CRIMINAL LEGAL AID: EXPERT WITNESS CLAIMS

This document sets out the fees, conditions and good practice guidelines in relation to Expert Witnesses

This **IMPORTANT NOTICE** is being issued on foot of a change in the fee rates payable for services provided by expert witnesses, on behalf of the defence, under the criminal legal aid scheme. It also outlines important information in relation to the revised procedures to be followed when engaging expert witnesses.

All claims for payment must follow the procedures set out below:-

A solicitor who wishes to engage an expert witness to assist in matters associated with the defence of their client must request and receive the prior authorisation of Criminal Legal Aid Unit to do so.

It should be noted that this applies in all cases except where reports are specifically authorised by the courts at the request of the solicitor. In such instances evidence of the court authorisation will be required in the form of a copy of the Criminal Legal Aid (CLA) certificate duly noted by the court registrar/clerk in order to enable payment in respect of that particular expert Report.

Expert witnesses should not be engaged unless it is absolutely necessary to do so in defence of the client.

An application for permission to engage an expert witness should be made at the earliest possible opportunity in order to ensure that there are no delays in the process.

A solicitor who engages an expert witness to assist in matters associated with the defence of their client is responsible for:-

- following the correct procedure for pre-authorisation
- certifying that the service provider prepared and produced the report and attended on the dates and times directed by the solicitor
- the accuracy of the hours and the amount claimed
- submitting the appropriate LA5 claim form with accompanying documentation/receipts.

All LA5 Claim Forms should be submitted **DIRECTLY** to Criminal Legal Aid Unit, Department of Justice, 51 St Stephen's Green, Dublin, D02 HK52. It is no longer necessary to submit LA5 Forms to the Courts Service.

All LA3 Claim Forms which require certification of attendance in court by the expert witness must in the first instance be submitted to the District Court, County Registrar or Registrar, as the case may be, of the court which hears the case.

It should be noted that where an expert witness produces a report on behalf of the defence but the report of that expert witness is not subsequently used by the defence solicitor the State will **not** cover the cost of a second report.

Table 1: Fees Payable to Expert Witnesses

	Preparation (examination/report)	**Attendance at Court Full day/Half day**
Consultant medical practitioner, consultant psychiatrist, consultant pathologist	€120 per hour	€610/€435
Forensic scientist, psychologist, psychiatrist, surveyor, forensic accountant, accountant, engineer, medical practitioner, botanist, architect, veterinary surgeon, meteorologist	€100 per hour	€610/€435
Fire (assessor) and/or explosives expert	€90 per hour	€475/€238
Fingerprint expert, motor assessor	€70 per hour	€475/€238
Other Routine Technical Reports:- e.g. DNA analysis, cell site analysis; Ballistics reports; Analysis, Examination or Enhancement of CCTV/DVD/Disc Drive/SIM Card/ Audio; Site examination, measurement, mapping etc. associated with incidents/motor/traffic	€70 per hour	€475/€238
Advocacy support (where a solicitor's client has an intellectual disability)	€70 per hour	€475/€238
General Practitioner	€200 (Flat rate per Report)	
Urinalysis Report*	€200 (Flat rate per Report)	
Summons Server	€72 (Flat rate per summons)	
*Only one report per client, where it is absolutely necessary, will be paid in respect of Urinalysis under the criminal legal aid scheme (this includes the cost of diagnostic tests). Should the solicitor believe that more than one		

report is necessary then s/he must seek the approval of the court and a copy of the legal aid certificate with the decision of the court to that effect will be required in order to make a claim for payment.
It should be noted that where an expert witness is required to meet/interview the defendant and the defendant does not make themselves available then that cost must be borne by the defence. The State will not pay the costs associated with missed appointments.
Expert witnesses who are necessarily engaged from outside of the jurisdiction will be paid at the rates applicable in Ireland and the appropriate exchange rate to be applied will be the exchange rate applicable on the date of the invoice.

Table 2: Expenses Payable to Expert and Non-Expert Witnesses

As appropriate, expert witnesses will be paid for travelling time required in the preparation of reports. Travel time will be paid at half the relevant work rate as set out above. Travel time is not paid in respect of court appearances as it is deemed to be included in the fee for attendance at court. Expert witnesses who travel from abroad will have travel costs (air/ferry fares) paid on foot of receipts/tickets.
Mileage as applicable will be paid at 0.24c per km
Vouched expenses, including accommodation, will be paid on foot of receipts subject to a maximum of €105 per 24 hours. Vouched parking costs will be reimbursed but will be subject to a maximum of €10 per day.
Non-expert witnesses will be paid loss of earnings on foot of proof from their employer. Expenses for non-expert witnesses will be paid in line with those outlined above.

The list of experts and reports outlined above does not purport to be exhaustive. However, it does provide guidance in relation to the fees that will be paid under the criminal legal aid scheme.

Should a solicitor wish to make a case for the payment of a higher fee in respect of an expert witness, the request should be submitted in writing along with all relevant documentation to support the request. It should be noted that such a request would need to be detailed and compelling. Criminal Legal Aid Unit reserves the right to request the defence solicitor to seek the approval of the court to the particular expert witness.

Claims for payment must be submitted within 24 months from the date on which legal aid is granted. If the case continues for longer than 24 months the claim should be submitted within 24 months from the date on which the expenses have been incurred. Claims submitted after this deadline will not be paid.

Solicitors must retain evidence/proofs, including the Report if it is not subsequently handed in to court, in relation to the claim for audit purposes.

Please submit all requests seeking approval to engage an expert witness by email to clawitness@justice.ie. Any supporting documentation should be scanned with the email request to this address. Please note that requests **will only be accepted by email.**