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# TOMB RAIDERS

## The repatriation of cultural heritage



**ONE FOR ALL**  
The Gazette talks to the  
founding partner of Dublin-  
based firm Philip Lee LLP



**ALL FOR ONE?**  
The grounds on which  
costs are awarded in  
matrimonial proceedings



**HEROES IN A HALF-SHELL**  
Law Society Psychological  
Services' supports for lawyers  
engaged in emotional work

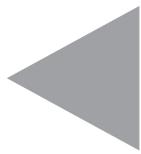


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PREVIOUS  
PAGE



CONTENTS  
PAGE



NEXT  
PAGE

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# gazette

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## FEATURES

### 24 **The mummy returns**

The *Historic and Archaeological Heritage Bill* may significantly change existing processes for repatriation and restitution in Ireland

### 30 **En garde!**

The *Gazette* talks to Phillip Lee, founding partner of the eponymous Dublin-based firm

### 36 **Family fortunes**

Should costs orders should be used as a tool to enhance justice in matrimonial proceedings?

### 40 **On the road again**

After the demise of Privacy Shield certification in 2020, how will the new *EU-US Data Privacy Framework* work in practice?

### 44 **Eye of the beholder**

Unconscious bias can affect the outcome of tax disputes. What steps can assist the delivery of objective determinations?



30

## REGULARS

### Up front

- 4 The big picture
- 6 People
- 12 News

### Comment

- 18 Women-in-the profession centenary: Frances Mary Callan
- 19 Professional lives
- 20 Book review: *Medical Negligence Litigation* (2<sup>nd</sup> edition)
- 21 Letter
- 22 Are PIAB changes a threat to justice?

### Analysis

- 48 Two Council members speak about their role and encourage others to put themselves forward for election
- 52 The need for cyber-insurance, and what to look for when undertaking cyber-risk assessments
- 56 Wellbeing: Lawyers doing challenging work can avail of programmes offered by Law Society Psychological Services

### Briefing

- 59 Practice note
- 60 Guidance notes
- 61 Regulation

### Down the back

- 64 Professional notices
- 72 Final verdict



52



36



48

# Value yourself

**T**his is the time of year when we all pause, reflect, and recharge before life takes us off again on the merry-go-round of good times, challenging times, and stressful times relating to our work, family, health and living. Many of us are either on holidays or have already had that break with family and friends away from the stresses of life.

Holiday time can be very busy for those of us who seek an active break, as can a holiday with a young family, but it is also a time when we can stand back and reflect on what has already happened this year, what we would like to change, and how we might wish to plan our future. It is also a time for many new beginnings – children and young people are starting school, new classes, third-level education, or taking the first steps on their career path.

## Under pressure

Traditionally, August and September are times for solicitors to take a vacation and then 'sort out the office' by clearing out and closing files, finalising accounts, and preparing for the return to work and life's duties and responsibilities – but even this time is now under pressure and is being eroded in the interest of efficiency, to the detriment of our wellbeing.

Previous President's Messages have noted how changes in our personal and professional lives have been amplified since the pandemic by an increasing use of technology, changes in work practices and, indeed, life practices, which have augmented the pressure and created additional uncertainty.

Upskilling and professional development have always been important aspects of a solicitor's working life, but it has never been so relevant since COVID. Keeping abreast of new technology, with its benefits and perils, new regulations, and ever-changing legislation

has resulted in the necessity for solicitors to spend significantly more time in professional development than in recent decades.

## The upside

There is, of course, an upside to this additional pressure: we are well prepared, educated, and experienced to advise and assist clients to navigate this increasingly complex world.

The price to be paid for this, however, is time, stress and pressure, since the task of enhancing skills and keeping abreast of new legislation and regulations is significant. This, in itself, causes stress in balancing the work to be completed, managing clients' expectations, meeting deadlines, running a business, and balancing our personal and family lives with our work life. Our own, our clients', and the legal system's expectations of what solicitors should be and do, cause pressures that can lead to a significant effect on our wellbeing.

## Help is at hand

The Law Society recognises the stresses and pressures on all solicitors, whether practising in large commercial firms or in smaller firms and as sole practitioners. In recognising these, the Society has expanded its Psychological Services to all solicitors and trainees.

Law Society Psychological Services will launch on 7 September 2023 as part of a three-day festival of discussion, conversation and relaxation – and all solicitors are invited to attend, explore and understand the value and necessity of supporting our own wellbeing.

Finally, I would ask whether we value the 'new-age' solicitor we have become? Do we promote and advocate our expertise, skills and experience to our clients and to society – ensuring that we are valued for the advice, assistance and legal work that we carry out on their behalf?

Time, therefore, to stop, think, and maybe re-set, before continuing the brave march forward.



DO WE  
VALUE THE  
'NEW-AGE'  
SOLICITOR  
WE HAVE  
BECOME?

