



ASSOCIATION OF
JUDGES OF IRELAND

Brendan Howlin Esq., T.D.,
Minister for Public Expenditure and Reform
Government Buildings
Upper Merrion Square
Dublin 2



19th March, 2013

Dear Minister

It is a matter of considerable regret that I have to write to you at this time.

Recently, the judiciary learnt, through news media reports, that it had been decided to make a further cut of up to 10% in the pay of judges.

Let me say immediately that I appreciate fully the very difficult condition of the State finances, the efforts you are making to reduce the State outgoings, and the delicate stage that has been reached in dealings between the government and representatives of public sector employees. For that reason, I do not propose to discuss the merits of the proposed reduction.

My concern is more fundamental. The role of an independent judiciary is, I hope you agree, essential to a functioning democratic state. It is remarkable therefore, that it appears that almost alone within the wider public service, the cuts to be imposed in respect of the pay of the judiciary, which are the most severe of the measures apparently agreed in the public sector generally, have not been the subject of any consultation, negotiation or even discussion with the judiciary and were not even communicated directly to it.

This comes soon after the coming into force in January of this year of section 22 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 which increases the pension contributions for new judges by a further 9% of salary, reduces the pension payable, and extends by 1/3 the period for accrual for any such pension. This provision, although apparently long in preparation, was not subject to any consultation, discussion or even notification.

Furthermore, in neither case does it appear that there was any attempt to obtain independent expert analysis or indeed make any assessment however rudimentary, of the impact on judicial morale, effectiveness or the capacity to recruit appropriate candidates from the private sector. Indeed, it is self-evident that there has been no

The Association of Judges of Ireland
The Four Courts, Dublin 7, Ireland.
e: enquiry@ajie.ie w: www.ajie.ie

President: Mr Justice Peter Kelly
Secretary: Mr Justice John Edwards
Treasurer: Judge Catherine A. Murphy

- There are 12 Circuit Court judges who are Unassigned but live in Dublin who may also sit in Dublin and are entitled to travel and subsistence

MILEAGE RATES

Mileage Rate per kilometre from 5 March 2009 – District & Circuit Court judges

Official motor travel in a calendar year	Engine capacity up to 1200 cc	Engine capacity 1201 to 1500 cc	Engine Capacity 1501 to 1887 cc	Engine capacity 1888 cc and over
0 – 6437 km	39.12 cent	46.25 cent	59.07 cent	70.89 cent
6438 km and over	21.22 cent	23.62 cent	28.46 cent	34.15 cent

AN ARD CHÚIRT
An Ceithre Chúirt
Baile Átha Cliath 7



4
THE HIGH COURT
The Four Courts
Dublin 7

Mr. Justice Nicholas Kearns
President of the High Court

30th October, 2013

Mr. Brendan Howlin T.D.,
Minister for Public Expenditure and Reform,
Government Buildings,
Merrion Street,
Dublin 2.

Dear Minister,

I am aware that the Chief Justice has written to you in recent days concerning the very difficult circumstances being faced by High Court Judges who reside outside Dublin.

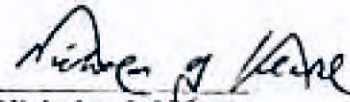
I stress that no representations have been made directly to me by the small number of judges concerned, but it is a fact well known within our ranks that a number of judges are experiencing very real hardship through financing from their reduced salaries the burdensome cost of travel from far away locations.

In previous telephone conversations we have had, you will be aware of the "chilling" effect on future recruitments to the judiciary flowing not merely from the reduction in judicial salaries, but also from the increased years of service required now to qualify for judicial pension. We have three upcoming appointments to be made in the High Court and I am seriously apprehensive that there may be a dearth of suitable applicants for all these reasons.

The task of addressing the plight of these few judges is a straightforward and simple one and I would sincerely request that the matter be given some urgent consideration as soon as possible.

With kind personal regards,

Yours sincerely,


Nicholas J. Kearns



N. d. 2013
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for draft reply with
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** ref:*
Jan
** (please quote ref*
no. on reply)



Ms Buckley
Private Secretary

Minister from Nicholas Meehan

Letter from Chief Justice Susan Denham and the President of the High Court Nicholas Kearns about the Travel and Subsistence Arrangements of certain High Court Judges [HCJ]

Background

The Chief Justice and President of the High Court have written to you about the T&S arrangements for HCJ who live outside Dublin for travelling to and from the Four Courts. In her correspondence Mrs Denham makes reference to the T&S arrangements for District and Circuit Court Judges. The general rule in the public service is that people travelling to and from work are not reimbursed for the cost of such travel.

