

By e-mail: submissions@civiljusticereview.ie

RE: Submissions to the Review of the Administration of Civil Justice

Submission from Department of Defence

The Department of Defence welcomes the opportunity to input to the review of the administration of Civil Justice and has the following observations to make:

(a) Improving procedures and practices and removal of obsolete, unnecessary or over-complex rules of procedure

The Department of Defence would welcome further work in the area so that court users can benefit from efficiencies in court listing and case management. A full review of the “call over” system and listing system would be welcome with the added possibility of extending the remit of the Registrar/Court Clerks to conduct call over listing with the power to adjourn matters/streamline lists etc. Court sitting times could be considered for review in the context of maximising court availability.

(b) Reviewing the law of discovery:

The Department of Defence would welcome a review of this area particularly where Discovery, of its nature can be complex and cumbersome and can present resource implications. The Department would welcome a focus on the wide scope of Discovery and the difficulties this can present in trying to meet the terms of the Discovery along with a review of timeframes for Discovery.

(c) Encouraging alternative methods of dispute resolution:

The Department of Defence welcomes a review of alternative methods of dispute resolution and greater use of same. Where internal alternative methods of dispute resolution are available to the parties, but the parties have not engaged in same, the Courts could consider having greater regard to the exhaustion of these remedies before the litigation progresses before the Courts.

(d) Reviewing the use of electronic communications including e-litigation and possibilities for making court documents (including submissions and proceedings) available or accessible on the internet.

The use of technology in general terms is to be welcomed. However, it is not clear from (d) above as to whether the accessibility of the documents on line is confined to the parties and their legal teams or whether the information is available to the public at large. Issues such as litigation privilege, potential for defamation, damage arising where documents are put into the public domain at an early stage where allegations are subsequently unfounded, management of documents that may be restricted/classified in particular organisations but which may be required to be exhibited to support an affidavit will need to be considered.