*Maura Derivan*

MAURA DERIVAN,  
PRESIDENT

# THE BIG PICTURE





## THAR SHE BLOWS!

This whale has well and truly got the hump. Dubbed 'Mopey Dick' by some locals in Mullaghmore, the humpback whale was spotted doing a number of backflips in Donegal Bay in August. The seven-metre monster was joined by dolphins and minke whales during recent displays, which have been witnessed by local whale watchers. Humpbacks perform water breaches, fluke-slapping, and bubble-netting in order to corral significant numbers of smaller fish that they then feast on. The Irish Whale and Dolphin Group says that it has been recording validated sightings of the sea mammals in the bay and in Broadhaven, Co Mayo, since the start of June. A spokesman, Ishmael, says the group has observed a "complete shift" in the movement of whales this summer from the south-west to the north-west of the country

# Society honours long-serving solicitors

ALL PICS: CIAN REMOND



Law Society past-president James Cahill (2020/21) got his wish to honour long-serving members of the solicitors' profession on 24 July when he and the current president Maura Derivan presented current practising-certificate holders with over 40 years' service with a bronze plaque. "I doubt if there is any other occupational group with such a proportion of practitioners providing their services in their 70s and 80s," Mr Cahill said. Congratulating the recipients, President Maura Derivan said that their insights, knowledge and experience continued to be of huge benefit to the legal profession and the Irish public, and thanked them for their dedicated service



Paul Ferris (1974), Stephen C Hamilton (1974), Muriel G Walls (1977), Tim Bouchier-Hayes (1974), Jacqueline Maloney (1979), Carol Plunkett (1979), Maeve MP McQuaid (1980), and Randall Plunkett (guest)



Angela McCann, Michelle Linnane (1969), and Maeve T Breen (1968)



Mary Gaughran (guest), Bernard L Gaughran (1972), and Yvonne Malone (guest)



Mr Justice Michael Peart, Brian Kiely (1980), Damien MP Tansey SC (1980), Seona Ní Mhurchú (guest), Michael Condon (guest), and Pól Ó Murchú (1975)



Past-president James Cahill



Pól Ó Murchú (1975), Denise McNulty (1982), and Joan O'Mahony (1971)



John J Reid (1982), Catherine Reid (guest), Clare O'Hanrahan (guest), and T Noel O'Hanrahan (1969)



Law Society President Maura Derivan



Bernadette Coleman (1981) and Gerard Graham (guest)



Mark Pery-Knox-Gore (1982), Paul W Keogh (1965), Avril Keogh (guest), William Johnston (1979), and Rory O'Donnell (1961)



Bernadette Conway (1979) and Brendan McCarthy (guest)



Seamus Maguire (1973) and Sean McDonnell (1972)



Sean McDonnell (1972) and James Heney (1968)



Orla Coyne (guest), Patrick JP Groarke SC (1971), Jacqueline Maloney (1979), and Seamus Maguire (1973)

# LLM conferees celebrate on the double!



Mr Justice Michael Peart addresses conferees and guests at the Diploma Centre's ceremony for graduates of the LLM Advanced Legal Practice and LLM Employment Law in Practice on 27 June. Both courses were delivered in partnership with the Law School at Northumbria University



ALL PICS: CIAN REDMOND

Angela MacFarlane (senior lecturer, Northumbria University) addresses conferees and guests



LLM conferees, with (front l to r): Judith Tedders (course coordinator), Claire O'Mahony (head, Diploma Centre), Judge Mary Morrissey, Judge Geoffrey Shannon, Richard Hammond SC (chair, Law Society Education Committee), Mr Justice Michael Peart, Christopher Martin (solicitor, LLM supervisor), Juliana Quaney (solicitor, LLM supervisor), Carole Burrell (associate professor, Northumbria University) and Angela MacFarlane (senior lecturer, Northumbria University)



Mr Justice Michael Peart and Kevin Hickey



Mr Justice Michael Peart and Judge Mary Morrissey



Mr Justice Michael Peart and Laura Brohan

# JMAs highlight the headline acts!



ALL PICS: JASON CLARKE PHOTOGRAPHY

Michael Doyle of *The Irish Sun* took this year's 'Overall Justice Media Award' for his reporting on the Gerry Hutch murder trial. The Law Society announced the winners at an awards ceremony at Blackhall Place on 22 June. Doyle's series stood out from a record-breaking 340 entries to take the top prize. Law Society President Maura Derivan congratulated all of the category and the merit winners on the day and thanked all those who had entered. The full list of winners can be viewed at [www.lawsociety.ie](http://www.lawsociety.ie)



Caoimhe Gordon (merit winner, International Justice Reporting) and Shane Phelan (category winner, Court Reporting) – both of the *Irish Independent*



Catherine Sanz (pictured), Neville Cox and Carolyn Goulden (*Business Post*) won in the Broadcast Podcast category, while Catherine also took a merit certificate in the Print/Online Journalism category





RTÉ's *Prime Time* team of Rita O'Reilly, Oisín McGreal, Laura Dowling, Richard Downes, Aidan McGuinness, Shirley Bradshaw and Dave Perry were winners in the Broadcast Journalism TV/Video category for 'Christian Brothers: Denial'



Mary Carolan of *The Irish Times* (merit winner in the Daily Print/Online Journalism category for 'Coroners Courts: Concern system is failing families') pictured with Mark Garrett (Law Society director general)



Sonia McEntee (judging panel member), Michael Doyle (*The Irish Sun*), and Law Society President Maura Derivan

## O'Brien appointed to Circuit Court



● Jennifer O'Brien has been appointed to the Circuit Court. The former solicitor was nominated on 4 July, with the declaration ceremony taking place on 31 July before Chief Justice O'Donnell.

Judge O'Brien was educated at UCD and qualified as a solicitor in 1997. She has lectured at the Law Society's Education Centre since 2005 and is a board member of the Blanchardstown and Inner City Home Care Association.

Prior to her judicial appointment, she was one of three solicitors to be granted a patent of precedence by the Government on 30 May, allowing her to use the designation 'senior counsel'.

