

From: John Horgan [REDACTED]
Subject: Submission for defamation Law Review
Date: 11/12/2019

Dear Department of Justice:

Please see below a submission to the review body on the law of defamation, for which the closing date is this Friday. I would appreciate an acknowledgment.

Professor John Horgan

Submission by Professor John Horgan to the review of the legislation on defamation

11 December 2019

1. No action for defamation shall lie in the High Court except by way of appeal from a decision of the Circuit Court.

2. Any appeal from a decision of the Circuit Court to the High Court may be made either on the question of defamation itself, on the amount of damages awarded to any plaintiff in the Circuit Court, or on both.

3. While the issue of defamation, if appealed to the High Court, should be decided by a jury as appropriate, any variation of a Circuit Court decision on appeal to the High Court in relation to the quantum of damages awarded in the Circuit Court shall be decided by the High Court judge alone.

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4. It shall be a requirement of any plaintiff in an action for defamation to submit, as part of their action in the Circuit Court, evidence that they have submitted their complaint to the Offices of the Press Ombudsman and the Press Council of Ireland, if eligible for consideration under the roles of these bodies, together with all documentation, including the outcome of any such process involving the PO/PCI's consideration of the case.

5. Evidence that the plaintiff's complaint has been submitted to the PO/PCI but has been found to be ineligible for consideration by that body because the article complained of did not fall within the

provisions of the Code of Practice of the Press Council shall be sufficient reason for commencing the defamation proceedings in the Circuit Court

6. If the plaintiff has not already processed their case through the Offices of the Press Ombudsman/Press Council, the Circuit Court shall defer the hearing pending the consideration of the matter by the Press Ombudsman/Press Council.

7. The Press Ombudsman/Press Council should amend its own rules in relation to the time limit within which eligible complaints must be lodged to empower it to consider a qualified primary complaint under (3) above following the deferral of a hearing in the Circuit Court under (4) notwithstanding that the complaint has not, in the first instance, been considered by the PO/PCI.

8. The requirement for the matter to be considered in the first instance by the Press

Ombudsman/Press Council should not be interpreted as requiring the Circuit Court or the High Court to replicate, amend or endorse any decision of the PO/PCI.