

# LAW SOCIETY SUBMISSION

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## **PROPOSED NEW DUBLIN FAMILY LAW COURT FACILITIES**

COURTS SERVICE

ESTATES AND BUILDINGS UNIT

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#### ABOUT THE LAW SOCIETY OF IRELAND

The Law Society of Ireland is the educational, representative and regulatory body of the solicitors' profession in Ireland.

The Law Society exercises statutory functions under the Solicitors Acts 1954 to 2011 in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. It is the professional body for its solicitor members, to whom it also provides services and support.

The headquarters of the organisation are in Blackhall Place, Dublin 7.

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## 1. Introduction

- 1.1. The Law Society of Ireland welcomes the opportunity to make this initial submission in relation to the proposed new family law courthouse facility. The proposal provides a very important and potentially ground-breaking opportunity to provide court facilities specifically designed for the particular needs of litigants and others involved in family law and childcare matters.
- 1.2. Recent and anticipated developments in the conduct of family law underline the importance that the design and resourcing of the facility is 'future proofed'. Specific accommodation for alternative dispute resolution and ancillary services (Tusla, Social Welfare, Legal Aid Board and other agencies) will provide meaningful assistance to both the courts and litigants. In essence the facility can become the first 'centre of excellence' for the conduct of family law cases.
- 1.3. The quality and impact of the built environment takes on additional significance for those accessing the courts assistance, at a time that is likely to be stressful and anxious. A balance must be achieved between creating a sympathetic and supportive environment, while respecting the gravitas and integrity of the legal process.
- 1.4. An exciting opportunity now exists for the Courts Service to use the redesign of the family courts to create a positive message about the justice system. Reinforcing the civic importance of the administration of justice, creating an affirmative statement about the role of the legal process, and supporting the community in which court complex will sit and serve must be reflected in the new design.
- 1.5. In addition to the points raised within this submission, the Society suggests that litigants and their families be surveyed as part of a comprehensive consultation, together with a review of best practice overseas.
- 1.6. The Society welcomes a close and collaborative approach on this matter, and a meeting at the earliest opportunity is recommended. As more detailed plans are shared by the Courts Service, the Society looks forward to further and more comprehensive submissions.

## 2. Present Family Law Court Facilities

### **District Court in Dolphin House**

2.1. Dolphin House deals with a mixture of family law and childcare cases (effectively a 50/50 split between the two areas). This facility includes:

- *Courtrooms:* Five medium sized courtrooms – typically dealing with up to 25 cases each per day.
- *Consultation rooms:* Six small consultation rooms – grossly inadequate for the number of cases.
- *Waiting area:* One large waiting area for litigants and legal representatives. This area is often overcrowded, can place potential litigants in close proximity to each other and it is not adequate space for legal representative to consult with their clients. It also does not have facilities for litigants accompanied by children.
- A small bar room with no ancillary facilities.
- Access to mediation services and other related services.
- Toilet and related facilities are relatively poor and outdated.

### **Circuit Court in Phoenix House**

2.2. Phoenix House deals with family law cases, and appeals in respect of childcare cases. This facility includes:

- *Courtrooms:* Three relatively large courtrooms – typically dealing with 10-15 motions each per day and to up to three cases for full hearing.
- *Consultation rooms:* Nine consultation rooms which are again wholly inadequate for the number of cases before the Courts.
- *Waiting area:* One waiting area which is generally very crowded in the mornings and again wholly unsuited to proper consultation between the litigants and their legal representatives.
- There is also a County Registrar Court in the other section of Phoenix House
- A bar room for legal representatives which is too small and with limited facilities (a photocopier and fax are available).
- Toilet and related facilities are relatively good.

2.3. Cases in the Circuit Court, by their nature, tend to be more complex than most of the family law cases in the District Court, with the exception of District Court childcare cases that can regularly involve a significant number of parties and witnesses. Larger consultation rooms are a necessity in many District Court childcare cases and in Circuit Court and High Court cases as the proceedings generally involve far more documentation and paperwork which needs to be gone through in a secure and private environment. In addition there is the need for suitable rooms for expert witnesses, guardian-ad-litem (GALs) etc.