Members of the Oireachtas

While very small numbers of those whose salaries are paid by the exchequer are reimbursed for home to work travel this is usually for limited constitutional/legislative reasons or for historic reasons. For example under Article 15.5 of the Constitution members of the Oireachtas may be paid for the "payment of allowances to members of each house thereof in respect of their duties as public representatives and the grant to them of **free travelling** and such other facilities (if any) in connection with those duties as the Oireachtas may determine." Such travel and accommodation payments are now dependent on minimum recorded attendance at Leinster House.


T&S for Circuit Court Judges [CCJ]

For historical reasons [from the 1930s] Circuit Court Judges are paid travel but not subsistence from their homes to/from work. [their homes are their HQs]. This is because CCJ in the 1930s did not wish to be assigned to their districts as they then mainly lived in Dublin. This position was accepted by the Executive Council of the Irish Free State at the time and has remained the position.

T&S for District Court Judges [DCJ]

Since 2006, DCJ in Dublin receive an annual allowances of €3,100 pa for travel to and from their homes and rural DCJ receive mileage payments up to fixed limits. These payments were conceded for DCJ as they did not have fixed offices and also because a significant rebalancing of the work of DCJs was being undertaken at the time which provided significant savings to the State.

Suggested draft replies are across for your consideration. The replies do not accede to the request.


7 November 2013

Our ref: 13/0070/PER

The Hon Mrs Justice Susan Denham
Chief Justice
The Supreme Court
Dublin 7

14 November 2013

Dear Chief Justice

I refer to your recent letter to me about the possibility of paying the travel and subsistence expenses of High Court Judges who live outside Dublin.

As you know, since taking office, this Government has been engaged in and committed to the stabilisation of the public finances through on-going and sustainable reductions in the cost of the public service, including those associated with the Judiciary. There was simply no other alternative.

The parlous state of the public finances which the Government inherited forced very hard decisions on the Government. Difficult choices had to be made and such decisions were not taken lightly and involved very tough and unpalatable alternatives. Taxes have been increased, spending has been reduced and public service workers and others paid from the Exchequer have suffered significant reductions in their pay. But these actions were necessary to ensure the very financial survival of this country. Those decisive actions have enabled the Government to stabilise the deficit and led to a reduction in the cost of borrowing by the State.

I appreciate that in the case of the judiciary the pay and pension changes occurred over a shorter period of time than the changes made to the pay of others including officeholders which were applied over a longer period of time.

I think it is worth pointing out that the cumulative effect of the pay reductions applied to date is that the net annual salary of the Taoiseach has been reduced by over 40% in the period since 2009, and that of the Tánaiste and Ministers by more than 35% in the same period. The pay cuts will of course follow through into a reduction in the pensions that will be payable to them in time.

As with the overwhelming majority of people in Ireland I am aware that Judges undertake vitally important and onerous duties that are crucially important for the proper functioning of the State. Their independence and commitment has been an admirable example to us all in these difficult times.

The general rule in the public service is that people travelling to and from work are not reimbursed for the cost of such travel. There are a small number of exceptions to this rule which are often for historic reasons.

While I appreciate the arguments you have made in respect of paying some High Court Judges for the cost of travel to/from work I regret that I am unable to accede to your request at this time. However, I am of the view that if the economic situation improves in the future it is something that could be considered again.

Yours Sincerely

BRENDAN HOWLIN

Brendan Howlin, TD
Minister for Public Expenditure and Reform

Ms Buckley
Private Secretary

Minister from Nicholas Meehan

Letter from Chief Justice Susan Denham and the President of the High Court Nicholas Kearns about the Travel and Subsistence Arrangements of certain High Court Judges [HCJ]

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Suggested draft replies are across for your consideration. The replies do not accede to the request.


7 November 2013

Our ref: 13/0070/PER

Mr Justice Nicholas Kearns
President of the High Court
The High Court
The Four Courts
Dublin 7

14 November 2013

Dear Mr Justice Kearns

I refer to your recent letter to me about the possibility of paying the travel and subsistence expenses of High Court Judges who live outside Dublin. I also received correspondence on the matter from the Chief Justice.

