



LAW SOCIETY
OF IRELAND

A NEW AGENDA FOR JUSTICE

Policy Priorities

November 2024

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The Law Society of Ireland (the Law Society) via its representative, regulatory, and educational functions, delivers high-quality legal education and training and encourages and supports the highest professional standards. The Law Society places significant emphasis on civic engagement, law and justice reform, supporting local community initiatives, and driving diversity and inclusion within the profession.

A NEW AGENDA FOR JUSTICE

A NEW AGENDA FOR JUSTICE – KEY POLICY PRIORITIES

A well-resourced legal system is a critical requirement in a progressive society. Such a legal system underpins the administration of justice, the protection of rights, social cohesion, and equality.

Prioritising and committing to delivering key reforms on these four important areas will bring real benefits to the justice system, the legal sector and society as a whole.

1. ACCESS TO JUSTICE

Strengthen Family Justice

- Resource the ambitious plans in the Family Courts Act 2024
- Introduce legislation to provide for the recognition of pre-nuptial agreements
- Fund the Child Law Project

Adequately Fund Legal Aid

- Ensure future viability of legal aid system
- Expand the scope of the civil legal aid scheme to cover a increased range of categories
- Commit to reviewing legal aid practitioner fees every three years to ensure viability

Remove Barriers to Enduring Power of Attorney

- Broaden digital approach to EPA applications
- Recognise and provide for emergency situations
- Amend legislation to ensure it serves the intended purpose

Safeguard small and regional practices

- Establish a rural practice support framework
- Targeted business supports.

2. DELIVER A MODERN AND EFFECTIVE COURTS SYSTEM

Leverage Technology and Data to Deliver Better Public Services

- Resource the digital plan to underpin modern, larger courts system
- Enhance data collection to improve service delivery
- Establish a paperless court service

Deliver Modern Courts Infrastructure

- Address physical condition and accessibility issues of the courts
- Increase court and judicial staff in line with the recommendations of the OECD and the Report of the Judicial Planning Working Group.

3. REFORM PROPERTY LAW TO SPEED-UP HOUSING TRANSACTIONS

Streamline Property Transactions

- Improve process for Registration of Property Title
- Standardise Local Authority Requests
- Recognise Established Non-conforming Developments

Create a Shared eConveyancing Vision

- Drive the implementation of eConveyancing so that it is fully implemented by the end of 2027

- Increase collaboration and transparency on the government-led eConveyancing project
- Prioritise legislative amendments to facilitate eConveyancing.

4. WIDEN ACCESS TO LEGAL QUALIFICATIONS

Enhance solicitor training opportunities to promote greater diversity across the profession

- Ensure SUSI grant schemes are compatible with Law Society's financial supports for training
- Extend the SUSI grant to the Law Society hybrid programmes to widen the pathways to solicitor training
- Develop an innovative national apprenticeship programme in collaboration with the Apprenticeship Alliance to widen the pool of training organisations and solicitors
- Establish a specific Study Visa Scheme for international students to secure legal education and training contracts.

A NEW AGENDA FOR JUSTICE

Introduction

Solicitor practices of all sizes can be found at the heart of cities and towns across the country. Many solicitor practices are small businesses, geographically and regionally diverse, that provide highly skilled jobs in their local areas. An increasing number of solicitors serve as in-house legal counsel, supporting both commercial enterprises and public sector organisations. Solicitors support every sector of the economy, providing advice to businesses and organisations, supporting industries to grow, and providing solutions to legal issues when needed.

The Law Society's interaction with over 12,000 practising solicitors gives us a unique perspective on the issues facing Irish society. The Law Society is committed to participating in discussion and advocacy on the administration of justice and the effective implementation of public policy that will serve the needs of Irish society today and into the future.



1 | JUSTICE FOR ALL



The Department of Justice's first *Family Justice Strategy 2022-2025* is an important national policy aimed at driving necessary reforms to create a more efficient and user-friendly family justice system. It commits to putting the family, in particular children, at the centre of its work. The Law Society acknowledges the work done so far to progress change to the family justice system and to seek to improve the experience of those going through the system.

