

Review of the Civil Administration of Justice

The District Court perspective

(A) Improving access to Justice

Corporate representation

The prosecution of regulatory offences are a very common feature of the District Court jurisdiction. These offences include Road Safety Authority prosecutions for failure to comply with health and safety requirements, Food safety authority prosecutions for failure to comply with food hygiene standards and WRC prosecutions of employers for failing to comply with workers rights legislation.

Very often the Defendant is a very small “one man” business operating as a limited liability company on very small margins and who wish to plead guilty at the first listing date. The precedent of

Battle v Irish Art Promotions Central Limited [1968] I.R. 252 requires the adjournment of the matter to facilitate consultation and legal representation to be put in place.

Clearly the option of a Director with the appropriate company resolution being able to plead guilty of the company on the first listing day would save on costs and avoid delay.

Accordingly, I would second Miss Justice Mary Irvine’s suggestion of possible statutory reform in this area with a view to extending it to pleas of guilty in District Court regulatory prosecutions.

(B) Reducing the cost of Litigation including costs to the state

Increase of monetary jurisdiction:

The present monetary limit of the District Court jurisdiction is 15,000 Euros. This was increased from the limit of 6,349.00 Euros in 2011.

This last increase in monetary limits although substantial has not led to a proportionate increase in civil cases at District Court level. A

contributory factor is the lower level of costs at this level thus motivating legal practitioners to take their chances by initiate proceedings in the Circuit court with a view to an early settlement or alternatively, costs being granted on the circuit scale notwithstanding the award being less than 15,000 Euros.

In short, Civil law outside of Family law and Enforcement matters still forms a relatively insubstantial part of the District Court's jurisdiction. In these circumstances and with a view to cost reduction and improving access to justice consideration should be given to an increase in the monetary jurisdiction of the District Court.

The *Courts and Court Officers Act 2002* envisaged an increase to 20,000 Euros and allowing for the existing heavy work load in Family and Criminal matters, this would appear as a minimal figure for consideration. Any further increase above that figure should possibly be considered in the context of a parallel increase in the number of District Court Judges.

(C) Improving procedures and practises so as to ensure timely hearings

The average waiting time for a hearing after a case has been set down in the Dublin Metropolitan District is four months.

Any delays in the civil lists in the provincial courts are due to heavy workloads in other area of Law.

Accordingly no changes are recommended in this category.

(D) The removal of obsolete, unnecessary or over complex rules of procedure

The District Court 2014 civil procedure rules have introduced substantial changes in the practise and procedure of the Court with many rules being deleted and replaced in their entirety. New forms of pleadings and new procedures in relation to inter alia, setting matters down for trial, seeking particulars and judgement in default of appearance and/or defence have been introduced.

Accordingly and taking into account these relatively recent substantial changes, no further amendment is recommended.

District Court Areas

However there are at present 25 District Court areas which date from the latter half of the nineteenth century and at a time, when travel and transport were extremely limited.

At present, there is no facility to transfer proceedings from one area to another and as a consequence cases are dismissed on the application of the Respondent or of the Judge's own motion and where the "interests of justice" would best be served by transferring the matter to the appropriate District. There are also many incidents of proceedings being withdrawn before trial and commenced in the correct District.

Taking into account the enormous changes in transport, economic activity, the retention of twenty five District Court areas represents an archaic and unnecessarily restrictive compartmentalisation of the Court jurisdiction.

Accordingly an amalgamation of some areas should be considered. While there is very strong local support for the presence of the District Court in provincial locations, any proposed amalgamation would not necessarily involve the termination of particular courts and accordingly, would not be an issue.

(D) Discovery

As previously alluded Civil law exempting Family law and Enforcement plays a small part of the jurisdiction and as a consequence, Discovery is not an issue as it is in the Superior Courts.

Furthermore, the 2014 District Court rules have introduced a fast track discovery procedure whereby the Claim Notice and Defence contain a list of the documents that the parties intend to rely at the hearing and have to be furnished within seven days if so requested. Any further documentation is sought as per a letter seeking voluntary discovery and subsequent Motion in a procedure that replicates the rules of the Superior Courts.

However, Discovery motions although not that common do take up considerable time in usually very busy lists and accordingly, any simplification of the existing procedure would be of great assistance in the reduction of costs and court time at the District Court level.

(F) Encouraging Alternative methods of Dispute Resolution

In family law cases, there is a mediation service that Litigants are directed too at the daily call-over of the list, and this is working with some success.

However outside of the Family law arena given the low level of costs and the nature of the cases involving small monetary sums, it is likely that the attraction of alternative dispute resolution to litigants in the District Court would be minimal. Litigants are much more inclined to “*take their chances*” and have their “*their day in Court*” at present and it is suggested that the availability of alternative dispute resolution mechanisms would not affect these factors.

By way of a caveat, if there was a substantial increase in the monetary jurisdiction of the District Court, it is likely that the introduction of A.D.R. would have a much greater impact on its jurisdiction.

(g) Reviewing the use of electronic methods of communications including e-litigation

Subject to the usual rules of confidentiality, there does not appear to be any impediment to electronic filing at District Court level. Given the proliferation of software viruses and malware infiltration, consideration should be given to a requirement that back ups and hard copies be maintained by the respective parties.

(H) Pleadings and submissions availability online

Subject to the usual rule of confidentiality, there does not appear to be any impediment to pleadings and submissions being available online.

(I) Vulnerable Court users

Impecunious and/or lay litigants tend not to be dissuaded from instituting proceedings in the District Court taking into account the relatively, minor risk involved, both as to the substantive matter and the costs.

Similarly, and for the same reasons, it would appear that young people do not to have a reluctance to initiate proceedings in the District Court.

The existing system for wards of court together with the “*next friend*’ procedure at District Court level does not present any difficulties at this point.

(J) Miscellaneous

The District Court jurisdiction includes that of the Small claims Court involving claims up to a monetary limit of 2000 Euros and excluding claims involving Personal injuries, Debt collections and Hire purchase/leasing agreements. An appeal lies to the Circuit Court.

I note that the Northern Ireland review group on Civil Administration of Justice have recommended a voluntary pilot scheme for online dispute resolution involving a three stage process. A Judge only becomes involved if the matter has not already been resolved at the first two stages with the court using documents on screen, telephone, video or face to face meetings if necessary [*Review of Civil and Family Justice in Northern Ireland page 52*].

If the technological platform and appropriate software were available together with the appropriate financial resources, the Small claims jurisdiction would appear to be an ideal area for a pilot scheme of online dispute resolution.

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