

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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JCP\25\332

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

9 January 2026

Dear Kathy,

ENABLING ACCESS TO JUSTICE REFORM PROGRAMME AND TAXATION

Thank you for your letter of 16 December 2025 in which you requested a response to the scrutiny points raised in the Assembly Research and Information Service (RaISe) paper on the Justice Bill - Legal Aid Taxation.

Clause 28

Clause 28 of the Justice Bill as introduced would preclude the High Court and the Court of Appeal from making an order for taxation of a person's costs for any proceedings which relate to civil legal services or criminal defence services funded by the Department - what is the impact of the Department's revised approach to taxation on clause 28 of the Justice Bill as drafted?

There is no impact. The revised approach retains the Taxing Master in the assessment role, with legal aid rates and assessment arrangements set out in secondary legislation. The new arrangements to be developed will facilitate the input of costs information onto the Legal Aid Management System (LAMS), ensuring greater accountability and transparency for legal aid expenditure. It will also provide accessible data, which is not currently available, and which the Department might use to inform future policy development. This may include setting standard fees for example, such as already

happens for the majority of criminal remuneration. Should standard fees be developed, those cases to which they pertain would be taken out of taxation. Only then is clause 28 relevant, precluding the making of an order for taxation when the Department has an alternative remuneration framework in place.

Will the further amendment to the Bill on this matter be made available to the Justice Committee ahead of Consideration Stage of the Bill?

As advised at the oral evidence session on 20 November, and in our paper which informed that session, we have begun engaging with the Office of Legislative Counsel on the content and proposed approach to the primary amendment. As soon as this is further developed, we will of course update the committee with the details.

If this amendment gives the Department the power to set a fixed hourly rate at a later stage, then what is the timeframe for this being done via remuneration order under the Access to Justice (Northern Ireland) Order 2003?

Before any new system of remuneration is introduced the usual, statutorily required consultation processes will be undertaken, and all relevant views and available evidence will be considered to ensure that the new arrangements are fully compliant with all statutory criteria. The representative bodies will be consulted throughout this process of reform and the Department remains cognisant of its duty when introducing any alternative system of payment to have regard to the statutory criteria as set down in the Access to Justice (NI) Order 2003. The revised rates will be considered by the Justice Committee/Assembly as part of the consultation process and legislative process for the Remuneration Orders to be laid before the Assembly. The Department aims to have the necessary legislation and operational processes in place by the end of the current mandate.



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Is it appropriate that these remuneration orders are subject to the negative resolution procedure?

Remuneration Orders are made under articles 12(3) and 24(3) of the Access to Justice (Northern Ireland) Order 2003. Article 46 sets out the mechanisms which apply to the making of orders, regulations and directions. 46(6) of that order states that “Any other order or regulations made by the Department under this Order, other than an order under Article 1(2) or 48, shall be subject to negative resolution.” Consequently, all remuneration orders have been subject to the negative resolution procedure.

Hourly Rates

How will the rates be set and can detail be provided around the methodology that will underpin this?

Article 47(1) of the Access to Justice (Northern Ireland) Order 2003 states that “When making any remuneration order the Lord Chancellor shall have regard, among the matters which are relevant, to—

- (a) the time and skill which the provision of services of the description to which the order relates requires;
- (b) the number and general level of competence of persons providing those services;
- (c) the cost to public funds of any provision made by the regulations; and
- (d) the need to secure value for money.”

Work is ongoing to develop the fees/rates and the relevant operational processes but this Article will play a key role in the methodology used to underpin the rates, as well as any engagement with key stakeholders.

How often would hourly fees be reviewed?

This will form part of the work to develop the fees/rates and the relevant operational processes.



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Will there be a staged approach to setting rates for solicitors and counsel? If so, what does this look like?

It is not envisaged at this stage that a staged approach will be adopted.

Does the Department envisage cost savings as part of this? If so, how much would be saved?