## High Court in Aras Uí Dhálaigh, Four Courts

2.4. Aras Uí Dhálaigh currently deals with family law cases and presently the HLC list is also dealt with there. The facilities include:

- *Courtrooms:* Two small courtrooms – other than the Friday motions list, both Courts typically deal with only a limited number of cases each per day. The courtrooms are wholly unfit for purpose, particularly in terms of dealing with call over and motions lists. The courtrooms themselves are also cramped in terms of running any form of complicated case involving significant amount of paperwork. Both courtrooms are also poorly ventilated and can range from being overly warm to very cold.
- *Consultation rooms:* Five consultation rooms of varying size – these are generally sufficient to meet the demand other than on Friday call over and motion lists. However, the rooms vary in size and some of the smaller rooms are not fit for purpose as High Court cases tend to involve significant amount of documentation and paperwork.
- *Waiting area:* One waiting area which is very small and which again causes difficulties on Fridays as the area becomes very cramped.
- A tiny bar room which is wholly inadequate and not fit for purpose. It has the advantage of facilities for making coffee but otherwise it is deficit in terms of function and facilities (although it has a photocopier).
- Very limited toilet facilities.

### 3. Proposals for New Facilities

#### **Facilities and Services**

- 3.1. In its submission to the Department of Justice, Equality and Defence, entitled 'Family Law – The Future', the Society recommended:

*The new family courts should be located separately from current venues with sufficient rooms for private consultations and welfare and assessment services to support public and private family law proceedings. ADR facilities should be located in the new family law courthouses linked into the welfare system*

- 3.2. None of the courthouses have access to sufficient facilities for litigants and legal practitioners such as facilities for photocopying, faxing, etc. The District Court has no photocopying facility on site whereby parties can, for example, copy a consent agreement or settlement if one is reached. It is strongly recommended that any new courthouse would be resourced with facilities that would be similar to those provided by the Law Society of Ireland in the main Four Courts building. These should be provided both to litigants and legal practitioners.
- 3.3. Like most court settings, there is typically a significant amount of waiting for cases to be heard. Parties are generally required to wait in the vicinity of the courtroom, other than when the court rises for lunch. As a consequence, it is recommended that the seating area/lounge area accommodate different groups (via discrete or natural screening) and suitable food and drink on site. A number of water fountains/geysers should be made freely available to users. Overall there should be an emphasis on natural light and creating a calming ambience (glass, planting etc.)
- 3.4. Adequate toilet, baby-changing and related facilities must be provided for, accessible to both men and women in order to reflect all child minding scenarios (fathers, grandfathers, guardians etc). As many users will have prams etc, perhaps a cloakroom type facility should be provided.

#### **What the courtrooms should look like**

- 3.5. Courtrooms must accommodate the more informal nature of family law proceedings while also reflecting the importance and gravity of what is taking place. Of the courtrooms currently in use, the most suitable are probably those in Phoenix House. They provide a modern unadorned space, plenty of seating and desk room for the presentation of cases but with limited seating to the rear of the courtrooms which is appropriate as the courts are 'in camera'.
- 3.6. Based on feedback from other court users to practitioners, it is felt that the bench is too elevated in the Phoenix House courtrooms and ideally the Judge should be at a level closer to the parties and those giving evidence. The height of the bench in the current District and High courts is more appropriate. It is recommended that further research and consideration be undertaken into the most appropriate form that the courtrooms should take.

### **Courtroom size**

- 3.7. The size of the current Circuit Court courtrooms is the optimal size, certainly for Circuit Court and High Court cases. Courtrooms for District Court cases could perhaps be smaller but there is no particular reason why similar sized courtrooms could not be used for all three courts. Consideration may need to be given to slightly larger courtrooms for use where there a larger case lists e.g. motion days etc. However at present the space of the Circuit Court courtrooms works well and certainly family law courts should not be too large so as to be intimidating to litigants. Consideration also needs to be given to the appropriate size for ‘ancillary’ courts, such as the County Registrars court dealing with Case Progression in the Circuit Court.

### **Number of courtrooms**

- 3.8. The number of courtrooms is clearly linked to the volume of cases, how they are processed and whether there is a requirement for additional judges. The number in the High Court is probably sufficient for the current volume of family law cases. The volume of cases in the Circuit Court is fairly significant at present and there are significant delays in hearings. However it is arguable that there is a need for one further Circuit Court Judge even if that Judge may not be assigned on a full time basis.
- 3.9. Currently, there is very considerable pressure on the District Court lists. Further recent legislative and constitutional changes are almost certainly going to increase the volume, length and complexity of family law cases in the District Court. As a consequence it is suggested that there is a need for at least two further Judges dealing with the District Court family law and childcare lists. Further any new facility needs to be ‘future-proofed’ for the possible further extension of court lists which would require additional courtrooms facilities.

