

Dublin Solicitors Bar Association

Submission

Proposed reorganization of District Court business
in the Dublin area

12th September 2014

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1 Executive Summary

1. Background

The proposal to close the District Courts at Tallaght, Dun Laoghaire, Swords, Balbriggan and change the use of the court at Blanchardstown to traffic related cases only, moving all their other activities to the Criminal Courts of Justice in Parkgate Street/Infirmary Road cannot be separated from the decision to build the Central Criminal Court including the decisions about increasing the original size, the fiscal crisis that has engulfed the state, and the implications of the measures to date on the finances of the court services and finally the details of the Croke Park Agreement for the courts service. The court services is in a period of rapid change, but it is difficult not to feel that the new courts building has added significantly to costs, and that the requirement in relation to the payments have exacerbated the adjustment.

2 Proposed closure of Courts in Swords, Balbriggan, Tallaght and Dun Laoghaire

The basis for the proposed closure is the Court Service's own Review which is very limited in its scope as it only examines the services provided by the Courts Service and the costs and does not examine the wider issues. The Courts Service in this Review indicate that 'a key driver for the decision to close a venue is the costs associated with that venue.' yet go on to state that having examined the costs associated with suburban venues that 'the rationale for moving the business to another venue for reasons of cost is undermined'. The Courts Service cannot therefore justify the proposed closures on the basis of costs savings. There is no suggestion made by the Courts Service that the human resources are underutilized to any marked degree at any or all District Courts proposed for closure.

3 The wider context

- a. Closure of the suburban District Courts in Dublin is an exercise in cost shifting

At the very least some account should have been taken of the costs to some other stakeholders in the public sector, particularly the Gardaí. Otherwise the exercise may be one of cost-shifting, and if that is within the public sector then there may be little or no cost saving.

- b. Closure of the suburban District Courts in Dublin would increase costs to the exchequer

At current pay rates and allowances for Gardaí the proposed closure of the local District Courts would incur additional costs to the Gardaí at €250,000.00 - €300,000.00 or more than would be saved by closing these two courts. Creating a supposed efficiency in one part of the system has created a greater inefficiency elsewhere.

- c. In cost-benefit studies of transport projects (road, rail) time savings are an important element of the viability of the project. The proposed closures would have very large additional time costs for users of the suburban court services. Clients will also have increased travel and waiting time. In addition it is likely that increased costs of travel and waiting times for legal practitioners resulting from the closures would be passed on to the client.

- d. There may also be problems in relation to witnesses who are unwilling to travel to the CCJ or perhaps more so to Blanchardstown. The Review attempts to show travel links by public transport to both centres, but the CCJ is not readily accessible from Swords or Dun Laoghaire and Blanchardstown is even less accessible. This must be a matter of concern for the viability of outcomes.

4 The effect of the proposed closures on the end users of the Courts & administration of justice

a. Adverse effect on family law clients before the District Court

There appears to be a lack of coherence regarding the proposed removal of family law business from the suburban courts where it can be dealt with promptly and within the current structures as opposed to moving it to an admitted unsuitable venue in the city centre which will require the building of a further Court to accommodate this business, in a building where the lease is due to expire in 2017, which has a significant cost attached to it and where there is no city centre alternative ready to move to according to the Review.

b. Adverse effect on juveniles before the District Court

It is clear that the Courts Service in its review accepts that closure of the District Courts dealing with juveniles would reduce the effectiveness of juvenile justice and it is submitted that centralization of the juvenile justice system in Dublin city centre would in fact be ineffective and may have the reverse effect (to that intended by any system of justice) by bringing juveniles in contact with criminal elements in society.