As you know, since taking office, this Government has been engaged in and committed to the stabilisation of the public finances through on-going and sustainable reductions in the cost of the public service, including those associated with the Judiciary. There was simply no other alternative.

The parlous state of the public finances which the Government inherited forced very hard decisions on the Government. Difficult choices had to be made and such decisions were not taken lightly and involved very tough and unpalatable alternatives. Taxes have been increased, spending has been reduced and public service workers and others paid from the Exchequer have suffered significant reductions in their pay. But these actions were necessary to ensure the very financial survival of this country. Those decisive actions have enabled the Government to stabilise the deficit and led to a reduction in the cost of borrowing by the State.

I appreciate that in the case of the judiciary the pay and pension changes occurred over a shorter period of time than the changes made to the pay of others including officeholders which were applied over a longer period of time.

I think it is worth pointing out that the cumulative effect of the pay reductions applied to date is that the net annual salary of the Taoiseach has been reduced by over 40% in the period since 2009, and that of the Tánaiste and Ministers by more than 35% in the same period. The pay cuts will of course follow through into a reduction in the pensions that will be payable to them in time.

As with the overwhelming majority of people in Ireland I am aware that Judges undertake vitally important and onerous duties that are crucially important for the proper functioning of the State.

Their independence and commitment has been an admirable example to us all in these difficult times.

Notwithstanding the reductions in the salaries of the Judiciary, I am confident that the prestigious nature of Judicial office and the example of those who serve in such offices will continue to attract candidates of a high standard as it has done to date.

The general rule in the public service is that people travelling to and from work are not reimbursed for the cost of such travel. There are a small number of exceptions to this rule which are often for historic reasons.

While I appreciate the arguments you have made in respect of paying some High Court Judges for the cost of travel to/from work I regret that I am unable to accede to your request at this time. However, I am of the view that if the economic situation improves in the future it is something that could be considered again.

Yours Sincerely

BRENDAN HOWLIN

Brendan Howlin, TD
Minister for Public Expenditure and Reform

AN CHÚIRT UACHTARACH,
BAILE ÁTHA CLIATH 7.



7
THE SUPREME COURT, DUBLIN 7.

An Príomh-Bhreitheamh
The Hon. Mrs Justice Susan Denham
Chief Justice

Joe, for draft reply
with Minister's sign
ref: 13/0070/pcr
Joe

Private & Confidential

29th November 2013

Mr. Brendan Howlin T.D.
Minister for Public Expenditure and Reform
Government Buildings
Merrion Street
Dublin 2



Dear Minister,

I refer to your letter of the 14th November, 2013, refusing my request for sanction to pay High Court Judges who live at least 100kms outside Dublin, travel and subsistence; the monies to come out of the Courts Service funds with no request for any increase in funding. Any such funds would not be significant.

I am disappointed with your response, although I note that you appreciate the arguments for my request and are of the view that if the economic situation improves in the future, it is something that could be considered again.

I request that you reconsider this matter as we are going into a year when approximately twelve Judges may be appointed to the High Court, and we need the provincial bar to be represented on the High Court Bench.

This week the Government made a permanent assignment of a Circuit Court Judge, who had been unassigned, to Cork Circuit Court. This Judge lives in Dublin. As has been the system for many years, he will be entitled to travel and subsistence from when he leaves Dublin on Monday until his return to Dublin on Friday. Yet, a Cork based Judge of the High Court will have no travel and subsistence from when he leaves Cork on Sunday until he returns on Friday.

A consequence is that the High Court has only 5.5% of Judges based outside Dublin and its environs.

You refer in your letter to the fact that the cumulative effect of pay reductions applied to date is that the net salary of the Taoiseach has been reduced by over 40% in the period since 2009, and that of the Tánaiste and Ministers by more than 35% in the

same period, and that of course the pay cuts will follow through with reductions in pensions.

The reductions in take home pay to Judges of the High Court appointed before 2012 has been 38%, with consequent follow through on pensions, and the take home pay of High Court Judges appointed after 2012 will be 50% less than the salary before the cuts began to be imposed.

The Judiciary has played a critical role, being the third branch of Government, as we weather this fiscal crisis.

I consider it important that the applicants for the Judiciary come from all over the State. However, with the reduction in take home pay of 38% over the last few years on those holding office, and 50% on the new applicants, this has given rise to an economic difficulty.