### **Courtroom layout & features**

- 3.10. As above, the courtrooms need to be of an optimal size to allow the proper running of cases while not being overly large and intimidating. In terms of the design and lay-out a similar balance needs to be struck between making the courtroom space non-threatening to litigants while at the same time not detracting from the seriousness of the setting. Research should be undertaken as to best practice in this area and to consider suitable alternatives to the traditional courtroom setting.
- 3.11. While certain existing features of the family law courtrooms should be retained e.g. relatively small courtrooms, proximity to the judge and with a low level bench etc., consideration should be given to changes to the ambience in the courtrooms (e.g. in terms of alternative layout, décor, lighting etc.). This will assist in making courtrooms look and feel less hostile environments and impact positively on litigants’ interaction with the courts system. Further research is recommended on changes that can have a materially beneficial effect on the participants in family law proceedings.



### **Related services**

- 3.12. The provision of additional facilities and services in a new family law courthouse building must take into account on-going and proposed reform of the family law system. These would include:
- A dedicated space to access directly mediation information and services; including support services in relation to cases involving domestic violence.
  - Mobile information stands in relation to personal and family counselling. One example of this is at various public sites, where if there is a promotion of a particular service, an employee can be spoken to directly, at peak or certain times.
  - information and services to support families with parenting post separation including dealing with conflict, parenting plans, contact centres, etc.
  - A dedicated dynamic space where information and consultation in relation to legal aid, GAL services, the provision of s.47 assessments and any methods relating to hearing the voice of the child may be accessed.
  - Facilities for child-minding and related supports for those accessing the courts are essential.

### **Space requirements**

- 3.13. The spatial requirements of a properly functioning family law facility are very complex. The most striking feature of current facilities is the chaotic nature of the public waiting areas, the consequent lack of privacy for litigants and the fact that a large volume of work, including sensitive negotiations, is effectively conducted in the open.
- 3.14. The most difficult task in the new facility will be to accommodate within a single space the huge requirement to allow a very large number of litigants and lawyers conduct themselves in an appropriately confidential manner. This will necessitate a very significant number of consultation rooms, bar rooms for lawyers, break-out rooms adjacent to courtrooms where negotiations before and during cases may be conducted, rooms for conversing with expert witnesses etc. Where children are represented by a guardian-ad-litem, appropriate facilities and resources must be supplied
- 3.15. The new facility will need to consider not just the number of such rooms which may be required but also their various uses e.g. bar rooms that might also be designated for the purposes of negotiations, “quiet rooms” for work by practitioners, etc. It is essential that the bar rooms have adequate facilities such as Wi-Fi, scanning/faxing, photocopying etc. Practitioners seeking to make direct contact with other parties on matters before the court, or while they wait would greatly benefit from ‘hot desks’ – individual screened workstations equipped with plugs, chargers etc.
- 3.16. The space must provide as non-threatening an environment as possible for all users, in particular litigants and children accessing the courts. The space must allow for the space requirements around developments in the law and legal practice, in particular

and provide for mechanisms by which the courts will hear the voice of the child and indeed to meet the particular needs of children in the court process.

### **Relevant factors**

- 3.17. As mentioned above, the constitutional changes in relation to the rights of the child and the requirement to hear the voice of the child have the potential to have transformative effect on the hearing of family law cases. While this impact may take some time to take effect, any new facility must make provision for the likely increased complexity and length of cases. Similarly the recent enacted Children and Family Relationships Act, 2015 will give rise to more and longer cases, particularly in the District Court.
- 3.18. Increased use of mediation services has the potential to reduce court caseloads into the future. However this possibility must be balanced by the consideration that increased mediation activity is likely to require additional future resources in a new facility. As a consequence consideration needs to be given to the possibility of creating flexible spaces in any new facility which may be capable of being used for changing requirements.
- 3.19. Other relevant factors to consider are likely changes to work practices, in particular the move towards the greater use of technology and how those changes will be catered for in the new facility.

## **4. Conclusion**

- 4.1. The Law Society welcomes the opportunity to be consulted at all stages of the development of this proposed facility. While this submission is a brief outline of the key concerns based primarily on the existing facilities, once more detailed plans are shared by the Courts Service, we look forward to providing more comprehensive views.
- 4.2. The Law Society also believes that it would be hugely beneficial to have an early meeting between all current and potential future users of this facility to consider in more detail all of the issues canvassed in the submissions received by the Courts Service.

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