## Revised District Court scale of costs issued

● The revised District Court scale of costs has been issued.

The new costs will see increases of at least five points across the board, the first such rise since 2014. The scale of costs has been criticised for being too low and discouraging solicitors from taking lower-

level cases.

The 2023 rules set out a new schedule of costs for solicitors in various categories of civil proceedings, as well as briefing fees for counsel – including a new table of costs for barristers' preparatory and drafting work for the first time.

# Law Society honours solicitors of more than 40 years' service



Brian Kiely (1980), Sean O Ceallaigh (1954), and Cormac O Ceallaigh (guest)

● Law Society past-president James Cahill (2020/21) told a gathering of long-standing solicitors at Blackhall Place on 24 July that it had been his dream during his presidential year to honour their outstanding service and commitment to the legal profession, to the State, and to their communities.

James had proposed the presentation of an appreciation plaque to each member of the profession with over 40 years'

service who currently hold a practising certificate – but COVID got in the way.

"During my term as president, I felt we should do something to recognise your achievement and your loyalty. So, I commissioned a bronze plaque, which I dreamed of presenting to each one of you individually," the past-president said.

"I doubt if there is any other occupational group with such a proportion of practitioners providing their services in their 70s and 80s," Mr Cahill commented.

Current Law Society President Maura Derivan told the gathering that lawyers were intrepid people who had coped with, and navigated, an accelerating pace of change in their profession. The law was now very inclusive, more so than when the long-standing practitioners entered the profession, she said. Their insights, knowledge and experience were of huge benefit to the legal profession

and Irish legal history.

President Derivan said that she hoped to build on the alumnus network by hosting future gatherings by year of entrance to the profession. She thanked all for their attendance and congratulated the lawyers on their long service.

"It is an honour to welcome you here to the Law Society of Ireland today, to celebrate your commitment and service to the solicitors' profession," President Derivan said. "Together, we can celebrate your significant and important service to the profession, with colleagues and friends. Each attendee here today represents a group from throughout the years and from across the country.

"Today, we mark your achievements and the achievements of the more than 850 practising solicitors in this country with more than 40 years of service to the solicitors' profession. What an achievement that is!" she concluded.

# Lettori case referred to CJEU



CJEU to decide on *Lettori* case

● The College of European Commission, at its meeting on 11 August, unanimously endorsed the referral of infringement proceedings N 2021/4055 to the Court of Justice of the European Union, writes *Henry Rodgers*.

The proceedings, taken

because of Italy's continuing discrimination against foreign-language lecturers in Italian universities (*lettori*), were opened in September 2021. The court has already ruled four times in favour of the *lettori* in a line of litigation that extends back to the seminal

*Allué* ruling of 1989.

A [press release](#) giving additional details on the case was also published, which records that the case is being referred to the court because of Italy's failure to implement the ruling in enforcement [Case C-119/04](#), handed down in 2006.

## Galway firms merge



● Two long-established and highly reputable firms in Galway City, MG Ryan & Co and Kieran Murphy & Co, have merged, with effect from 1 September 2023. Kieran Murphy & Co was founded in 1975 and MG Ryan & Co in 1982. The merger will create a new practice that will operate under the name and style of MG Ryan Kieran Murphy LLP. It comprises four partners, four solicitors, and a total staff of 20.

The enlarged practice will operate from 34-36 Abbeygate Street Upper, Galway, H91 WP2E, and from 9 The Crescent, Galway, H91 W6T7, and will provide a comprehensive range of services to both corporate and private clients.

In a statement, the partners said: "We are delighted to join forces. Both firms have strong reputations, a similar ethos, and a clear goal of providing professional, personalised, and practical legal advice to our corporate and private clients throughout Ireland. The merger will expand and enhance the range of services to both firms' clients, who will continue to benefit from our collective experience, expertise, and our partner-led approach."

## Blackhall team progresses at Mandela moot



The preliminary virtual rounds of the Nelson Mandela World Human Rights Moot Court Competition took place in May, with the Law Society team progressing to the in-person final rounds at the Palais des Nations in Geneva, Switzerland, from 17-21 July. This placed the team within the top 16 in the world. The team comprised Aoibhín O'Connor from Ballinhassig, Cork (Denise Kelleher & Associates Solicitors, Cork), Jennifer Ryan from Castletroy, Limerick (Matheson LLP), Andrea Whelton from Leap, West Cork (Arthur Cox LLP), and solicitor Alysha Hoare (coach)

## ENDANGERED LAWYERS

### ALEXANDR NEMOV, RUSSIA



Colleague Mansur Soltaev (centre) visits Alexander Nemov and Elena Milashina in hospital

● Early on 4 July, defence lawyer Alexandr Nemov and journalist Elena Milashina flew into Grozny, Chechnya, to attend the sentencing of Alexander Nemov's client, Zarema Musayeva, a victim of political persecution. Surrounded by three vehicles, they were pulled from their taxi, their hands tied, guns held to their heads, were beaten with sticks, and their electronic equipment was smashed. The attackers stabbed Nemov in the leg and broke some of Milashina's fingers, cut off her hair, and poured green disinfectant on her head. They were warned to "get out of here and don't write anything".

Nemov is a human-rights lawyer who works closely with the Crew Against Torture, a leading Russian rights group. Milashina had been reporting on the case for *Novaya Gazeta*, a leading Russian independent media outlet, recently stripped of its Russian media licence.

