



WORKING GROUP
ON A
COURTS COMMISSION
SECOND REPORT
CASE MANAGEMENT AND
COURT MANAGEMENT
SUMMARY

July, 1996

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INTRODUCTION

The Working Group was established in October, 1995 by the Minister for Justice, Mrs. Nora Owen, T.D., to carry out a wide-ranging review of the operation of the Court system in Ireland as envisaged in the December, 1994 document entitled: "A Government of Renewal".

THE COURTS SERVICE

On 20th May, 1996 the Government accepted in principle the primary recommendation of the First Report of the Working Group on a Courts Commission that there be established by statute an independent and permanent body to manage a unified Court system to be known as "The Courts Service". The Minister for Justice requested the Working Group to submit further reports on how the establishment of a new Courts Service can be progressed. The Group is working on such a report which it plans to present to the Minister in October, 1996.

COURT AND CASE MANAGEMENT

In the meantime, in addition, the Group is also progressing other relevant work. The Second Report is an introduction to aspects of the Court system which are of great importance - case management and Court management.

PRESIDENTS OF BENCHES

In Chapter One of the Second Report the Group considers a proposal that future appointments of the Presidents of each Bench should be for a fixed term; e.g. seven years, which would be non-renewable. The Group is satisfied that in the long term such appointments could be a factor of great significance in improving the administrative infrastructure of the entire Court system.

RECOMMENDATION

Accordingly, it is recommended that the necessary steps be taken to enable appointments to the Presidency of a Bench to be for seven years, non-renewable.

CURRENT CRISIS

The Courts are experiencing a crisis at the moment in view of the volume and complexity of cases and the delays in the hearing of cases. The

Presidents of each Bench are very heavily burdened. Consideration should be given to permitting greater flexibility in the use of resources to the President of each Bench so that, for example, he may be enabled to request a judge to work in a specialised area as required. It would ease the Courts and their office if such flexibility was available to enable the President to request a judge to work on the management of specific issues e.g., the coordination of the Family Courts, the listing of cases, organising the resources.

RECOMMENDATION

The Group recommends that there be greater flexibility in the use of resources to the President of each Bench so that he may request a judge to work on the management of specific issues e.g. the coordination of the Family Courts, the listing of cases, the organisation of resources.

RULES COMMITTEES

Chapter Two examines the existing powers and composition of the Rules Committees (which lay down the procedures to be followed at the different Court levels).

RECOMMENDATIONS

The Group recommends that:

- (a) Rules Making Committees be enabled to be active vehicles for introducing improvements in the Court system;
- (b) Ex-officio members of the Committees be entitled to delegate membership of the Committee to another and that the necessary legislative amendments be carried out;
- (c) When the Courts Service is established the Chief Executive Officer (or his or her nominee) together with a senior member of the staff of the relevant jurisdiction nominated by the Chief Executive Officer be members of each of the Rules Making Committees and that the necessary legislative steps to so enable be taken;
- (d) The resources of the proposed Courts Service be available to the Rules Making Committees;
- (e) Each Rule Making Committee shall make a report to the Courts Service for inclusion in the Annual Published Report.

JUDICIAL CASE MANAGEMENT

In Chapter Three the Group have raised the issue of judicial case management. Judicial case management involves active oversight by the Court of the progress of proceedings. It would represent a fundamental change of approach. It would signal a significant transfer of the responsibility for the management of civil litigation from the litigants and their legal advisers to the Courts. The Group has not attempted to come to any definitive conclusions as to whether a system of judicial case management should be established at the different Court levels. The Group is continuing the consultation process and facilitating debate on the issue. It plans four steps:-

STEP ONE

- highlighting the issues
- facilitating a debate
- consulting the relevant parties
- organising a conference on "Court and Case Management",

STEP TWO

- International experts on the topic from other jurisdictions debate the issues at a central conference
- Seminars on related topics

STEP THREE

- Consultation with key groups following the conference

STEP FOUR

- Final Report to the Minister on Court and Case Management

The Group believe that a wide-ranging inquiry of this nature is a vital precondition to the making of informed recommendations to the Minister on this critically important topic.

ADMINISTRATIVE CASE MANAGEMENT

The Group continues to study administrative case management throughout the Court system and to consult with the individual offices. This process is ongoing and not yet near completion.

In Chapter Four are set out some preliminary findings. Issues are also raised which while requiring further study in the context of the Court system have the potential for great benefit.

The Group continues to find the problems as enunciated in the First Report, but this area has highlighted in particular:

- crisis management in many offices
- staff locked into systems where they have grave responsibilities but are not empowered
- lack of communication systems
- lack of resources
- lack of training schemes
- lack of information technology.

In the sketch drawn in this chapter of some of the offices certain successes and problems are indicated.