There are elements of the Strategy that need to be strengthened to improve the court-user experience and to safeguard the best interests of children, families, and survivors of domestic and sexual violence. As stakeholders in the family justice system, the Law Society will continue to champion the needs of children and families and how they can gain access to justice when needed.

Adequately resource the ambitious plans reflected in the Family Courts Act 2024

For far too long children and families, who may already be experiencing distress, have not been well-served by the processes and infrastructure within the justice system. Careful consideration must be given to how the key aspects of the Family Courts Act 2024 will be implemented. If the ambition of the 2024 Act is backed-up with the required level of resources and a solid commitment to a timeframe for implementation, the proposals contained in the 2024 Act have the potential to be transformative for the experience of families who find that they must engage with the family justice system.

While the Law Society is supportive of many aspects of the Family Courts Act 2024, we remain concerned at the prospect of divorce and judicial separation cases being initiated in the District Court. This approach is likely to have the effect of placing increasing demands and strain on an ailing system. The District Courts are already heavily congested and are not in a position to process judicial separation and divorce proceedings in an efficient way.

Establish Practice and Procedure Committees for Family Law

Pending the establishment of the dedicated family courts system provided for under the 2024 Act, immediate steps should be taken to establish Practice and Procedure Committees across the Courts to review the approach to the implementation of family law matters in their jurisdiction. The Committees should comprise the President of the respective Courts, other judicial representatives, Courts Service representatives, legal practitioners and service user representatives. A forum of this nature could provide insights and devise proposals for system improvements, with the view to working towards a harmonised approach across all Courts. The insights gained from the Practice and Procedure Committee would be key to preparing for the implementation of the Family Courts Act 2024.

Introduce legislation to provide for the recognition of pre-nuptial agreements

In the event of a marriage breakdown, a pre-nuptial agreement can provide a degree of certainty to the marriage resolution process. The recognition in law of the terms of a pre-nuptial agreement would help reduce legal costs, stress and anxiety for families, as well as reduce court time and could lead to a swift resolution of matters. Pre-nuptial agreements would also support and foster the interests of children and could include procedural safeguards in line with the recommendations of the *Report of the Study Group on Pre-nuptial Agreements*.

Continue to fund the Child Law Project and expedite the procurement process for the next phase of the Project

The Child Law Project aims to provide information to the public on childcare proceedings in the courts. It plays a vital role in amplifying the voice of the child and instilling confidence in the childcare system.

It is important that the Child Law Project continues its important work. The development of child law must be child centred, and therefore, it is imperative that funding for the Child Law Project is increased.

ACTIONS FOR THE NEW GOVERNMENT:

- Adequately resource the ambitious plans reflected in the Family Courts Act 2024.
- Prioritise investment in Court infrastructure to expedite processing of family law matters and to deliver greater efficiencies and reduce waiting times and backlogs.
- Establish Practice and Procedure Committees for the High, Circuit and District Courts to review the approach adopted to the implementation of family law in each jurisdiction.
- Introduce legislation to provide for the recognition of pre-nuptial agreements.
- Increase funding for the Child Law Project and expediate the procurement process for the next phase of the project.



Invest in Legal Aid

Access to justice is a core value of the Law Society. It is fundamental to society as it ensures that people have a voice at what may be a very challenging time in their lives. Safeguarding access to justice can also contribute to the enforcement and the protection of rights.

Access to a solicitor for civil or criminal matters is crucial for ensuring a fair society and properly functioning justice system. However, the publicly funded legal aid system is currently under severe pressure, supporting approximately 530,000 criminal and civil cases each year. A direct impact of the under investment in legal aid schemes is a void in available representation for people who are often most in need of assistance when navigating an adversarial legal system.

A failure to adequately fund the legal aid system means it faces a precarious future unless significant action is taken.

Civil Legal Aid

To reflect the changing needs of Irish society, the scope, financing and administration of civil legal aid requires significant reform.

