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Subject: Review of the Defamation Act

The Offices of the Press Ombudsman and the Press Council of Ireland welcome the opportunity to repeat some of the proposals which we believe might be included in a new Defamation Act. For brevity here is a summary of our main recommendations.

1. Solicitors should be obliged to inform their clients in situations where defamation proceedings are being considered of the services provided by the Offices of the Press Ombudsman and the Press Council. Our services offer a quick, independent and free means of resolving disputes members of the public may have with material published in newspapers, magazines and online news services. We offer conciliation, mediation and formal decision making services which lead to the resolution of many disputes. The requirement on solicitors to inform clients would not infringe on either clients' or solicitors' rights in regard to any contemplated legal proceedings.
2. We would like to see Section 26 of the Defamation Act 2009 amended to include a provision whereby judges would take into account in their consideration of defamation actions whether or not plaintiffs availed of the services of the Press Ombudsman and Press Council before initiating legal proceedings. If the purposes of defamation is to correct an injustice and re-establish reputations this may be, depending on circumstances, available through the Press Ombudsman and the Press Council. If plaintiffs have not taken this route this could be a factor in the determination of awards or in the instruction of juries by judges.
3. We believe the present level of awards in defamation actions threatens the viability of news publications. The level of defamation awards in Ireland greatly exceeds other European countries and is, in the view of the Press Council, disproportionate. Consideration should be given to any measures which could reduce the level of awards. This could be mechanisms to require defamation actions to take place in the Circuit Courts rather than the High Courts. It could take the form of abolition of juries in defamation actions or, if juries are to be retained in defamation actions, restricting the role of juries to determine if a defamation has taken place and the determination of award to be made by judges. Consideration should also be given to drawing up guidelines in determining appropriate levels of awards as exists already for personal injuries.

Yours sincerely

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