It is too early to determine whether any savings would be made given the proposed changes or to estimate the quantum of such savings, as this would depend on a number of factors including the hourly rates/standard fees agreed which will be subject to detailed development and scrutiny. The primary objective is not cost savings but increased transparency and control of public expenditure.

Change of Approach

Why has the Department changed approach at this stage given the work that has been ongoing in this space since the public consultation in 2022?

I would refer the committee to our written paper submitted to inform the oral evidence session of 20 November 2025.

How is this new approach different to the phased approach (initially involving High Court bail, Criminal Court of Appeal and Judicial Review) previously outlined in the original Enabling Access to Justice Reform Programme?

I would refer the committee to JCP\25\301 submitted on 9 December 2025.

And how will this new approach expedite reform?

The phased approach aimed to have revised remuneration arrangements in place for three proceeding types (High Court Bail, Judicial Review and Criminal Court of Appeal) by the end of the current mandate, which would have included the necessary operational elements for claims to be submitted to LSA for assessment. The new approach aims to



have revised remuneration arrangements in place for all proceeding types by the end of the current mandate, retaining the Taxing Master in an assessment role.

How much more quickly it is envisaged that it can be implemented?

We are aiming to have the necessary legislation and operational processes in place by the end of the current mandate; however, there will be elements outside of our control, for example, in relation to the progress of the current Justice Bill.

Stakeholder Engagement

Has the Department conducted an equality impact assessment or human rights impact assessment on this revised approach?

Yes, and these will be published alongside any consultation issued.

What are the views of the stakeholders on this revised approach?

Initial meetings have been held with LCJO, Taxing Master, the Bar and the Law Society. The Law Society response to the consultation on the EAJD Delivery Plan included reference to taxation reform and their view that it should be expedited to include children order proceedings. The Law Society response stated: "There is also one project which is not included in the (EAJD) Programme and which we consider should be advanced as soon as time permits. This relates to the taxation of fees in legally aided High Court family cases which currently consume the largest percentage of fees which are paid through the taxation process." Engagement with stakeholders will be ongoing.

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What is the timeline for any further public consultation, particularly given that secondary legislation will be required to give effect to any new hourly rate?

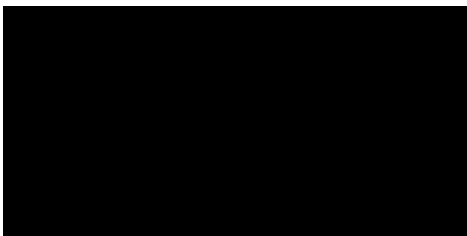
When we have engaged with stakeholders to formulate proposals with regards to legal aid rates and assessment arrangements, we will consult on those proposals in the normal way. Following consultation, secondary legislation will be drafted to give effect to the preferred approach. We are currently working to implement the new system by the end of the current mandate.

How will the Department develop a further process of engagement with the legal professions and other stakeholders on this?

Before any new system of remuneration is introduced the usual, statutorily required consultation processes will be undertaken, and all relevant views and available evidence will be considered to ensure that the new arrangements are fully compliant with all statutory criteria. The representative bodies will be consulted throughout this process of reform and the Department remains cognisant of its duty when introducing any alternative system of payment to have regard to the statutory criteria as set down in the Access to Justice (NI) Order 2003.

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

Yours sincerely



**CAOIMHE MCKEOWN
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**Northern Ireland Assembly
Committee for Justice**

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16 December 2025

Dear Caoimhe

Research paper – Justice Bill Legal Aid Taxation

At its meeting on 11 December 2025, the Committee for Justice considered a briefing paper from the Assembly Research and Information Service (RaISe) on the Justice Bill - Legal Aid Taxation.

The Committee agreed to forward the paper to the Department for information and for response to the scrutiny points raised in the paper.

I would appreciate a response by 15 January 2025.

Yours sincerely

Kathy O'Hanlon

**Kathy O'Hanlon
Clerk to the Committee for Justice**

Enc RalSe Paper - Justice Bill: Legal Aid Taxation