The current monetary limits and allowances of the civil legal aid scheme are insufficient to deliver a level a service for Irish society that demand a pathway to justice. The current fee structure available under the civil legal aid scheme is not economically viable for most solicitors. This is resulting in a lack of available practitioners for civil legal aid cases, leaving many people unable to access necessary and timely legal assistance.

The Independent Law Centres' ability to attract and retain legal professionals is also directly impacted by under investment, further reducing access to legal representation for the public.

As part of these necessary reforms, the scope of the civil legal scheme must be expanded to cover additional categories of cases including Local Authority housing disputes, defamation, Adoption Authority hearings, and social welfare appeals to reflect the growing need for legal assistance in these matters.

Criminal Legal Aid

Criminal case work has become more complex, placing a greater strain on the criminal legal aid system. With criminal legal aid fees almost 30% less than they were before the financial emergency cuts were imposed over a decade ago, there is little incentive for practitioners to work in criminal law. Despite the passing of a significant period of time and the increasing complexity of criminal legal work, as well as inflation and other business costs, these rates have still not been reviewed. The case for restoration is indisputable.

A restoration of legal aid fees is urgently required, with a commitment to a regular review of fees to reflect the full economic cost of the service.

ACTIONS FOR THE NEW GOVERNMENT:

- Commit to investing in both the criminal and civil legal aid systems to ensure future viability.
- Commit to financial reviews of criminal and civil legal aid fees every three years.
- Expand the civil legal aid scheme to cover additional categories of cases including Local Authority housing disputes, defamation, Adoption Authority hearings, and social welfare appeals.



Remove Barriers to Enduring Power of Attorney

There are ongoing challenges with the operation of the process and procedures that apply to the making of an Enduring Power of Attorney (EPAs) under the Assisted Decision Making (Capacity) Act 2015.

The current system for the creation of EPAs, which is operated by the Decision Support Service (DSS), is overly complicated and very difficult to navigate.

It is very clear that members of the public and their solicitors are experiencing significant challenges when seeking to put in-place EPAs.

The digital process and requirements applicable to the creation of an EPA as put in place by the DSS are gravely inaccessible for the people who need it most. It is limiting the ability of many people to express their preferences through the creation of an EPA. There are also some additional challenges that stem from the terms of the governing legislation, which will require amendment.

The Law Society calls for changes to the approach being adopted to the implementation of the legislation.

ACTIONS FOR A NEW GOVERNMENT:

- Create a solicitors' portal so that solicitors can assist their clients navigate the DSS processes in a transparent way. The online application system does not allow solicitors or any other professional to prepare applications on behalf of clients where they are not able to do so or would prefer for their solicitor to do so on their behalf.
- Adopt a broader digital approach, not simply a digital only approach by making the EPA forms available in both editable and printable formats on the DSS website.

- Provide clarity on how an EPA can be created in an emergency. The current system operated by the DSS creates unnecessary obstacles for those who may only have a small window of opportunity to create an EPA.
- Amend the Assisted Decision Making (Capacity) Act 2015 - the legislation underpinning the approach being adopted by the DSS - to ensure it adequately serves its intended purpose:
 - By removing the requirement of the appointed Attorney's on-site presence when an EPA is being created. This current requirement prevents the participation of prospective Attorneys who reside outside Ireland.
 - By removing the restriction in the legislation which prevents a person from making changes to an EPA within a six-month period after registration and only once a year after that. This aspect of the legislation prevents a person from expressing their will and preference.



Establish the Mediation Council and Promote Alternative Dispute Resolution Avenues

When people think of resolving disputes, many will immediately think of courts. However, resolving disputes by alternative means, such as through conciliation, mediation, or arbitration, can represent a far more attractive option when compared with going to court. Alternative Dispute Resolution (ADR) is often less costly, more flexible, more confidential, less stressful, and less time-consuming.

The Mediation Act 2017 provides a statutory framework to promote the resolution of disputes through mediation as an alternative to court proceedings and for the establishment of the Mediation Council of Ireland. The main functions of the Mediation Council will include raising public awareness on the availability of mediation services, and developing standards for the provision of mediation services.