A colleague from Crew Against Torture was in Grozny for the court case and visited them in hospital. *Novaya Gazeta* arranged for their medical evacuation. Hours after the attack, without her lawyer present, Musayeva was sentenced to five-and-a-half years in prison.

According to Human Rights Watch, authorities in Chechnya have been mounting a violent campaign against human-rights defenders and journalists for over a decade, aiming to stop them from shedding light on abuses and providing assistance to victims. Moscow does not intervene.

Natalia Estemirova, a senior representative of Memorial, Russia's key civil society organisation, was abducted and killed in retaliation for her human-rights work in 2009. Activists of the Joint Mobile Group of human-rights defenders in Chechnya, which played a crucial role in providing legal aid to victims of abuses by local security officials in the years after Estemirova's murder, were subjected to numerous attacks between 2014 and 2016. All of these attacks were carried out with complete impunity, forcing the group to withdraw from Chechnya due to security concerns.

Ramzan Kadyrov, head of the Chechen Republic, has made numerous statements identifying human-rights defenders and journalists as "enemies", "traitors", and "terrorists" that he threatened to "destroy". He is a close ally of Vladimir Putin.

*Alma Clissmann is a recent member of the Law Society's Human Rights Committee.*

## Library guides 'a hit'



FIG: CAN REDMOND

● Law Society Subject Guides, the library's newest member service, are now available to all practitioners and trainee solicitors, writes *Clare Tarpey* (assistant librarian).

The subject guides are designed to assist with legal research and can be used as both an educational tool to assist students, as well as a practical resource guide for solicitors working in different practice areas or looking to transition into other areas of law.

The guides can be used as a helpful starting point for carrying out subject-specific legal research or to provide quick access to case law, court forms, precedents, journal article abstracts, and relevant legislation.

Members can find recommendations on core books available from the library in

different practice areas, as well as information on accessing e-books from the library's expanding collection.

Subject guides currently available include:

- [Conveyancing](#),
- [Employment law](#),
- [Probate, wills, and succession](#),
- [Family and child law](#), and
- [Environmental and planning law](#).

Over the coming months, the library will continue to expand its subject-guide collection to include criminal law, alternative dispute resolution, legal-research skills, and practice management. It welcomes any suggestions for topics from trainees and members of the profession.

To find out more about the guides, see [lawsociety.ie/solicitors/knowledge-base/library/subject-guides](https://lawsociety.ie/solicitors/knowledge-base/library/subject-guides).

## Four new partners at McGrath Mullan LLP

● Dublin central firm McGrath Mullan LLP has named Elaine O'Sullivan, Eoghan McMahan, Hannah Clinton, and Taise Azevedo as partners. Established

in 1999 by Brian McGrane and Gerard McGrath, the firm has niches in immigration law, conveyancing, personal injury, general litigation, and family law.

# Annual litigation conference



PIC: CIAN REDMOND

● The Law Society Litigation Committee annual conference will take place on 25 October from 2-5.30pm in the Green Hall, Law Society, Blackhall Place, Dublin 7. The fee is €198, with a Skillnet discount applicable to all practising solicitors working in the private sector. The discounted fee is €175, and 3.5 general CPD hours are available (by group study).

The conference aims to provide litigators with a practical overview of litigation

developments. Topics range from State litigation principles to the importance of expert evidence. The opening address will be given by President of the High Court Mr Justice David Barniville.

Speakers will include Attorney General Rossa Fanning SC, Graham Kenny (partner, Eversheds Sutherland LLP), and Brian McMullin (Brian J McMullin Solicitors). Contact [lspt@lawsociety.ie](mailto:lspt@lawsociety.ie) for more information.

## Proposal to regulate legal executives in Britain

● The Solicitors Regulation Authority (SRA) in Britain has launched a consultation on proposals for the regulation of Chartered Institute of Legal Executives (CILEX) lawyers.

Law Society of England and Wales President Lubna Shuja said: "While the SRA and CILEX have said they believe that the proposals will benefit consumers, our view is that there is a higher risk of causing greater confusion for when they are choosing the appropriate legal provider to meet their needs.

"This consultation is an important opportunity for solicitors to make their views known and have a say on what is being proposed for CILEX lawyers.

"While we appreciate that many of our members hire, supervise, and work with CILEX lawyers, we are also mindful that many do not. We will be working with all of our members to gather their views and respond to the consultation, while also encouraging them to submit their own responses too."

## IRLI IN AFRICA

### ZAMBIAN JUSTICE SECTOR VISIT



Leaders of the Zambian justice sector visited Ireland recently on a capacity-building initiative: Liam Sheridan (Office of the DPP, Ireland), Norville Connolly (IRLI), Rhoda Malibata Jackson (National Prosecution Authority), Gladys Tembo (Drug Enforcement Authority), Brian Caden (Embassy of Ireland, Zambia), Gilbert Phiri SC (DPP, Zambia), Thom Trevor Shamakamba (director general, Anti-Corruption Commission)

