

**Ireland's Response to the Second Study Commission**  
**Questionnaire**

**Question 1**

**Are there limits for written submissions in civil litigation in your jurisdiction in terms of the maximum length?**

Yes. These limits vary according to the jurisdiction of the Court and the nature of the case which is being heard. The general limitations are stated below:-

5,000 words – General [High Court Practice Direction 97](#)

- Some matters extend up to 10,000 Words, for example [High Court Practice Direction 126 \(Planning and Environment List\)](#)

[5,000 to 10,000 Words - Court of Appeal Practice Direction 06](#)

- Depends on the subject matter of the case.

[10,000 Words – Supreme Court Practice Direction 19](#)

Written submissions are not generally utilised in the lower courts. However, they can be ordered in unusual and more complex cases. The judge in the lower court may order submissions and then set limits in terms of length and time for filing.

**Question 2**

**Are there time limits for filing written submissions?**

Yes. Generally, the Court fixes the time limit for submissions at an appropriate Court listing, once the pleadings are finalised.

### **Question 3**

#### **Are there limits in terms of a maximum number of additional submissions in a case?**

Generally, only one set of submissions are permitted in the Irish jurisdiction from each side. In a very exceptional situation, where a new issue emerges in the replying submissions, leave may be granted by a Court to file a reply to the replying submissions. However, nothing further than this will be permitted prior to the oral hearing and the preference and usual practice will be for one set of submissions from each side.

### **Question 4**

#### **Are there rules including penalties or costs implications for breaches of these requirements?**

Yes – In the High Court when the Court is considering making any order for costs, it will be for a party who has delivered a submission in breach of a deadline set by a Practice Direction or a direction of the court, to show why the costs of the said submission should not be disallowed.

The Court of Appeal goes a step further and states that non-compliance with such directions may result in the following consequences:-

- orders disregarding, disallowing, or striking out submissions whether in whole or in part;
- orders in relation to costs (including, but not limited to, orders disallowing in whole or in part the costs of the party in default);
- orders dismissing an appeal or striking out a notice of appeal and consequential orders for costs.

The Supreme Court notes the following consequences:-

- Where such non-compliance relates to a failure to comply with the requirements of the statutory practice direction or any variation

directed by the case management judge with respect to a document or appeal booklet, the Registrar may reject the document, or appeal booklet;

- In any case, the Court or a case management Judge may make such order as the Court or that Judge considers appropriate, including:
  - o disregarding, disallowing, or striking out submissions whether in whole or in part;
  - o taking such non-compliance into account in making any order for costs, including making separate orders for costs in respect of booklets of appeal, separate orders for such costs against a solicitor for a party, submissions and set-offs as to costs;
  - o an order on a failure to comply, including an order dismissing the appeal or striking out the notice of appeal and consequential orders for costs.

### **Question 5**

**Are these limits or requirements effective in terms of reducing the number and length of written submissions and the time spent preparing for and determining a case?**

Yes, with respect to both issues

### **Question 6**

**What is the effect of written submissions on any hearing which subsequently takes place?**

In the Irish jurisdiction, oral submission remains the primary method by which a party litigates their case. However, written submissions have become customary in the Superior Courts (High Court, Court of Appeal and Supreme Court), and feature to a limited extent in the lower courts.

As Irish Courts and practitioners have become more accustomed to the use of written submissions, the effect of written submissions on a hearing is that the length of the oral hearing is significantly reduced. The detailed facts of a case are no longer outlined with a focus instead on the importance of those facts; case law, pleadings and transcript references are referred to rather than opened; and sometimes practitioners may focus on their principle points at oral hearing with an indication that they rely on their written submissions with respect to all other points.

### **Question 7**

#### **Comments or suggestions as to what could otherwise prove to be effective?**

The goal to be achieved with written submissions is that there is enough information within the submissions to be a comprehensive guide to the case (inclusive of case law, pleading and transcript references) but at the same time to the point and instructive.

Combining both sides submissions has been attempted in Ireland in long cases which is an interesting development.