We believe the benefit of the Mediation Council for the State, the public and the court system could be transformative and may lead to significant cost savings.

ACTIONS FOR A NEW GOVERNMENT:

- Formally establish and resource the Mediation Council of Ireland.
- Promote the greater use and acceptance of mediation as an alternative to more protracted and costly court-based litigation.



Safeguard Access to Small Legal Practices

Sole practitioners and small practices are the backbone of the legal profession, providing expertise in diverse and wide-ranging areas of law in communities nationwide.

Smaller practices will need to evolve in response to a more demanding and rapidly changing business environment driven by digitalisation, business regulation and rising costs. Key challenges faced by smaller solicitor practices include low profitability, increased regulatory requirements, staff shortages, and limited options available when planning for retirement.

Talent recruitment and retention in smaller practices remains a critical issue particularly in regional areas. When these issues are combined with challenges related to retirement and succession planning, smaller regional practices are under pressure and struggle to remain afloat. With 65% of sole practitioners aged 50+, a substantial portion of them will reach retirement age over the next decade.

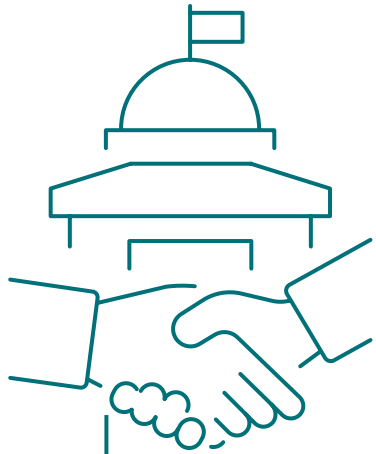
The Law Society sees early indicators of legal deserts emerging in many parts of rural Ireland, as options for legal representation become more limited due to the shrinking availability of solicitors. Large counties including Tipperary, Mayo, Westmeath, Kilkenny, Carlow, Leitrim, Offaly, and Laois have just one trainee solicitor, while Roscommon, Monaghan and Longford have none, as at November 2024.

Innovative solutions to attract and retain solicitors in rural areas are required to meet the needs of communities.

ACTIONS FOR A NEW GOVERNMENT:

- Establish a rural practice support framework that provides direct business supports for anchoring solicitor practices in rural communities.
- Reduce the cost of business by incentivising a shared-services business model for the provision of co-located professional services.
- Provide technology funding grants to support small practices to enhance digitalisation and cybersecurity.
- Ensure that small solicitors' practices can avail of all Government funded supports and reliefs that enhance business viability and succession, like other SMEs across the economy.



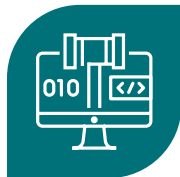


2 | MODERN AND EFFECTIVE COURTS SYSTEM

The court system is the focal point for the administration of justice in Ireland. Investment in courts infrastructure, the judiciary and court staff is needed to ensure timely access to justice and better serve the evolving needs of Irish society.

The length of proceedings in Ireland is far above international standards, with civil cases in the High Court taking on average 796 days from issue to disposal in 2023. Behind these statistics are people, and businesses, caught in a legal limbo due to mounting delays in the administration of justice.

Underinvestment in our justice system, over many decades, has diminished its ability to keep pace with the demands of an increasing population and thriving economy. Yet, the annual budget for the courts to deliver such fundamental and wide ranging functions pales in comparison to that of comparable government services and does not reflect the value that society places in the justice system. By targeting investment effectively and with the appropriate use of technology, Ireland can bolster the ability of the courts system to deliver justice swiftly and skilfully.



Leverage Technology and Data to Deliver Better Court Services

Digitisation provides an opportunity to modernise the courts system and deliver cost and process efficiencies. It will enable the courts to deliver a service that is fit for the twenty-first century, while reducing delays for court service users. The utilisation of data is essential both to understand the user experience and to provide the foundation of an evidence-based transformation project for the courts system. Better data collection will shine a light on where investment is needed, and on what

interventions and technology are improving efficiency. Robust and rigorous data collection will ensure that policy makers and the Courts Service are better equipped to tackle the delays to justice.