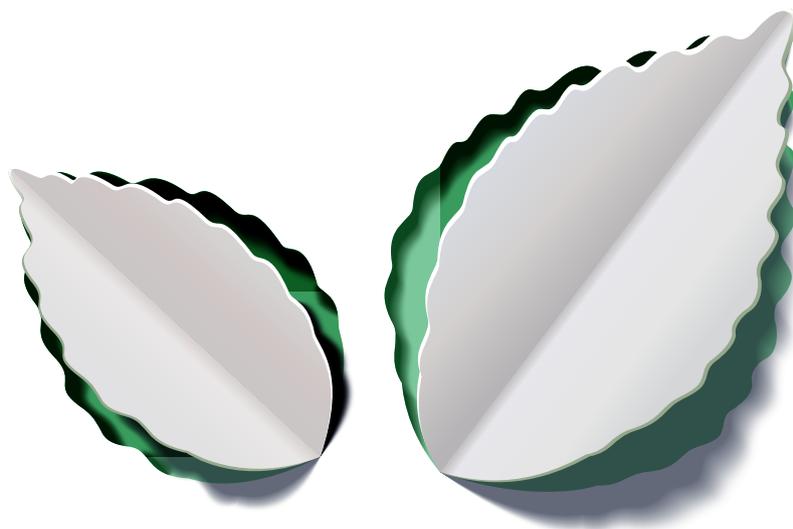
● **Irish Rule of Law International (IRLI)** is a joint initiative of the law societies and bars of Ireland and Northern Ireland. Supported by the Department of Foreign Affairs, it is dedicated to promoting the rule of law in countries, including Malawi, Zambia and Tanzania.

In Zambia, our ongoing work includes helping the justice sector improve its capacity to deal efficiently with the investigation, prosecution and adjudication of financial crimes, which act as a significant barrier to meaningful access to justice and economic advancement for Zambia and its citizens. As part of this work, we recently organised a capacity-building visit to Ireland and Northern Ireland by key Zambian justice sector actors: Gilbert Phiri SC (DPP, Zambia), Thom Trevor Shamakamba (director general, Anti-Corruption Commission), and Gladys Tembo and Rhoda Malibata Jackson (senior lawyers in the Drugs Enforcement Commission and National Prosecution Authority, respectively).

During the visit, the delegation met representatives from relevant institutions across Ireland and Northern Ireland. Of particular interest were the days spent with the Office of the DPP in Dublin and the Public Prosecution Service in Belfast, the latter of which included staff from the PSNI, Revenue and Customs, and the UK National Crime Agency. Another highlight was learning about the Criminal Assets Bureau's innovative approach to 'deny and deprive', which is an area where the Zambian authorities are keen to increase their capabilities. While the visit focused on prosecuting financial crimes, the delegation also held fruitful meetings with senior judges in both Dublin and Belfast.

This successful visit has already encouraged a move towards positive change. The delegation is currently preparing a report with recommendations for the improved investigation and prosecution of financial crimes. Once complete, this report will be presented to the President of Zambia for approval and action. As a result of the visit and other work by IRLI, a programme of substantive change in the handling of financial crimes is expected to be undertaken very soon by the Zambian justice authorities. We are optimistic about the prospect of meaningful change.

*Norville Connolly is Irish Rule of Law International country director for Zambia and Tanzania.*



# PAPER LOVES TREES

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Source: Food and Agriculture Organization of the United Nations (FAO), 2005 - 2020  
European Forests: EU27 + Norway, Switzerland and the UK.



# Strategy consultations in Dublin and Cork

● The Law Society hosted a gathering of solicitors at Blackhall Place on 28 June to hear their views on the future of the profession and the Society.

“It was just another, innovative way to listen to the views of our members as we develop the next statement of strategy for the Law Society,” says director general Mark Garrett. “It was essentially a large consultation event of members, looking at the future challenges and opportunities for the profession.”

This builds on engagements that have already taken place, including through the B&A Research survey in May, which attracted 2,264 responses and submissions from bar associations, as well as interviews with key external stakeholders.

The consultation in Blackhall Place was attended by approximately 90 participants who shared their views on the future strategic direction of the Society. Those present included Law Society Council members, committee chairs, committee consultants, managing partners, sole practitioners, in-house solicitors, trainees, and staff.

There was a presentation on the key responses from the B&A survey, which aided a broader conversation around the key themes, factors and dynamics that will shape the legal profession in the coming years, including the challenges, opportunities, and priorities.

The director general said: “In framing the next strategy, I want to hear the voices of as many solicitors as I can using different methods. The successful survey of the profession was just one method – a ‘quantitative’



PIC: CIAN REDMOND

element. This consultation event was a good opportunity to share and hear directly

about the burning issues and priorities on solicitors’ desks – both now and ahead.

“By engaging deeply like this, I believe that this is the best way to develop a strategy that will be fully reflective of the needs of solicitors,” he said.

The Society will host a second consultation event in Cork city on the evening of 5 October at the Clayton Hotel. Bar associations from the neighbouring counties will also be represented.

A selection of members of the profession will also be invited to attend. Those interested in attending should email [strategy2024@lawsociety.ie](mailto:strategy2024@lawsociety.ie) to register their interest.

## Law School’s ‘network and engage’ event



PIC: CIAN REDMOND

At the Law School Network and Engage Event 2023 in July were Rory O’Boyle (Law Society), Michelle McLoughlin (A&L Goodbody LLP), Antoinette Moriarty (Law Society), Dr Gabriel Brennan (Law Society), Prof Elaine Hall (Northumbria University), Dr Jonny Hall (Northumbria University), Paul Breslin (A&L Goodbody LLP), and Dr Freda Grealy (Law Society)

● In July, members of the legal profession joined Law Society staff and associate faculty for the Law School Network and Engage Event 2023.

The event was held at Blackhall Place and focused on the development of the new professional practice course.