**c. Adverse effect on road traffic District Court users
[Blanchardstown]**

Considerable costs of travel to and from this venue. Not very accessible for public transport users.

d. **Adverse effect on Garda resources, local policing and the Criminal Justice system**

Due to the substantially increased amount of Garda time which will be spent travelling out of their Garda station district with the consequent direct increase in the loss of Garda time locally, the quality of local policing will inevitably decline in areas which currently have a local District Court dealing with criminal law matters. The further the distance from the Garda Station to Blanchardstown and Parkgate St., the greater the time lost and the greater the cost of Garda attendance at the District Court.

e. **Particular issues relating to problems arising for the closure of individual District Courts are dealt with in more detail in the appendices. It should be worth noting that the Fingal area is the fastest growing population in the EU.**

5 The views of the Dublin Solicitors Bar Association

In addition to the reasons set out above the DSBA oppose the proposed closures as:

- a. There appear to be no real financial benefits
- b. Closures will reduce access to justice for the most vulnerable in society
- c. The wider implications of the closures have not been examined and will result in the proposed closures incurring substantial costs to the exchequer and the court users
- d. The proposed closures do not make economic sense and will undermine the administration of justice by taking Gardai off the street, by further clogging up a family law system which is already at full capacity and by creating a disincentive [based on distance] for citizens to do their civic duty and attend the District Court as witnesses. It is very likely that the number of bench warrants issued which are very expensive to follow up will hugely increase as those summoned to

Court will refuse to travel the much increased distances from the greater Dublin area to either Blanchardstown or the CCJ. This will increase and not lessen the financial pressure on the Courts Service and eradicate any perceived saving.

6 Conclusion

- a. The benefit from any purported cost saving achieved by the Court closures [notwithstanding the unrealistic nature of any saving which is essentially transferring the costs to the Gardai and other Court users] is greatly outweighed by the consequent deterioration in the administration of justice in the areas of juvenile justice, family law and criminal law. It does not make sense to close the suburban District Courts from a financial point of view or from an operational point of view.
- b. The rationale for the proposed closure as stated by the Courts Service in its Review is to maintain the efficient administration of justice without impacting on access to justice. If the Courts Service implement this proposal to close the suburban District Courts everyone involved will lose out – the Court users, the Gardai, the system of justice and ultimately the Courts Service itself.

2. Background

2.1 The proposal to close the District Courts at Tallaght, Dun Laoghaire, Swords, Balbriggan and change the use of the court at Blanchardstown to traffic related cases only, moving all their other activities to the Criminal Courts of Justice in Parkgate Street/Infirmary Road cannot be separated from the decision to build the Central Criminal Court including the decisions about increasing the original size, the fiscal crisis that has engulfed the state, and the implications of the measures to date on the finances of the court services and finally the details of the Croke Park Agreement for the courts service.

2.2 The Criminal Courts of Justice Building at Parkgate Street/Infirmary Road was built to deal with the criminal business of the Dublin District Court, the Dublin Circuit Court, the Central Criminal Court, the Special Criminal Court and the Court of Criminal Appeal. The number of courtrooms at 22 is 6 more than in previous facilities and the intention was to use the previous space for other courts or to dispose of it.

2.3 The building was constructed under a Public Private Partnership (PPP) and the building is operated via this PPP. There have been some changes in the details of this operation, but the basic point is that there is an annual charge, in excess of €20 million in 2013, in relation to the PPP. It is instructive to compare the pre building costs of the court service with that in 2013.

Table 1. Expenditure and Income of the Court Service 2008 and 2013 €m

	2008	2013
Current Expenditure	102.761	96.550
Salaries and wages	58.343	49.012
Travel and Subsistence	4.674	2.881
Stenography etc	6.347	3.120
Maintenance	12.991	7.359
Leases	5.539	5.082
PPP payment	0.0	20.240
Other	14.867	8.856
Capital Expenditure	36.368	8.097
Income from fees etc	39.018	46.838
Net Expenditure	100.111	57.809

Source: Annual Reports of Court Services 2009, 2013

2.4 It is clear that there has been significant change in court services over a very short space of time. Net expenditure has fallen by over 40 per cent, while current expenditure has declined by about 6 per cent. Excluding the PPP payment the decline in current expenditure is just over 25 per cent. One must be very careful of these comparisons, as the new court has led to a reduction in cost associated with some of the premises previously used as courts, leading to savings in maintenance, and heat costs. But the reduction in salaries and wages tells its own story. There have been very significant reductions in numbers of staff. The 2013 Annual Report notes that there was a reduction of 14.5 per cent in staff numbers between 2009 and 2013. Pay costs have fallen by slightly more because of reductions in pay rates. (The pension deduction is not taken from the gross pay figures—it is treated as a receipt under income.) In order to continue to provide direct court services the Court Service has consolidated some rural courts, increased workloads, transferred staff from support areas, and reduced services from support areas. There has also been some transfer of functions (HR) to the central civil service. New areas of law,

some a consequence of the recession, required additional training and staff expertise, which had to come from the existing pool. The court services is in a period of rapid change, but it is difficult not to feel that the new courts building have added significantly to costs, and that the requirement in relation to the payments have exacerbated the adjustment.