If a lawyer has his/her home, spouse, children, outside the Dublin area, it is then necessary for a person who becomes a High Court Judge to travel to Dublin and to organise a place to live Monday to Friday. With the decrease in salary this has become a significant financial burden.

As a consequence of the amendment requiring 20 years service before full pension, today's applicant will have to apply before he/she is 50 years of age. At such an age a family person is usually at a stage where children are in school and so the family cannot be uprooted. Older applicants would be in a position where the children will have left the nest, but those applicants would not be in a position to receive the full pension, and so are less likely to apply than in recent times when the requirement for a full pension was 15 years service.

Ireland's constitutional arrangements are such that Judges are the third branch of government. Judges do not have any say in the spending of the financial resources at the Government's disposal. For this reason, the Judiciary is considered to be the weakest branch of government, as in other common law constitutional democracies. The Judiciary can only engage with Government on such issues in a constructive and respectful manner, conscious of the boundaries set by the Constitution.

I note what you say that the general rule in the public service is that people travelling to and from work are not reimbursed for the cost of such travel. There are a small number of exceptions to this rule. I have given you an example of the Circuit Court Judge earlier in this letter.

Those exceptions include Oireachtas members, and the 21 District Court Judges serving in Dublin who receive an expense allowance of €3,100 per annum (paid quarterly) in respect of all travel costs from home to Court, in addition to general travel and subsistence rates. Oireachtas members constitute part of our government as do Judges. I think it is fair to consider that Oireachtas members who live outside of Dublin are in an analogous position to non-Dublin based High Court Judges.

I acknowledge that Article 15.15 of the Constitution enables the Oireachtas to "make provision in law for the payment of allowances to Oireachtas members in respect of

overall assessment of the impact of all the changes that have been made over the last four years on the position of the judiciary.

Members of the judiciary have borne reductions in take home pay which are by any standards extraordinary. By way of concrete example, the current take home pay of a judge of the High Court is **33.1%** less than he or she was paid in 2009. That is before the impact of the reduction recently announced which would bring the reduction to approximately **38%**. A High Court judge appointed since 2012 takes home **45.5%** less than an equivalent judge was paid in 2009. Again, that is without taking account of the further reduction.


All of this does not take account of other recent changes which have had a much heavier impact upon judges than other members of the public service. The cumulative effect is, on any view, enormous. The impact upon individuals is very significant. It bears repetition that the overall impact of these changes upon the morale and attitude of sitting judges, and on the prospect of recruitment of new members of the judiciary, does not appear to have been the subject of any assessment still less discussion or even consideration. The scale of these reductions and cumulative effects is unprecedented particularly when viewed against recent press reports that the present average pay of the public sector is now only 2% less than it was in 2009. Even if that calculation underestimates the impact of reductions in the public sector wage bill the comparison is stark.

In difficult times when sacrifices are being demanded it might have been thought essential to seek the cooperation, goodwill and understanding of all areas of the public service and particularly a branch expected to bear, in relative silence, the heaviest burden and that, in particular, significant efforts would have been made to ensure, if possible, that any reductions and adjustments would be made in the least damaging way to the long term administration of justice and judicial confidence.

There is now a self evident necessity to put in place an appropriate mechanism for consultation and credible trustworthy review of measures affecting the judiciary.

I look forward to hearing from you

Yours sincerely


Peter Kelly
President

their duties as public representatives and for the grant to them of free travelling and such other facilities (if any) in connection with those duties as the Oireachtas may determine”.

The origins behind this provision have been considered by The Hon. Mr. Justice Hogan. The Drafters of the Constitution were inspired by Article 40 of the Weimar Constitution which provided that “Reichstag members enjoy the privilege of free transportation on German railways and will be compensated for their travel expenses according to Reich law”. See The Binchy Memorial Lecture – Some thoughts on the Origins of the Constitution, Burren Law School, 5th May 2012, and Comparison between the text of the Weimar Constitution and 1919 and the Constitution of Ireland 1937 by the Royal Irish Academy.

Thus, Statutory Instrument No. 149/2013 – Oireachtas (Allowances and Facilities) (Amendment) Regulations 2013 provides for a travel and accommodation allowance for Teachtaí Dála ranging from €9,000 to €34,065 *per annum*. Senators are paid a reduced amount as there are no payments for constituency travel. The amounts vary from €5,250 to €29,565 *per annum* depending on the distance in kilometres of the residence from Leinster House.

