

Opening comments by Séamus Dooley, Irish Secretary, National Union of Journalists at a meeting of the Joint Committee on Tourism, Culture, Arts, Sports, and Media re: “Non-court-based conflict resolution mechanisms for the handling of media related complaints”

Cathaoirleach,

Thank you for the opportunity to address the topic of “non-court-based conflict resolution mechanisms for the handling of media related complaints.”

The Joint Committee on Justice has recommended that the General Scheme be amended to introduce a serious harm test in all defamation cases. We seek the support of this committee for that recommendation.

While supportive of the concept of non-court-based systems we believe the absence of a serious harm test inhibits a culture of non-adversarial resolution of disputes regarding alleged reputation damage.

Last week in the High Court of Northern Ireland Master Evan Bell dismissed as “scandalous, frivolous and vexatious” a defamation taken by Mr Gerry Kelly MLA against NUJ member Dr Malachy O’Doherty.

Malachy O’Doherty’s description of feeling harassed by the action and how both his house and professional credibility had been placed at risk by a defamation action deemed to have no prospect of success resonated with many journalists.

The NUJ is a founder member of the Office of Press Ombudsman and Press Council of Ireland. That model has been extremely successful, not least because of the successful mediation system which has been a feature of the office.

The NUJ welcomes the fact that, under the General Scheme of the Bill, solicitors would be obliged to advise clients of the non-court-based mechanisms available via the Press Council and Office of the Ombudsman in the case of PCI members.

The Press Council/Ombudsman mechanism does not offer financial compensation. Thus, complaints intent on financial compensation will find the PCI avenue unsuitable and there is a risk that solicitors will make perfunctory reference to alternative means of redress in the absence of a serious harm test.

The alternative mechanism for those wishing to make complaints against broadcasters, Coimisum na Mean, also does not offer financial redress.

There is an obligation on funding bodies to ensure that the public is aware of the existence of the Office of Press Ombudsman and the Press Council and to adequately fund the office.

There can be no doubt that is a significant commitment at a time when the newspaper industry faces significant challenges. However, the existence of a council independent of government but with statutory underpinning is an important part of our democratic structures and is an essential investment.

A serious harm test and a robust, well-resourced complaints structure can and must go hand in hand if we are to serve the public interest, the ultimate test in a democracy.

11th January 2024