Table 2. Costs by Venue

Venue	Maintenance	General Expenses	Light,Heat, Fuel	Leases	Travel	Total
Balbriggan	7955	0	3186	0	3758	14,926
Blanchardstown	170994	66384	21328	456,488	0	715,193
Dun Laoghaire	27629	0	9644	0	0	37,273
Swords	24882	531	4782	60883	0	91,078
Tallaght	41619	84,913	11,630	0	0	138,162

2.5 The PPP for the new building was the subject of a Comptroller and Auditor General Report prior to the completion of the building. The Report noted that while some qualitative analysis was done in relation to the benefits of options (do nothing, refurbish, new building) for the dealing with the perceived shortages of space in the existing courts system at the time (2004), the benefits were not quantified. There were considered to be major difficulties in estimating values to be placed on the expected benefits, where there are “societal” rather than “economic” benefits. There may be some confusion between economic and financial. Economic benefits are meant to take account of societal benefits. There is no doubt that such measurement would have been very difficult in this case, but many cost-benefit studies are very difficult to carry out e.g. those in healthcare. Some are relatively easy, as in transport. What is interesting is that we can compare the qualitative assessment (which was very limited) with the projected

cost. The do nothing option had a benefits score of 33 per cent at no cost, refurbishment 54 per cent at a cost of €229 million, while the new building had a score of 90 per cent with a cost of €253 million (all values in NPV) terms. So implicitly the additional benefits of the new building had implicit benefits greater than €24m. The criteria used for the qualitative assessment were more focused on the service than the wider society, and are in sharp contrast to the benefits cited for shifting some cases, family law for example, from the greater Dublin area.

The Table also shows a significant increase in fee income, a consequence of increased charges during the recession to supplement resources.

- 2.6 Finally, the Croke Park Agreement required some consolidation of District Courts, with their amalgamation with courts in County Towns. It is not obvious that the county is the appropriate level of jurisdiction given the relative size by population of counties.

3. Proposed closure of Courts in Swords, Balbriggan, Tallaght and Dun Laoghaire

- 3.1 The basis of the proposal to close the courts at Swords, Balbriggan, Tallaght and Dun Laoghaire and to change the court at Blanchardstown to Road Traffic offences only seems to be a review into Circuit and District court services undertaken by the Court Services itself. This Review is a detailed analysis of cases by venue and some associated costs. Table 7 (Table 2 below shows results of some elements of Table 7) of that Review looks at the costs by venue. These are not total costs, as they exclude staff costs. They also exclude, for most of the venues, capital costs. Since the State owns Dun Laoghaire Court House there are no capital costs associated with it in the Table, but the funds borrowed for it had to be borrowed and the charge is on central government rather than on the court services. By contrast, the PPP

charge is on the court services, while it is clear that the PPP was a device to reduce the level of borrowing by the state. Had the state financed the Criminal Courts of Justice the capital costs contained in the lease costs would have been very much less. The focus on the direct costs in the Review is inevitable, given that the Courts Service is responsible only for its own costs.

3.2 The Courts Service itself in Chapter 7 of its Review 'Costs Associated with Venues' states that 'a key driver for the decision to close a venue is the costs associated with that venue.'. The Courts Service then set out the comparative costs of the District and Circuit Courts in Dublin and notes 'what is noticeable is the very high cost of the city centre venues in comparison with the suburban courts, bar Blanchardstown. Given that none of these courthouses are structurally unsound and the majority are in operation for 5 days per week, the rationale for moving the business to another venue for reasons of cost is undermined. ' . **The Courts Service cannot therefore justify the proposed closures on the basis of costs savings.**

3.3 There is a very important truth contained in the table however viz that the savings from closing Balbriggan, Swords, Tallaght and Dun Laoghaire at, say, the start of 2012 would have been approximately €280,000 or about 40 per cent of the cost of Blanchardstown. The marginal cost of these 4 centres is relatively low. Closing them saves directly very little, and in the absence of the sale of the premises, there would be a need for maintenance and security. Furthermore direct costs (excluding salary costs) in the Central Criminal Court would increase with additional judges and staff using the facilities.

