the legal aid fund. This ensures that fees and rates are subject to:
 - legislative scrutiny from the Assembly through the Justice Committee;
 - proportionate economic appraisal, including value for money and affordability, as is required for the expenditure of public money.
- Hourly rates will be introduced for counsel, in line with the statutory criteria set out at below, and counsel will also be required to document the time and nature of the work carried out.
- An hourly rate will be set for solicitors, in line with the statutory criteria set out below, which will cover the costs of providing the service and include a fixed reasonable profit margin.
- Bills will be submitted through the Legal Aid Management System (LAMS), enabling the Legal Services Agency (LSA) to build a comprehensive dataset on the time and nature of work, which is accessible for audit and accountability mechanisms, for budget management purposes and to inform future policy development.

Potential Justice Bill Amendment

The amendment to the Justice Bill, which we are currently engaging with OLC on, seeks to include a provision in the Access to Justice (NI) Order 2003 which will mean that any rate and associated administrative arrangements set by the Department in secondary legislation will be applied by the Taxing Master when assessing costs to be paid out of the legal aid fund. When setting any fees/rates set in secondary legislation, the Department will have regard to the statutory criteria in the Access to Justice Order, namely:

- the time and skill required to provide the services;
- the number of and general level of competence of providers;
- the cost to public funds; and

- the need to secure value for money.

In setting these fees the Department is required to engage with the key stakeholders and consult with the statutory consultees, including the Lady Chief Justice, both branches of the profession, the Justice Committee and the Assembly.

The new arrangements will improve transparency and accountability in how legal aid costs are assessed, while retaining the judicial expertise of the Taxing Master. This approach addresses stakeholder concerns about removing the Taxing Master and combines accountability with judicial expertise, strengthening governance without compromising independence.

Other Jurisdictions – England and Wales

The Committee asked for a comparison of the position in other jurisdictions with regard to legal aid fees in “taxed cases”. This is difficult due to the different legal systems and remuneration arrangements in place. The most comparable jurisdiction is England and Wales.

The role of the Taxing Master does not exist in England and Wales. However, there are costs judges and costs officers in the courts who perform a similar function. Legal representatives have the option to have costs assessed by either costs judges/officers, or to submit bills to the Legal Aid Agency (LAA) for assessment. Regardless of who conducts the assessment, for legally aided cases there are rates and fees set down in legislation by the Ministry of Justice which all assessors have to apply.

There is a mixture of scale fees/fixed fees (primarily for family cases) and hourly rates for other cases. The hourly legal aid rate for high court proceedings is significantly less than rates applied in privately funded cases, and those which are currently allowed by the Taxing Master for solicitors in Northern Ireland. Counsel are not paid brief fees, but are paid standard fees or an hourly rate. The fees are set out in The Civil Legal Aid (Remuneration) Regulations 2013. The rates for solicitors and junior counsel in the High Court vary depending on the type of work being performed. The highest hourly rate for



solicitors in the High Court is £71.55 (London rate) and £67.50 (non-London rate). The highest hourly rate for junior counsel is £71.55 (London rate) and £67.50 (non-London rate). King's Counsel/Senior Counsel are paid £180 per hour.

There is provision for an enhancement of costs of up to 100% for both solicitors and counsel. However, this is not routine and criteria demonstrating exceptional circumstances must be satisfied.

Scotland

In Scotland, the position of Auditor of the Court of Session is broadly equivalent to the role of the Taxing Master in Northern Ireland with the Scottish Legal Aid Board (SLAB) being broadly equivalent to the LSA.

SLAB receives and assesses claims for costs from solicitor and counsel, in line with fees and rates set out in legislation. Where there is a dispute between the Board and solicitor/counsel, it goes to the Auditor for a decision. The Auditor therefore effectively has an appellate role, while applying the rates set out in legislation by the Scottish Government.

Republic of Ireland

A very different system with regards to legal aid operates in the Republic of Ireland so it is hard to draw comparisons.

Civil legal aid and advice is provided primarily through a network of 30 law centres by solicitors employed by the Legal Aid Board. In a minority of cases, civil legal aid services are provided by solicitors/barristers who are members of the Board's private practitioner panels. The rate of payment to private legal practitioners for civil legal aid is not based on an hourly rate but is instead the subject of a standard schedule of fees for particular types of assignment, set by the Legal Aid Board.