The reason for such payments is to facilitate the “duties as public representatives” which necessarily includes constituency travel. However, Senators do not have geographical constituencies, yet receive similar allowances to enable attendance at Oireachtas sittings.

The underlying rationale is clearly to allow for parliamentarians who live all over the State to represent all parts of the Nation, by being facilitated financially in their travel to the Oireachtas in Dublin, and their subsistence while working in the capital. Thus, the legislative organ of Government is facilitated in coming from all parts of the State.

5.5%

At the moment two Judges of the High Court have their homes in the provinces, i.e. 5.5% approximately of the High Court.

In the early summer we had a public advertisement for those who wish to become High Court Judges. The Judicial Appointments Advisory Board considered the applicants and drew up a list of recommended candidates to send to the Minister for Justice. Just before the list was sent to the Minister, the Chief Executive Officer of the Courts Service, Brendan Ryan B.L., who is Secretary to JAAB, received a call from a person whom we had recommended. The applicant said that he had to withdraw his application, having done the financial sums, (which included his family living in the provinces) and the necessity of his work being in Dublin, he could not afford to take the position of High Court Judge. This person was recommended by the JAAB and would make an excellent Judge of the High Court. I am concerned that this reflects a new and important reality.

It is worth remembering the words of Tom Bingham, one of the most outstanding common law jurists and judges in this regard:

“Unless, therefore, the rewards of judicial office (with or without other benefits) are sufficient to attract the ablest candidates to accept appointment, albeit with some financial sacrifice, the ranks of the judiciary must be filled by the second best, those who (under our system) have failed to make it in private practice, and there would be an inevitable lowering in the standing and reputation of the judiciary and a sea change in the relationship between advocate and judge.”¹

[...]

It should be a matter of concern at the highest levels of Government that you have refused a request which would not create an additional burden on the Exchequer, and the effect of which may well contribute to a “second best” Judiciary in Ireland. This is contrary to the Government’s commitment to ensuring the recruitment of the very best persons across Ireland’s public service.

Policy


It is worrying that a consequence of the pay reductions is that it makes it extremely difficult for anyone living outside Dublin and its environs, who has a family and home in the provinces, to take up the position of a High Court Judge.

This means that, in effect, the High Court will consist of Dublin based lawyers. It is not a healthy situation in a democracy that by geographical location qualified persons are excluded from taking a position in one of the branches of Government.

I regret that your decision will result in Ireland’s High Court judiciary becoming more homogenous. Unfortunately, your decision militates against the recruitment of High Court Judges who live with their families across the country. I wish to see a more diverse judiciary in the High Court, for the good of all Ireland, and not one almost exclusively from Dublin.

Consequently, I request that you review the matter, and give sanction to the Courts Service to pay a travel and subsistence allowance, out of its allocated funds, to Judges of the High Court whose family home is at least 100kms from Dublin.

Yours sincerely,



Susan Denham
Chief Justice

¹ See Judicial Studies Board Annual Lecture on Judicial Independence, 5th November 1996.

Our Ref: 13/0087/PER

24 July 2013

The Hon Mr. Justice Peter Kelly
Association of Judges in Ireland
The Four Courts
Dublin 7

Dear Judge Kelly

I refer to your letter of 21 March 2013 in relation to the pay and pensions of the judiciary. I regret the delay in replying.

I think it is worth setting out why the Government has had, once again, to act in the public interest to reduce pay rates. The fiscal position of the State remains very difficult. It is the overriding aim of this Government to restore fiscal balance to the State's income and expenditure. The State is subject to the requirements of our international lending partners who are funding the operations of our State machinery under an international financial assistance programme, and to the commitments the State has entered into as a member of the European Union.

Regardless of those external constraints, in my view, the fundamental obligation of any democratically elected Government is to ensure that our country's finances are well and appropriately managed, and our short and medium term financial commitments can be met.

To address this overriding financial need, this Government has had and will have to take very difficult economic and social policy decisions to restrict expenditure across a broad range of headings with consequential impact on citizens who rely on State services and supports. Because of the relative size of the public service pay bill, it was inevitable that the measures had to include restricting spending on the remuneration paid to those employees and officeholders, or former employees and officeholders, whose income (remuneration or superannuation) derives from State funds. It would be the preference of this Government not to have to act in this way, but it is an overriding need at this time.