THE ACCOUNTANT

The Accountant's Office has a staff of ten and manages investments in excess of £300 million. In spite of the fact that the monthly income is approximately £10m to £12m the staff still operate a manual accounting system. Letters are typed on a typewriter which was acquired by the office just over a month ago. The only problem with this is that the typewriter is missing two keys!

THE EXAMINER

The high volume intake of work in the mid-1980's prompted the President of the High Court to assign a specific judge experienced in chancery and company matters to deal exclusively with applications in the Examiner's Court list, which had the effect of bringing certainty and consistency to judicial policies and decisions in this area. The particular judge so assigned adopted a very active approach and was greatly interested in planning and reform, thus enabling policies, reform and priorities to be defined and implemented.

The Examiner's Office has modernised, as a result of the trojan efforts made and heavy workload undertaken by the Examiner and her staff. The

Judge assigned to the area by the President of the High Court, and the Examiner, have been successful in initiating a specialised modern caseload management system.

However, owing to the huge backlog, problems still exist in this area. A complete appraisal of the statutory role and responsibilities of the Examiner's Office should be undertaken, particularly in the area of Court liquidations, in a review of the system (insolvency) in which this office operates.

THE OFFICIAL ASSIGNEE

This office operates a case management system, as is set out in detail in the Report. It is clear that serious consideration needs to be given to the creation of a division of the High Court to deal with bankruptcy, company liquidations and matters arising from the Examiner's list - which could be called the Insolvency Court. Incorporated in this concept would be the extension of the jurisdiction of the Bankruptcy/Insolvency judge to cover all issues arising in which the Court deems it expedient to decide in the course of the bankruptcy or arrangement. This may involve the reintroduction of Section 66 Bankruptcy (Ireland) (Amendment) Act, 1872.

THE PROBATE OFFICE

The Probate Office has modernised and illustrates the benefit of computerisation. The time taken to process grants is in between ten and twenty-one days. The backlog of work in the Probate Office has been completely cleared for a number of years now.

THE OFFICE OF THE WARDS OF COURT

The Office of the Wards of Court is concerned mainly with the management of the property of persons who are under disability either through incapacity or not having attained their majority. It is estimated that the value of the assets under the control of the office is not less than £200,000,000, and the amount is increasing all the time. The vast majority of the work is done in the office and the chambers of the President of the High Court. All of the case work, apart from specific aspects of matters like accounting and income tax affairs, are dealt with by the Registrar and three Assistant Registrars which is an inadequate staffing level. The office is partly financed by the collection from the various Wards and Minors of a Court Percentage which is payable on the clear annual income of each Ward and Minor - the

maximum payable in respect of one year is £500. This is a ludicrous level in the case of a Ward whose estate would be in the region of £2,000,000 and whose affairs would have to be dealt with by the office on virtually a daily basis. There is considerable scope for an increase in revenue from this source, however any such increase must be accompanied by an increase in staffing at an appropriate level to provide a full service.

THE OFFICE OF THE GENERAL SOLICITOR FOR MINORS AND WARDS OF COURT

In 1969 the Office of the General Solicitor was brought within the public service as a temporary office attached to the High Court pending a review. This continues to be the position today, there would not appear to be any statutory basis for the office and its duties including the transfer of monies and revenues to the Exchequer.

The undefined status of the office hinders its development within the Court system. It is essential that the lack of statutory establishment and accountability of the Office of the General Solicitor be resolved.

THE TAXING MASTER

The Office of the Taxing Master is a very ancient one dating back to the early Middle Ages. The Taxing Masters act in a judicial capacity on matters relating to legal costs. They have their own Court and give oral as well as written rulings. Master Flynn has for some considerable time sought to obtain:-

- (a) a photocopier;
- (b) a word processing system; and,
- (c) the removal (to the National Archives) of Bills of Costs some 50 years old, for health reasons, from the office of one of the Assistant Registrars.

RECOMMENDATIONS

1. The Group recommends that the necessary steps be taken to enable appointments to the Presidency of Benches to be for seven years, non-renewable.
2. The Group recommends that there be greater flexibility in the use of resources to the President of each Bench so that he may request a judge to work on the management of specific issues e.g. the coordination of the Family Courts, the listing of cases, the organisation of resources.
3.
 - (a) It is recommended that the Rules making Committees be enabled to be active vehicles for introducing improvements in the Court system.
 - (b) It is recommended that ex-officio members be entitled to delegate membership of the Committee to another and that the necessary legislative amendments be carried out.
 - (c) It is recommended that when the proposed Courts Service is established that the Chief Executive Officer (or his or her nominee) together with a senior member of the staff of the relevant jurisdiction nominated by the Chief Executive Officer be members of each of the Rules Making Committees and that the necessary legislative steps to so enable be taken.
 - (d) It is recommended that the resources of the proposed Courts Service be available to the Rules Making Committees.
 - (e) It is recommended that each Rule Making Committee shall make a report each year to the Courts Service for inclusion in the Annual Published Report.