

Strategy Statement Team,
The Courts Service
15 - 24 Phoenix Street North
Smithfield
Dublin 7

11 October 2017

Re: Courts Service Strategic Plan

Dear Noel,

The Law Society welcomes the opportunity to contribute to the Courts Service's consideration of its forthcoming Strategy Statement.

The period of the previous Strategy Statement 2014-2017 was characterised by restricted resourcing, an expanded role and jurisdiction for the various courts and the assumption of additional duties arising from a number of legislative instruments. The Courts Service, its staff and leadership are to be commended for continuing to deliver a high quality service to the profession and to the public in the face of such exigencies.

It is hoped that the forthcoming period will be underpinned by improved resourcing, leaner but effective processes and a continued emphasis on court user experience and service delivery. It is in this context that the Society draws attention to the following priorities.

Implications of Brexit

The opportunity now exists, and will become increasingly relevant in the coming years, to progress the proposition for Ireland as a forum of choice for international dispute resolution based on the following elements:

- a. The quality and integrity of our common law justice system.
- b. The expertise of our judges, solicitors and barristers in the provision of global legal services.
- c. The efficiency of our court system as evidenced by the innovations of the Commercial Court and Court of Appeal.
- d. As a seat for arbitration.

In response to Brexit, actions taken by other continental States, and further afield, include the establishment of English language courts, developing a competence in common law on the part of judiciary and legal practitioners, as well as speedier and specialised courts for international litigation.

The Society recommends that resources should be aligned to increase the number of specialist judges and the appointment of additional registrars, increased use of technology and cloud based services, as well as promoting the use of alternative dispute resolution options.

In addition, the Society suggests that a module within the current Review of Civil Procedures be dedicated to assessing court rules in an international context and more specifically, as a response to future likely issues and opportunities arising from the decision of the UK to exit the European Union, as they impact on families, individuals and businesses.

Information, Education and Advocacy

The Courts Service's communications obligation continues to increase as it responds to the direct demands of the public, practitioners and other users; and the increasing expectation for additional online services.

The Society believes that the Courts Service and the Judiciary have a role in advocating to policy makers, the merits and importance of the common law system to Ireland and the fundamental need that common law norms and rules be accommodated in EU policy formulation. This arises due to the fact that, post Brexit, Ireland will be the sole significant common law jurisdiction in the EU26.

In support of Chief Justice Clarke's recent comments regarding 'the adoption of a practice of auditing new legislation for the resources implication on the Courts', the Society believes that such an audit could be extended to consider the compliance cost for court users in respect of new legislative measures. An example of such is the conveyancing system, where solicitors must now contend with a growing list of certifications in order to dispose of property, where heretofore it was a matter between the citizen and the public body. A not unreasonable view is held that the legal process is increasingly being used as a conduit for State business, thus adding to delays and the ultimate transaction cost.

The Courts Service web portal has the potential to be further developed to triage enquiries and information so that users are less reliant on staff resources and time. Areas that might be improved include:

- Clear guides on the court system and processes
- Promotion of ADR in dispute resolution
- Schedules of fees and associated costs for legal processes
- Links to related services in Legal Aid, FLAC, Find a Solicitor and other services

At a practitioner and firm level, a number of IT suggestions have been made to ensure the Service is more user-friendly and efficient for practitioners and Courts Service staff. These include:

- a. The provision of an interface for each law firm to access cases they have active in the courts system, categorised by district, jurisdiction, law type (Criminal/Civil), with built in reminder facility and notification facility for motion lists, lists to fix dates etc.
- b. Greater alignment between the Courts Service's IT system and the Department of Justice to provide for fully computerised payment of legal aid fees

instantaneously and to avoid potential delays which arise in having to submit legal aid forms through the local court offices.

Stakeholder involvement

Through the various User Groups and Rules Committees, the profession enjoys the opportunity to provide the Courts Service with suggestions for changes and amendments to current Court rules and practices. These fora represent the essence of the Courts' vision and values and the Society and its members remain available to work with the Courts Service in its ongoing transformation programme.

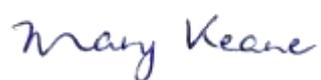
It is through a close partnership approach that challenges can be identified and effective solutions be considered. Current operational issues identified include:

- a. Support for a multi-agency approach (together with An Garda Síochána and Probation Services) in respect of physical Court developments; as it relates to client consultation and custody issues.
- b. The need for cases at District Court level in particular to be listed at both 10.30am and 2.30pm to avoid overcrowding in court rooms, attendant health and safety issues and ensure an environment where cases can be dealt with efficiently.
- c. Court room security is increasingly becoming an issue, as there has been a rise in the number of assaults on practitioners and personnel in courtrooms. Overcrowding due to list management contributes to this worrying trend.
- d. In respect of Criminal matters, practitioners have expressed the need for a fixed time allocated for special weekend sittings whereby they are notified in advance if a Judge assigned to the relevant District is not sitting on any particular dates. This is to ensure motions, applications and indeed remands are not put into dates when the Judge is not sitting where the Judge may have seisin of the matter.
- e. Other operational matters communicated to the Society include additional resourcing to ensure improved court processing times, the availability of judges for certain lists, the possibility of new lists, and a more structured approach to the production of written determinations and the demand for ancillary services such as probate services in various regions.

The Society hopes the above observations will assist the Strategy Team in their work and we remain available to outline in greater detail any of the issues raised.

We wish the Courts Service the very best in the next period of its transformation and in its delivery of a world class public service.

Yours sincerely,

A handwritten signature in blue ink that reads "Mary Keane". The signature is written in a cursive, flowing style.

Mary Keane
Deputy Director General
Director of Policy and Public Affairs