3.4 The more subtle point relates to the notion of sunk cost. The Blanchardstown site is covered by a long lease to 2027, the second court there has been rarely used, and the judgement of the court services is that this second court is unlikely to be used because of the facilities at the Criminal Court of Justice (also it should be noted the Review maintains that "Blanchardstown is a state of the art venue that was built in the wrong location at the wrong time." Since Blanchardstown preceded the Criminal Court of Justice it would be interesting

to see how the facilities at Blanchardstown were incorporated in the plans for the Criminal Court of Justice). In addition no figure is given for the cost of breaking the lease in Blanchardstown in the Review which simply states ‘cost of breaking the lease is likely to be prohibitive’. The sunk cost argument is that once costs have been incurred it makes sense to use the facilities with the lowest marginal cost. Thus if the additional cost at one centre is less for dealing with a variety of cases at local level then deal with them at that level.

3.5 There is one issue that is not clear. It is possible that the intention is to deploy the human resources now at local level more efficiently at central level, yet the point is not made that the human resources are underutilized to any marked degree across all centres proposed for closure.

4. The wider context

4.1 One virtue of carrying out a proper cost-benefit analysis is that it forces attention on the impact of a project outside the immediate project itself. The Review itself recognized this as the “Courts and the Courts Service are one part of a broader justice system” and then listed possible stakeholders. These, as well as the local authorities in Dublin County, were consulted, though at the time the Review was written the response had been poor. Excluded from the list were members of the public, as potential users and citizens, an odd exclusion as the District Court system is often seen as important in dispensing justice in local area where crime is committed and is also considered important in family law cases. In a cost-benefit study it would not be sufficient to simply list and get opinions, it is necessary to put numbers on the expected benefits and costs to those affected. This work is time consuming and costly and in general is not done for smaller projects. But it is necessary for large projects with significant external costs and benefits. In a market situation a provider may easily see a low cost location for a business, but if it does not suit customers and suppliers because it imposes non-recoverable costs on them then it will not succeed. Given the constraints placed on the resources of the

court service it was inevitable that the focus would be on staying within budgets.

4.2 However, at the very least some account should have been taken of the costs to some other stakeholders in the public sector, particularly the Gardaí. Otherwise the exercise may be one of cost-shifting, and if that is within the public sector then there may be little or no cost saving.

4.3 The present position is that Garda stations are associated with particular courts. For example the Garda stations at Tallaght and Rathfarnham are served by the Tallaght Court, while the Dun Laoghaire Court is associated with 11 Garda stations from Blackrock to Bray. As things are local Gardaí have a good indication of when they are need in court which minimizes the time spent in court and movement from station to court keeps them in public view in the area. Centralisation will increase the time spent away from other policing activity, not just due to the direct travel time, but the need to ensure that the Garda is in situ when cases are called, whenever that is. Ideally we would like to apportion time and time costs through a proper recording system as a cost-benefit study would have done, but the data are not there. Instead we can get an idea of the orders of magnitude-and it need be no more than that. Looking at the Tallaght and Dun Laoghaire Courts there were some 23,000 charge sheet and summonses cases. If these are all transferred to the Criminal Courts of Justice Building, and we assume that 10 cases are handled by a Garda in one trip then in effect we are talking about 2,300 person days in time associated with the Criminal Court of Justice Building compared with at most half that at local level. **At current pay rates and allowances for Gardaí this equates to additional costs to the Gardaí at €250,000.00 - €300,000.00 or more than would be saved by closing these two courts. Creating a supposed efficiency in one part of the system has created a greater inefficiency elsewhere.**