In that context, the engagement, dialogue and consultation that might be appropriate for the determination of the appropriate rates of remuneration for employees and officeholders in

more normal times cannot apply, subject to any overriding legal obligation¹. The decisions on reductions in salaries and pensions in payment for higher paid public servants (including officeholders) were taken by the Government in that context. The reductions apply universally, including to the members of the current Government and to former members of the Government. It would of course be inappropriate for judicial officeholders, uniquely, to be exempted from these reductions, especially in light of the change made to Article 15 of the Constitution on foot of the referendum of October 2011.

The financial emergency situation that will continue to apply for some years will not apply indefinitely, especially if, as expected, the actions taken by the Government operate to restore the necessary balance to our fiscal situation. When that occurs, and following consultation as necessary with representatives of the other branches of Government, I have no doubt that alternative means will be adopted by the Government of the day to determine the appropriate remuneration, and any other changes in conditions of service, for officeholders and other highly paid public servants.

My view is that any such process should include consultation, and should be designed to retain a degree of independence from any branch of the Government as to the recommended outcome.

I know that the points you raise are being discussed in the context of the Committee on Renewal. This will permit the respective positions of the judiciary and executive to be established on this difficult issue.

Pensions

The purpose of the Single Scheme is to reduce the long term cost to the taxpayer for the provision of pensions across every sector within the public service, and has been in preparation for many years. The then Government announced its intention in respect of introducing a single pension scheme, for new joiner Public Servants, in December 2009 (Budget 2010). This intention was reaffirmed a year later as a constituent part of Ireland's commitments under the EU/IMF Programme of Financial Support. In addition the Minister for Justice and his Department indicated in 2011 that they were satisfied with the proposed Single Scheme legislation, including in respect of Judges' pension terms.

Substantial and necessary cost-savings to the public finances are therefore envisaged under the Single Scheme. The Scheme will operate on a new design whereby money amounts, based on set percentages of current pay, accrue each year towards pension and lump sum with these sums indexed to Consumer Price Index (CPI). It should be noted that judges, as they have single-point pay scales, will be less severely impacted than most other Single Scheme member groups by the displacement of final salary benefits by career-average benefits.

¹ Indeed, even the content of the recent round of negotiations with representatives of public servants was unique in public service industrial relations, in that it related explicitly to reductions in rates of pay (except those to core pay) allied with increases in working time and other productivity measures.

In terms of contribution rate, judges in the Single Scheme are required to pay a higher contribution rate than ordinary scheme members. This 13% rate is also paid by TDs and Ministers, and compares with a 6.5% rate for ordinary Single Scheme members.

More generally, the Single Scheme rules provide that all of those groups whose pension accrual rates are superior to those of ordinary Scheme members must pay a contribution rate higher than that of ordinary Scheme members. This means that, in addition to judges, TDs and Ministers, other fast-accrual member groups, including Gardai, Prison Officers, Defence Forces personnel and certain other office holders, must also pay a higher-than-standard contribution rate.

In legislating for the Single Scheme the Government took the view that these higher contribution rates were fully warranted for the groups in question in the context of the valuable pension benefits which they would accrue at an accelerated rate (i.e. fast accrual).

The measures which have been taken in relation to judicial pay and pensions to date have been proportionate to other public servants earning similar salaries, and have been driven solely by the State's unfortunate fiscal position, and commitments made in securing the necessary bailout funds from the Troika.

Yours sincerely,

BRENDAN HOWLIN

Brendan Howlin, T.D.
Minister for Public Expenditure and Reform



An Príomh-Bhreitheamh
The Hon. Mrs Justice Susan Denham
Chief Justice

25th October 2013

Mr. Brendan Howlin T.D.
Minister for Public Expenditure and Reform
Government Buildings
Merrion Street
Dublin 2

Dear Minister,

I bring before you a matter of personal concern, which does not arise from any applications or delegations to me.

I seek authorisation to pay travel and subsistence allowances to High Court Judges whose family home is outside Dublin.

If such is authorised, the funding would come out of the Courts Service budget. Thus, I am not seeking any additional funding.

