

Change on the Horizon: Potential Developments in Civil Procedure

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The recently published report of the Review Group established to conduct a review of the Administration of Civil Justice in Ireland is cause for optimism (“**the Report**”). The Report is extensive and contains in excess of 90 recommendations, the objectives being, amongst others, to improve access to justice, to improve efficiencies in the civil justice system and to reduce the cost of litigation.

This was no small task to undertake and the Review Group was fortunate to be Chaired by Mr Justice Peter Kelly, former President of the High Court, with contributions from across the judiciary and Courts Service, Government Departments, the Law Society and the Bar Council.

The Report includes a detailed comparative exercise with civil jurisdictions where similar reviews have already been undertaken, providing both guidance and insight to the Review Group regarding what measures have been implemented successfully across those jurisdictions.

Included in the suite of recommendations proposed by the Report are:

- Improved use of existing provisions, e.g. case management procedures introduced by way of SI 254 2014;
- Pleadings to be drafted with increased precision;
- A single originating document to replace the variety currently in use;
- The simplification of language and terminology; and
- Automatic discontinuance of cases where not notified as ready for trial and where no steps appear on the court record, within **30 months** of commencement.

In contrast to the examples above, which can be implemented quickly and with minimal “fuss”, are the recommendations in relation to discovery. The Report proposes dramatic changes to the process of discovery, recommending that the current system be abolished and replaced by a new remedy entitled Production of Documents. This is intended to establish the entitlement to documents in advance of trial.

Such sweeping changes will not happen easily and the recommendations in relation to discovery will require legislative change, however a clear roadmap has been laid out by the Report.

The recently published Department of Justice Action Plan 2021 confirms that provisions to reduce litigation costs in particular are high on the list of priorities for the government in addition to modernisation of the courts system, to the benefit of all.

For a more detailed review of the recommendations contained in the Review Group Report, please contact any member of the DAC Beachcroft Dublin Commercial Litigation and Dispute Resolution team.

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