- 4.4 There are some potential savings to the prison services but, given the nature of most cases that come before the suburban courts, these are likely to be small.
- 4.5 There will also be additional costs outside the public sector. On an ongoing basis solicitors will be forced to carry additional costs of time and some additional travel costs. While the list system has many flaws, at local level solicitors have more links with the system and can time their availability to when cases are called. Much like the Gardaí if cases are centralized they must be available and cannot rely on a few minutes walk to the court. Solicitors have expressed some concern at losing business to city centre firms, but this is unlikely to be significant, as offences take place locally, and local solicitors enjoy an advantage compared with city solicitors. The more serious issue for them is the time lost in travelling and waiting. Ultimately these costs will be borne to some extent by their clients. These clients will also have additional costs for any given outcome. These must be considered.
- 4.6 There may also be problems in relation to witnesses who are unwilling to travel to the CCJ or perhaps more so to Blanchardstown. The Review attempts to show travel links by public transport to both centres, but the CCJ is not readily accessible from Swords or Dun Laoghaire and Blanchardstown is even less accessible. This must be a matter of concern for the viability of outcomes for Court users.
- 4.7 In cost-benefit studies of transport projects (road, rail) time savings are an important element of the viability of the project. This project has very large additional time costs for users of the suburban court services.

5. The effect of the proposed closures on the end users of the Courts & administration of justice

5.1 Adverse effect on family law clients before the District Court

The Courts Service in their Review flag the serious problems arising from the proposed transfer of family law business into Dolphin House in Dublin 2 from Swords & Balbriggan and notes that there will be an onus on Courts to hear the voice of the child in proceedings which will lengthen District Court family matters and that there is currently demand for an additional courtroom in Dolphin House. The Courts Service conclude ‘given that Dolphin House is already at capacity, the closure of the family law business in Swords and Balbriggan into Dolphin House would be difficult. A sixth courtroom would need to be built in the venue if this is to enable efficient management of the waiting lists in the short to medium term.’. ‘Hearings in Family Law cases... are likely to lengthen once the Children’s referendum is ratified’. It is also significant that in the reasons for closure of Dolphin House in its Review, the Courts Service states ‘end of lease is due within next 4 years’. This seems to militate against creating a further Court if the lease is not to be renewed. It further states ‘annual cost of venue is significant.’. There appears to be a lack of coherence regarding the proposed removal of family law business from the suburban courts where it can be dealt with promptly and within the current structures as opposed to moving it to an admitted unsuitable venue in the city centre which will require the building of a further Court to accommodate this business, in a building where the lease is due to expire in 2017, which has a significant cost attached to it and where there is no city centre alternative ready to move to according to the Review.

5.2 Adverse effect on juveniles before the District Court

The Courts Service in their Review accept that ‘closing all of the suburban venues and bringing all of the juvenile business into the city centre might work from business point of view but the feedback from stakeholders is that it is most undesirable to have troubled young people congregating all day in the

one location. ‘ [para 5.6]. It is clear that the Courts Service in its review accepts that closure of the District Courts dealing with juveniles would reduce the effectiveness of juvenile justice and it is submitted that centralization of the juvenile justice system in Dublin city centre would in fact be ineffective and have the reverse effect (to that intended by any system of justice) namely encouraging rather than discouraging criminality at juvenile level and undermining the system of juvenile justice.

5.3 Adverse effect on road traffic District Court users [Blanchardstown]

Considerable costs of travel to and from this venue. Not very accessible for public transport users.

5.4 Adverse effect on Garda resources, local policing and the Criminal Justice system

Due to the substantially increased amount of Garda time which will be spent travelling out of their Garda station district with the consequent direct increase in the loss of Garda time locally, the quality of local policing will inevitably decline in areas which currently have a local District Court dealing with criminal law matters. The further the distance from the Garda Station to Blanchardstown and Parkgate St., the greater the time lost and the greater the cost of Garda attendance at the District Court.

6. The views of the Dublin Solicitors Bar Association

The Dublin Solicitors Bar Association which represents almost 3000 solicitors in Dublin oppose the closure of the District Courts in Dublin for the reasons set out above and also:

6.1 the closures do not achieve a financial benefit for the state and they will result in increased expenditure for a poorer service when you consider the increased costs for the Gardai, loss of Garda time and the increased costs and inconvenience for court users.