A new Competency Framework for Solicitors in

Ireland was launched at the event, which will inform all aspects of solicitor training and CPD programmes. To find out more about the framework, visit [www.lawsociety.ie](http://www.lawsociety.ie).



## 100 YEARS OF WOMEN IN THE PROFESSION

The Gazette continues its series marking the centenary of the first women in Ireland to qualify as solicitors. For more information about related events during the year, see [lawsociety.ie/centenary](https://lawsociety.ie/centenary). Mary Callan, later Sr Christopher, went on to become the provincial superior of La Sainte Union des Sacrés Coeurs.

### Frances Mary Callan – ‘truly an icon’

**F**rances Mary Callan (known as Mary) was born in 1920, the daughter of Christopher E Callan, solicitor, Boyle, Co Roscommon, and Mollie Dillon-Leetch (the third female barrister in Ireland).

Mary served her apprenticeship in her father’s firm and was admitted to the Roll of Solicitors on 17 December 1948. She worked with solicitor Alexis Fitzgerald in Dublin for a number of years and returned to Boyle to practise in the family firm until 1960/61.

She entered the religious

order of La Sainte Union des Sacrés Coeurs as a ‘late vocation’, taking the religious name Sr Christopher.

Former Minister for Education Mary O’Rourke – a close friend – described her as “a well-known and renowned solicitor prior to her entering, as a novice, into La Sainte Union”. The French order had originally established a presence in Athlone in 1884.

Sr Christopher went on to become the principal of both the Bower Boarding School and the Bower Day Secondary School in Athlone – both run by the order. Later, she would be responsible

for amalgamating both branches of learning. She subsequently became provincial superior of the order for Ireland and England.

In an appreciation published in *The Irish Times* on 21 March 2017, Mary O’Rourke commented: “Yes, she was a formidable female, imbued as she was with her legal certainty and knowledge, but she was more than that. She was a kind woman who carefully guided all those young minds over whom she was in charge.

“I am told she used her legal knowledge on many occasions when there were difficult and sticky situations to be resolved.

But, above all, she was a kind person, imbued with her religious calling, but mostly imbued with tolerance and faith towards all with whom she was in charge.”

Sr Christopher joined the Church Marriage Tribunal in 1971 and was regarded as a highly valued member of that august body.

Says O’Rourke: “The stories are legion about Sr Christopher, and I could add so many to them but, to me, she was the young, shy, composed woman who was our companion on those journeys to Maynooth [when studying for a higher diploma in education] all those years back in 1966. Sr Christopher Mary was truly an icon.

“Later in my career, when I became Minister for Education, she and I had many conversations together, in which she freely gave of her wise advice and counsel to me, and I have strong reasons to remember so much of what she said during that time to me.”

Sr Christopher died on 22 February 2017. 

*Sources: Christopher Callan, solicitor and nephew, who provided information for the book Celebrating a Century of Equal-opportunities Legislation – The First 100 Women Solicitors, published by the Law Society of Ireland.*

Mary Callan, solicitor, Boyle, Co Roscommon – later Sr Christopher



## PROFESSIONAL LIVES

Sharing personal and professional stories has long been a powerful way to create a sense of connection and belonging. It creates a space for vulnerability that can provide the listener with inspiration and hope, or newfound insight to a challenge or difficulty they too might be facing. We welcome you to get in touch with [ps@lawsociety.ie](mailto:ps@lawsociety.ie) to share a story for this 'Professional Lives' column.

# Mistakes I made in searching for happiness

I am here to talk about your life: the one that you have had, and the one that you are looking forward to. How will you live your life? How will you judge it? How will you define it?

I have tried to answer these questions for myself. In doing so, I have made many mistakes. I shall tell you about them. I will start with my first mistake.

After graduating, I thought that my aim in life was to collect material wealth. I did not come from a rich family. I grew up in public housing in a single-parent household.

But I went to a good school. I had privileged classmates. They became my friends. I visited their vast mansions, sat in their splendid gardens, chatted by their twinkling pools. They had all that I did not. But they had something more. They had confidence. They had security. They had happiness. Or so I thought. And I imagined that money helped to secure happiness.

So, for the first part of my career, I focused on collecting material wealth. I wanted to increase my income. I wanted my own home. I wanted to be free from debt, and with it, I assumed I would be free from doubt, anxiety, and trouble. I saw money as an armour against the uncertainties of the world. I thought that, if I had enough of it, it would insulate me against worry, stress, and fear.

Gradually, I realised that money had its limitations. In your journey

through life, money will be a good companion. But it cannot be your guide. You cannot consume your way to happiness. You will merely be eating yourself.

### Collecting knowledge

I turned elsewhere. I began collecting knowledge. I read widely. I listened to lectures and debates. I watched films. This was the way I thought: the more information I had, the more knowledge I would learn, and the more wisdom I would acquire. And, with wisdom, I would find answers. I would be happy.

What I did not understand was this: I am human. I am finite. I am flesh and blood, with a predetermined shelf-life. Even if I spent every waking moment collecting knowledge, I would fall short. It is beyond my ability to understand the questions of life, let alone find the answers.

Having tried collecting material wealth and collecting knowledge, I turned to collecting relationships. Surely, happiness is found in making connections with fellow human beings?

In my work, I met many people. I saw the world through their eyes: a vast, indifferent world, where individuals are ignored and forgotten, unless something is done to make them heard.

And then I realised that, in searching for happiness, I had made the biggest mistake of all.

We have no duty to be happy.