Lacuna

There is a lacuna in the current system. Judges of the District Court and Circuit Court receive travel and subsistence if they work away from their homes. See Appendix 1 attached.

However, there is no provision for travel and subsistence for High Court Judges whose homes are outside Dublin.

*Sighle
for draft reply
with Minister
signature please
ref: 13/0070/PCA
Joc*



Originally, the cost of such travel and subsistence was absorbed by High Court Judges; they could pay it out of their salary.

However, with the 38% reduction in the salary of a current High Court Judge, it has become most difficult to carry such expense. This difficulty will apply more to new High Court Judges as their salary will be even less.

Thus, a Judge whose family home is in, e.g. Cork, Limerick, Waterford, Wexford, Galway, Sligo at the moment has to personally subsidise his/her travel to and from Dublin and his/her subsistence in Dublin Monday to Friday. With the decrease in salary, living expenses including the cost of carrying a mortgage, school fees, family expenses etc., as well as living in Dublin, this has become seriously burdensome.

The principle of travel and subsistence for public office holders is well established generally.

Pool for Judicial Appointments

I am very concerned that with the reduced salary for new High Court Judges, that people living outside Dublin will not be able to apply for High Court positions.

This would greatly reduce the pool for judicial appointments.

Many barristers today have their homes and work outside Dublin, e.g. in Cork, Limerick, Waterford, Wexford, Galway, Sligo. It would be a great loss if they could not afford to apply for the office of High Court Judge.

Expense

I do not anticipate that if this is authorised that it would be very costly. At the moment there are two High Court Judges whose homes are outside Dublin in the context in which I am addressing. [They have no knowledge of my concern, or of this letter]. I would not anticipate it would be a significant financial burden on the Courts Service in the future.

Radius

I suggest that any such travel and subsistence allowance would be given to a High Court Judge whose family home is at least 100 kilometres outside Dublin.

I suggest that the rate of travel and subsistence be as for a Circuit Court Judge, as in Appendix 1.

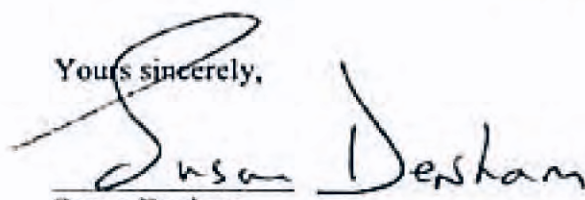
President of the High Court

I have discussed this matter with the President of the High Court, the Hon. Mr. Justice Nicholas Kearns, who shares my concerns. I understand that he will be writing to you separately.

Conclusion

In conclusion, this is a matter of personal concern to me as Chief Justice, in relation to the pool of persons available for the position of Judge of the High Court. If this matter was authorised, it would be funded out of the Courts Service budget. It would mean that people who live and work in provincial cities and towns, who have families and family homes there, could realistically apply for the post of High Court Judge.

Yours sincerely,


Susan Denham
Chief Justice

APPENDIX 1

DISTRICT COURT JUDGES

- Dublin Metropolitan District (DMD) judges

District Judges serving in Dublin receive an expense allowance of €3,100 per annum (paid quarterly) in respect of all travel costs from home to Court. This is in addition to the travel & subsistence that they presently receive for travel from the Four Courts to outlying District Courts i.e. Swords, Tallaght etc. There are currently 21 DMD judges entitled to this allowance.

- Moveable District Court Judges

There are 12 Moveable District Court judges who live outside Dublin who sit in Dublin on a regular basis

These 12 judges are entitled subsistence as follows:

- Overnight €121.43
- 10hrs or more €37.04
- 5 hrs or more €14.12
- Garage Allowance €4.37

These 12 judges are also entitled to mileage allowances as per the Mileage Rates below.

CIRCUIT COURT JUDGES

- All Circuit Court judges (10) assigned permanently to Dublin are entitled to mileage from their home to Court but not to subsistence – Mileage Rates below.
- There are 2 Unassigned Circuit Court judges who live outside Dublin who sit in Dublin on a regular basis and there are 5 Unassigned Circuit Court judges who live outside Dublin who sit in Dublin on an irregular basis. These 7 judges are entitled to mileage and subsistence as below.
 - Overnight €121.43
 - 10hrs or more €37.04
 - 5 hrs or more €14.12
 - Sitting room Allowance (must be vouched) €36.69
 - Garage Allowance €4.37