

Introduction

I would like to start by thanking you, the Review Group, for undertaking this review. For the reasons set out below, I feel that this review is timely and warranted. The importance of this review and your findings cannot be understated and I hope that the process will go some way towards ensuring that the much needed reform of the Civil Justice system in Ireland is achieved.

Before setting out my submission to the Review Group, I would like to begin by explaining my personal circumstances and the background to my submissions. Though I understand that these circumstances may have only a marginal impression on your review I feel that it is important that the Group understands the profoundly personal and difficult impact that the current civil justice system can have on someone's life and the lives of those around them. I hope that you will read these submissions with open minds.

I come from a disadvantaged family, having lost my father at the age of nine, but worked hard and have been a publican since buying my own pub at the age of 26. I have been and continue to be a Peace Commissioner and have always believed in giving back to my community as one of several ways.

In July 2004 (the same year that the smoking ban was imposed, which had a significant impact on my business as a publican), I suffered a brain haemorrhage. This left me with vision impairment and, under NCBI classification, I am registered blind as a result. Along with blindness, I live with an acquired brain injury that makes the processing and retention of information difficult. Due to my sight difficulty (a homonymous hemianopia) I only see through a small strip in the centre of what would be other people's line of vision as both eyes see nothing to the left hand side of each eye. This is further complicated by my brain injury as the brain does not register that the left fields of either eye actually exist.

Unfortunately, this impacted on my business, as I was unable to work for quite a while afterwards. As a self-employed person, I qualified for nothing in relation to sick pay or unemployment assistance.

When I left hospital, my vision was as if I was looking through a keyhole. I was warned that I should rest for approximately 6 months to recover from the brain surgery and that I would not know the full extent of the damage to my eyesight and cognition until a full five years after this. There was hope that I would experience improvements in my condition also. In order to get the best results possible, I was told to take it easy. [REDACTED]
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At all times, we were shown that the balance of power was out of our hands. This was distressing and upsetting. The impact this has had on my family is tangible but in just as many ways intangible. We will never regain these years or those sections of our lives or the lives of our children.

I feel as though my life, life's work, dignity, reputation, good name, business, property, ability to provide for my family and future have been taken from me. I suppose, these feelings are held aside from my disability. The process is flawed regardless of capacity. There has been no oversight of our treatment at the hands of receivers, liquidators, new owners or the Revenue.

Submissions

While I fully appreciate that the Review Group cannot offer any remedies to this, I have included the previous passages for context to my submission. I have no formal legal education and am mindful that this may impact my submission to the group but I want the group to have all of the information, in case I miss anything.

I was recently speaking with a Senior Counsel about the circumstances of the loss of my business. I explained that I was disabled. The Senior Counsel responded by saying that this could not mean that I got more favourable treatment, that this could not mean that the treatment I received should be any different than what anybody else would get. I was shocked. This is an incredibly privileged opinion to have and worse still to express to someone with a disability. This is one of the reasons that I felt it was so important to provide a submission to the group. With all due respect, I understand this opinion. I understand that from a purely intellectual point of view, this appears fair and just. However, it is deeply flawed. This opinion should be challenged and I believe that this review group has the capacity to do this. An able person or a person who has never experienced or seen the impact that a

disability has on a family member perhaps cannot appreciate that treating those who are disabled the same as those who are able, or subjecting both to the same, is fundamentally discriminatory. Simply put, it means that the disabled person is automatically facing a harder battle than the able person is. The purpose is fair treatment but the reality is not. This opinion does not appreciate the practical impact or even reality.

Additionally, throughout my experience, it has been rare that anybody appreciates the fact that not everyone who has a disability has the same abilities. I have been continuously offered brail however nobody has ever asked if I can read brail. Not every blind person can. Nobody has ever appreciated the further impacts that my brain injury has had on my memory, ability to communicate or process information. Nobody has ever tried to understand what my disability means for me or what I need. Again, the concerns have been expediency.

I was a very proud business owner who worked hard and sacrificed to achieve what I did. I was unlucky in that I became disabled. [REDACTED]

[REDACTED] Despite this, there are many ways in which the people in the Courts Service have gone out of their way to accommodate and help me throughout the process. From explaining things to me or my wife to providing us with information and I am very grateful.

However, the balance of power is not right. Those who have abused, harassed and defamed me have never had to justify their position or defend themselves. They are 'officers of the court' and instead of this meaning that they should conduct themselves with respect and dignity they have used their positions to take away those very things from me. Judges have never asked them any questions. Their 'books' and costs have not been challenged so far. The process from the beginning has felt more like a rubber stamping exercise facilitated by a fondness for expediency. Yet I face an uphill battle.

I understand that it would be easy to dismiss these submissions as overly personalised or lacking in focus or even bitter. That would just be more of the same. My situation is the reality of how someone with a disability has been treated by officers of the court and in some ways facilitated to do so. The Gardaí would not be allowed to dismiss my rights and disability in the

same way but I am unfortunate in that my interactions with the law have been on the civil end.

I have tried to do some research in preparation for my submission. I read the Bar Council's and the Law Society's submissions to this group. I agree with some of their submissions particularly concerning a need to reassess the current way that cases and costs are managed. I also strongly support provision for class action litigation. I agree that the provision of more information on the processes, procedures and expectations of the courts would be very helpful but this needs to be implemented in such a way as to appreciate the personal nature of a disability for people. I agree that there is potentially a greater place for alternative dispute resolution within civil justice. I agree that there should be a reanalysis of funding of civil litigation. I agree that there needs to be greater protection afforded to those with disabilities in the settling of claims.

I think there is a need to go further and:

- Provide a welfare department within Revenue.
- Ensure the Disability Act is incorporated within company law.
- In a positive liquidation/receivership, positive by resulting in a surplus, it needs to be easier for creditors/shareholders to have access to information or court submissions and by informed of impending litigation or legal expenses.
- There needs to be a way to prevent liquidators/receivers from exhausting large amounts of money on expenses. There should be court supervision of these expenses.