Happiness is not our purpose. As human beings, we have a larger purpose, which is to serve others.

How shall we accomplish this? To be an advocate for another person, we must first connect with that person. Connection is an important, though elusive, property. It is like sleep: the harder we chase it, the farther it slips away. Like sleep, the best way to achieve connection is to be silent. We must be still, and quiet, so that the other person can find us, talk to us, and so that we can listen with clarity.

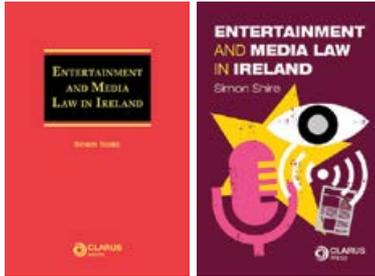
What will happen when we connect with and speak for others? We become their advocate. We become their ally, so that they are no longer alone and isolated. We present their personal world to the larger world. We add them to the community, improving their personal lives while enriching the community itself. 

*Adrian Tan Gim Hai (President of the Law Society of Singapore) delivered this address at the 2022 NUS Law and Music Faculties Commencement Ceremony on 7 July 2022. Sadly, Adrian passed away in July 2023. We express our condolences to all of our colleagues in the Law Society of Singapore. This article was first published by the Law Gazette of Singapore in July 2022 and is reproduced here with permission. Our thanks to Ho Wei Sim, Dublin, for drawing our attention to it.*

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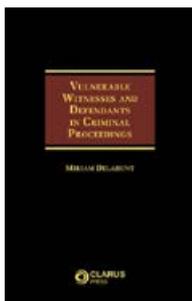
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# Medical Negligence Litigation (2<sup>nd</sup> edition)

Michael Boylan. Bloomsbury Professional (2022), [www.bloomsburyprofessional.com](http://www.bloomsburyprofessional.com).

Price: €195 (incl VAT); e-book €171.16 (incl VAT)

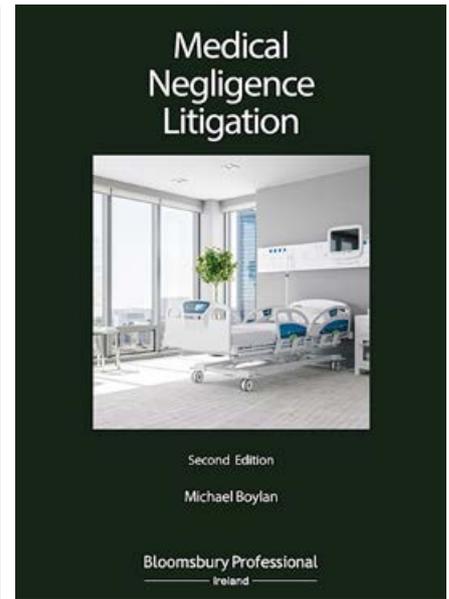
● This book is a staple for law students and practitioners alike, providing an up-to-date review and analysis of the law in an ever-changing landscape. The author addresses a wide range of legal principles, each chapter exploring a stand-alone substantive topic, making the book easy to dip in and out of.

This new edition provides helpful updates and analyses of developments in the law, offering practical guidance to experienced practitioners and new entrants alike.

Divided into 20 chapters, the book begins with a practical application of the foundational principles in medical negligence and follows with a critical analysis of issues that remain controversial, such as the principle of vicarious liability. The author explores how far it's possible to extend this concept in medical-negligence claims, particularly when there are several possible contributory causes of the plaintiff's injury. The issues of causation, loss of chance, and life expectancy are explored in a very practical way, utilising a number of judgments from Britain, Canada and Australia to illustrate developments in the law.

The important issue of compensation for a seriously injured plaintiff is addressed. The author sets out his views as to future developments required in this important area, highlighting the significant risk of under-compensation for catastrophically injured plaintiffs in the prediction of future life expectancy.

The chapter on birth-injury litigation is essential reading for practitioners, as it outlines the essential components of a successful claim.



The final chapter on termination and wrongful birth is a timely addition, as issues will inevitably emerge giving rise to litigation as a consequence of the provisions of the *Health (Regulation of Termination of Pregnancy) Act 2018*.

This book is not only of interest to lawyers, but also to health professionals and anyone interested in the area of medical negligence. 

*Joan Gabrielle Lalor is a barrister currently practising in the areas of tort and personal injury. She is a professor in midwifery at TCD and a registered general nurse, children's nurse, midwife and tutor. She was elected a Fellow of Trinity College Dublin in April 2022.*

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# 'Fear not for the rural solicitor'

*From: Eamonn M Gallagher, Rochford Gallagher & Co Solicitors LLP, Tubbercurry, Co Sligo*

● It was with some dismay that I read the article by our director general ('Legal "deserts" emerging as Irish trainees flock to cities', *Gazette.ie*, 10 July 2023), following the recent survey of the profession, where it was suggested that the role of the rural country practitioner was in jeopardy. It is indeed frightening that 90% of trainees are currently locating in the two principal urban centres of Dublin and Cork.

However, on Thursday 20 July, I had the pleasure of attending the Law Society for the parchment ceremony for my own son, Eoin Gallagher, when he was admitted to the Roll of Solicitors with 50 of his colleagues at a lovely ceremony in Blackhall Place.