The Courts Service must be enabled to adapt and respond to the growing demand for reliable digital public services, including the use of technology in court rooms, to facilitate virtual hearings in the High Court and Circuit Court, and the provision of in-court e-portal facilities to file court documents.



Deliver Modern Courts Infrastructure

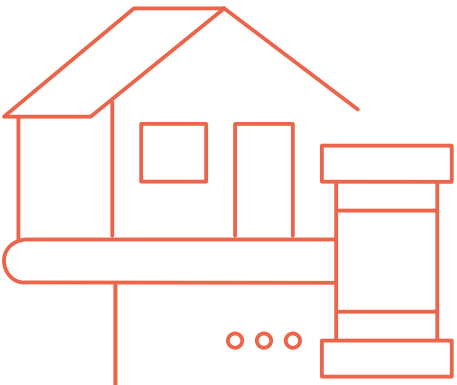
Due to the historic nature of some court facilities, many courts are not fit for purpose. It is not uncommon that the most vulnerable of service users have no option but to instruct solicitors either outside the building or in corridors, without appropriate and safe levels of privacy. The lack of appropriate accessibility accommodation worsens the court experience for many users.

While the Law Society welcomes the development of the long awaited Family Court complex at Hammond Lane, Dublin, this must happen in consultation with solicitors and other stakeholders to ensure that the new facilities are more efficient, accessible, and are designed and developed with the welfare of children and their families at their core.

Investment in courts staff and judges will be key to improve caseload management, improve case waiting times and the overall experience of court service users.

ACTIONS FOR A NEW GOVERNMENT:

- Prioritise the design and implementation of a digital transformation programme to underpin the operation of a modern, larger courts system to meet current and future needs.
- Enhance data collection by the Courts Service and the Department of Justice for the purpose of informing the design and delivery of court services.
- Provide funding for the Courts Service to improve the existing court infrastructure and to develop new courts where there is a clear need.
- Provide additional funding for the appointment of more judges and court staff in line with the recommendations of the OECD and the Report of the Judicial Planning Working Group.
- Establish an electronic filing system and paperless approach to court proceedings at Supreme Court level.



3 | PROPERTY LAW REFORMS TO SPEED UP HOUSING TRANSACTIONS



Streamline Property Transactions

Delays in buying and selling property are not only costly, confusing and frustrating to consumers, but also exacerbates to the ongoing housing crisis. The Law Society has continuously advocated for reform of the conveyancing process to streamline property transactions, alleviate long waiting times and reduce stress and expense for consumers.

The much-needed conveyancing reforms must be pursued with broader and more ambitious policy goals in mind, such as a making greater use of technology to make all transactions more efficient and supporting the delivery of eConveyancing by 2027, as set out in the Housing for All Expert Group Report on Conveyancing and Probate.

The Law Society strongly recommends an 'whole-of-government' approach to implementing conveyancing reform. A standardised approach for Local Authority requests, with respect to confirmation of property roads and services details, would streamline and reduce the timeframe to complete conveyancing transactions. To facilitate speedier transactions, legislation must be updated to allow for digital statements of truth, as current process of providing statutory declarations relies on legislation from 1938. The responsibility to drive these reforms falls across a number of government departments.

Significant delays remain in registration of title, impacting the pace of property transactions. Improved digital and staffing resources within public sector agencies would relieve current capacity constraints to deliver a more streamlined approach to property registration.

In many conveyancing transactions, missing or incomplete planning documentation and records can add significant time and cost to transactions. Some planning authorities do not hold any records dated before 2000. Yet the requirement to undertake planning searches as far back as 1964 remains in place. Unauthorised developments remain an impairment on the property in perpetuity. The legal recognition of a new class of Established Non-conforming Developments (END) would remove the risk of a blight on title and would significantly speed up the process.