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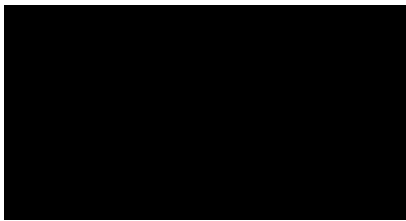
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Officials can provide the Committee with worked examples showing the current and proposed processes when this work is further developed, in briefing to be provided in relation to the forthcoming Justice Bill amendment.

I trust that the Committee will find this information of assistance.

Yours sincerely



**CAOIMHE MCKEOWN
DALO**

Annex A

Table A3: Authorised expenditure, 2019/20 to 2024/25

Category of Service	2019/20(£)	2020/21(£)	2021/22(£)	2022/23(£)	2023/24(£)	2024/25(£)
Criminal Total	43,069,210	35,916,726	48,208,122	50,679,427	52,964,144	60,957,531
Criminal Courts	39,876,344	34,006,808	46,236,261	48,963,663	50,677,748	58,757,397
Crown Court	19,150,864	17,614,895	20,965,940	25,463,825	25,161,037	31,637,131
Magistrate's Court	17,522,560	11,790,278	19,931,555	18,460,011	19,465,984	22,199,846
Extradition	183,217	59,827	558,655	534,174	1,322,674	1,103,607
Criminal Court of Appeal	2,310,875	4,184,415	4,170,322	3,747,541	3,997,672	2,930,475
County Court Appeal	708,828	357,394	609,789	758,112	730,382	886,339
Criminal Advice and Assistance (PACE)	3,192,865	1,909,918	1,971,861	1,715,763	2,286,396	2,200,134
Civil Total	39,384,362	39,547,639	47,079,215	51,087,843	61,043,048	59,033,369
Advice and Assistance Civil	1,550,421	1,776,357	2,021,032	1,726,941	1,693,051	2,429,299
Family	274,933	318,736	286,372	196,728	224,388	280,466
<i>of which Matrimonial</i>	23,515	23,250	27,728	9,598	3,659	4,814
<i>of which Non-Matrimonial</i>	251,418	295,486	258,643	187,130	220,729	275,652
Non-Family	1,275,488	1,457,621	1,734,660	1,530,213	1,468,663	2,148,833
Representation Lower	6,221,521	4,311,065	5,271,996	6,903,764	5,886,778	6,984,092
Family	5,924,314	3,909,129	4,920,343	6,396,804	5,499,279	6,467,853
<i>of which Matrimonial</i>	3,113	1,083	1,788	2,369	1,842	4,951
<i>of which Non-Matrimonial</i>	5,921,201	3,908,046	4,918,554	6,394,435	5,497,437	6,462,902
Non-Family	297,207	401,936	351,654	506,960	387,498	516,240
Representation Higher	30,145,456	32,006,423	38,746,031	42,369,792	52,536,182	46,150,141
Family	21,474,186	21,267,531	27,185,598	30,626,710	33,818,947	32,887,987
<i>of which Matrimonial</i>	3,044,112	3,670,338	3,183,570	2,989,970	4,339,452	3,982,866
<i>of which Non-Matrimonial</i>	18,430,075	17,597,193	24,002,028	27,636,740	29,479,495	28,905,120
Non-Family	8,671,270	10,738,892	11,560,433	11,743,083	18,717,235	13,262,154
Exceptional Funding	1,466,964	1,453,794	1,040,157	87,345	927,037	3,469,837
Breach of Human Rights	562	9,462	27,465	8,622	39,928	72,880
Inquest	1,466,402	1,444,332	1,012,692	78,723	887,109	3,396,957
Grand Total	82,453,572	75,464,365	95,287,337	101,767,269	114,007,192	119,990,900



Northern Ireland Assembly Committee for Justice

Caoimhe McKeown
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Castle Buildings
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25 November 2025

Dear Caoimhe,

Enabling Access to Justice Reform Programme and Taxation

At its meeting on 20 November 2025, the Committee for Justice heard evidence from Departmental Officials on Taxation and the Enabling Access to Justice Reform Programme.

During the session, officials advised that the Committee will be provided with the revised Delivery Plan when available, and agreed to provide the following:

- An update on fraud and error in relation to legal aid.
- The breakdown of legal aid expenditure by family, criminal, and civil proceedings.
- A overview of the component elements of taxation, examples of how they currently apply and how that will contrast with changes that the Department proposes to make by way of an amendment to the Justice Bill on taxation reform.
- Comparative rate figures from other jurisdictions for barrister and solicitor legal aid fees.

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I would be grateful if the Committee could receive a response by 9 December 2025.

Yours sincerely

Kathy O'Hanlon

Kathy O'Hanlon
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