6.2 the closures will reduce access to justice for the users of the District Court system, many of whom are the most vulnerable in society such as single mothers seeking maintenance for their children who will have to attend the court office in the city centre to apply for legal aid and then appear in court on at least one more occasion. Very often these mothers have been directed by social welfare to apply for maintenance and if the fathers do not turn up as the court then a bench warrant will issue which causes further costs to mount up for the courts system and ultimately the exchequer. ‘

6.3 The Courts Service have not fully costed the effects of the closure of the District Courts in Dun Laoghaire, Tallaght, Balbriggan and Swords with regard to effect on Garda resources nor have they examined the wider social costs associated with the closure of the District Court in Tallaght, Dun Laoghaire, Balbriggan and Swords.

6.4 The rationale given by the Courts Service in their Review is to maintain the efficient administration of justice without impacting on access to justice. The Dublin Solicitors Bar Association believe that neither aim will be achieved by the closure of the suburban District Courts. On a very basic level, the proposed closure of the suburban Courts does not make economic sense.

6.5 Equally importantly both the administration of justice and access to justice will suffer as:-

- i. Conviction rates will drop due to witnesses being unable or unwilling to travel to Blanchardstown or the CCJ (Courts of Criminal Justice) complex in the Phoenix Park. This will undermine the system of law and order in Dun Laoghaire, Tallaght, Balbriggan and Swords.

- ii. There will be substantially fewer Gardai available locally for normal policing duties due to extra travel and time spent in Blanchardstown or the CCJ.
- iii. Juvenile offenders will be cast into a busy system based in the north inner city at a vulnerable stage in their lives. The probation service has previously opposed the centralisation of juvenile business from Dun Laoghaire and the Courts Service acknowledges the undesirability of having ‘troubled young people congregating all day in the one location’.
- iv. There will be an erosion of Garda presence in the suburban areas along with increased costs to Gardai in securing convictions, travelling to attend court and more seriously an anticipated huge cost of enforcing warrants against those who fail to appear in Court. The amount of warrants issuing for non attendance will increase due to greater distances to be travelled by litigants and/or due to the costs associated with such journeys.

6.6 The proposed closure of the District Courts will disadvantage local businesses who will lose substantial custom.

6.7 The proposed closures will hugely inconvenience and discourage witnesses and others in the courts system from attending court or from accessing justice thus further undermining the administration of justice and efficient running of the Courts Service.

7. Conclusion

7.1 The Court service is in a situation of rapid change forced on it by the consequences of the recession for the public finances and the financial costs of the new Criminal Courts of Justice Building. It has attempted to maintain

services by wholesale rationalization, (closing rural courts, shifting resources within the organization). It now proposes to close some Dublin suburban courthouses and transfer all traffic cases to Blanchardstown. The effect of this will be to shift costs onto other aspects of the public service, most notably the Gardaí, where the additional costs are greater than any potential saving. Given that the Gardaí are also budget constrained this can only lead to deterioration in other policing activities. If accepted the proposal will also impose costs on others (solicitors, their clients, witnesses).

7.2 The benefit from any purported cost saving achieved by the Court closures [notwithstanding the unrealistic nature of any saving which is essentially transferring the costs to the Gardai and other Court users] is greatly outweighed by the consequent deterioration in the administration of justice in the areas of juvenile justice, family law and criminal law. It does not make sense to close the suburban District Courts from a financial point of view or from an operational point of view.

7.3 The rationale for the proposed closure as stated by the Courts Service in its Review is to maintain the efficient administration of justice without impacting on access to justice. If the Courts Service implement this proposal to close the suburban District Courts everyone involved will lose out – the Court users, the Gardai, the system of justice and ultimately the Courts Service itself.

Appendices

A.Dun Laoghaire District Court

Appendices

B. Tallaght District Court

Appendices

C.Balbriggan & Swords District Court

Appendices

D.Swords District Court – the view of a local solicitor

Appendices

E. Press coverage reflecting stakeholders concern