ACTIONS FOR A NEW GOVERNMENT:

- Introduce standardised digital forms for requests across all Local Authorities with respect to confirmation of property roads and services details.
- Digitise statutory declarations process to allow for digital statement of truth to be accepted.
- Improve process for registration of property title with increased digital and staffing resources in public agencies.
- Reform planning legislation to recognise Established Non-Conforming Developments.



Building A Shared Vision Towards eConveyancing

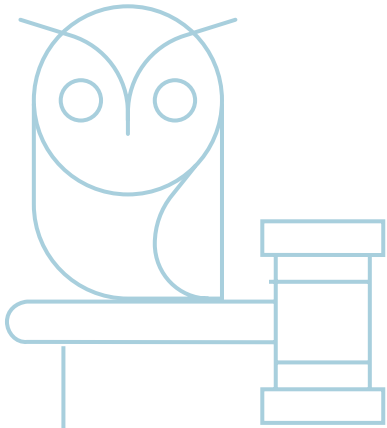
eConveyancing envisages a digitally integrated solution that assures trust, efficiency and transparency for property owners, purchasers, solicitors and public agencies across the whole property sale and purchase process.

The rollout of an integrated solution, that can easily share the necessary information, documentation and filings with key partners, will reduce time and cost associated with property transactions. The Housing for All Expert Group on Conveyancing and Probate sets out an ambitious recommendation that eConveyancing will be fully implemented by the end of 2027. This key recommendation provides the necessary impetus to address many of the structural factors to enable a smooth transition to eConveyancing, including the significant changes to existing practices, technology and legislation.

The Law Society has long advocated for Ireland to embrace the global trend towards eConveyancing and continues to invest in the development of a digital platform that aims to address some of the historically manual and labour-intensive legal elements of the conveyancing process for property purchases and sellers in Ireland.

ACTIONS FOR A NEW GOVERNMENT:

- Drive the implementation of eConveyancing so that it is fully implemented by the end of 2027.
- Increase collaboration and transparency on the government-led eConveyancing project to unlock structural inefficiencies and drive the streamlining and digitalisation of public agency processes to enable a fully integrated eConveyancing solution.
- Prioritise legislative amendments to facilitate eConveyancing.



4 | WIDEN ACCESS TO LEGAL QUALIFICATIONS AND SKILLS

The legal profession needs to reflect the diversity of the people and communities they serve. Widening early access, pathways to legal training and upskilling, and adequacy of funding are therefore priorities for the Law Society. Many trainee and practising solicitors are Ireland's future judges, policymakers and business leaders. The more diverse their backgrounds and experiences, the better equipped they are to shape a justice system that delivers for society.

The Law Society has proactively worked over many years to make the legal profession more accessible. It offers part-time and hybrid education courses, and targeted financial and mentoring programmes to support students from more challenging socio-economic backgrounds. Our plans for a new Legal Professional Apprenticeship Programme would offer another, more flexible, route for future legal careers.

Coordinated collaboration is needed to continue to widen access to the legal profession. Private industry and public sector organisations can play a more significant role in solicitor training in-house and help diversify the type and geographical spread of training opportunities.

As the Law Society has increased its financial support for trainee solicitors, the corresponding supports available to students from the Student Universal Support Ireland (SUSI) grant has declined. As a result, in 2023 less than 2% (eight trainee solicitors) were in receipt of SUSI grants in comparison to over 40% of trainees in 2004.

Ireland benefits greatly from those who choose to study here. We want those talented people to stay in Ireland to continue their formal professional legal education and training contracts. Without a student visa, many international students are struggling to secure a sponsored role as a trainee solicitor.

ACTIONS FOR A NEW GOVERNMENT:

- Ensure that the Law Society's Access Programme and Small Practice Traineeship Grant funding constitutes non-reckonable income when assessing eligibility for a SUSI grant.
- Extend the SUSI grant to the PPC Hybrid, the course which all trainee solicitors must undertake part-time. The availability of the SUSI grant to trainee solicitors on the PPC Hybrid would underscore a commitment to diversity and inclusivity.
- Support the development of an innovative national apprenticeship programme for the legal profession.
- Establish a specific Study Visa Scheme for international students to secure legal education and solicitor training contracts.

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