He is a third-generation solicitor, following in the footsteps of myself and his grandfather, who commenced the practice of Rochford Gallagher & Co in 1944. I am not on LinkedIn, but my son Eoin is, and I reprint hereunder in its entirety a post he uploaded and, having read it, I felt it should be shared with the



members of the profession:

*"In 1944, my grandfather Eamonn P Gallagher opened the doors of Rochford Gallagher & Co, Solicitors, in Tubbercurry Co Sligo. Since then, my dad Eamonn M Gallagher, uncle Declan J Gallagher, and cousin Fiona Gallagher have all kept the torch my granddad lit alive. On Thursday last, I took another step to being part of this family story. I was formally presented with my certificate of admission to the Roll of Solicitors in Ireland by the president of the Law Society of Ireland. I'm proud to carry on the tradition. I want to thank everyone at Rochford Gallagher &*

*Co for their guidance, patience, and unwavering support of the way I went about getting to this point. I'm looking forward to doing my bit to keep the torch lit! Lastly, a hearty congratulations to all those who qualified with me. The Irish legal landscape is all the better for having each of you in it. Keep it summer - EPG."*

Despite the current trend evidenced in the recent survey, there will always be room for the rural practitioner/country solicitor. We pride ourselves on acting for established clients and their families and are able to provide holistic legal services to them, as we know these families,

who have been loyal to us over the generations and receive absolute loyalty in return.

That is not to say that any rural practitioner's client base is restricted to their own area. With modern technology and the increased availability of broadband, the reality is that any rural practitioner can provide legal services to anyone in any part of Ireland. In our practice, we act for a number of large companies, and also as panel solicitor for an insurance company. Because of modern technology, your geographical location no longer determines your client base or the clients that you can provide services to.

I trained in Dublin many moons ago and enjoyed the city lights and still regularly attend Dublin. However, I wouldn't swap living in the West of Ireland for love nor money.

Therefore, I say: "Fear not for the rural practitioner!" There will always be a place in the legal profession for you. You will add to and enhance your community by providing easy access to legal services within your community, and your community will repay you in spades by their continued loyalty.

This rural practitioner is going nowhere! 🇮🇪



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# PIAB changes ‘of concern’

Far-reaching changes to PIAB legislation are set to create a whole new category of ‘high-risk cases’ that will run the gauntlet of becoming statute-barred – affecting applicants’ rights of access to justice, argues Marcin Szulc

IF THE EASE OF FILING A SUMMONS OR CIVIL BILL IS THE THRESHOLD, THE NEW PIAB RULES ARE A SIGNIFICANT, AND SEEMINGLY DISCRETIONARY, STUMBLING BLOCK FOR PERSONAL-INJURY CLAIMANTS – YET ANOTHER ONE

As you may be aware, the *PIAB Act* and PIAB rules changed drastically from 4 September 2023 by virtue of the implementation of the *Personal Injuries Assessment Board Resolution Act 2022*.

The result is that, if a personal injuries case is less than 28 days from the statute, it is now at a very high risk of being statute-barred, even despite an application being filed with PIAB in time. Even if a case is within six months of the expiry of the statute, the changes create a significant risk of it becoming statute-barred.

The PIAB board sent an email to practitioners with an outline of those changes in a PDF attachment. (If you missed the email, you can contact PIAB at [legislationchanges@piab.ie](mailto:legislationchanges@piab.ie), by phone at 0818 829 121, or see ‘[Notification of forthcoming legislation changes](#)’, at [piab.ie](http://piab.ie).)

### Grave concerns

The amendment to section 11 of the act, which lists the updated requirements of a valid application, causes grave concerns regarding access to justice. It significantly raises the bar for making a valid application to PIAB for personal-injury compensation compared with other litigation claims made in the ordinary courts system.

Some changes are reasonable, others seem uncontroversial – even unnecessary (unless you are a respondent insurer and need to run checks on the claimant

or send a private investigator after the claimant). Some are downright oppressive.

The three main changes are:

- 1) An application will have to be signed by the claimant, even if the claimant is represented. It will have to be either a ‘wet’ signature or a digital one.
- 2) The application will require more detailed descriptions in relation to when, where, and how the accident or incident causing the injury occurred.
- 3) The application to PIAB will have to be accompanied by a medical report.

### Unnecessary changes

An example of one unnecessary change is the requirement that an application includes details of how and where the accident or incident occurred. While the ‘where’ is not controversial, the ‘how’ is puzzling – PIAB does not deal with liability, so one must question the necessity of seeking those details.

To date, PIAB has accepted generic descriptions, such as “suffered injury in the course of a road-traffic collision”. Why PIAB needs such detailed information is mysterious – unless the information being sought is not for PIAB, but for the respondent. If so, why is there still a need for a detailed letter of claim under section 8 of the *Civil Liability and Courts Act 2004* to be sent “before the expiration of one month from the date of the cause of action, or as soon as practicable thereafter”?

Some changes seem regressive – such as the requirement for a claimant’s digital or scanned ‘wet’ signature. The PIAB Solicitor’s Portal and online form will change to accommodate this. At the time of writing, these will be unavailable from 8pm on 31 August 2023 until 11am on 4 September 2023 due to essential maintenance on these sites arising from the commencement of section 3 of the *Personal Injuries Resolution Board Act 2022* on 4 September 2023. It seems that the profession is going to be surprised with the new ‘Form A’ and will have to learn, on the fly, how to deal with it.

### ‘All information’ requirement

It is going to be an absolute requirement that **all** the information required in section 11 is provided. However minor the requirements under section 11 are, PIAB is given power to review the application and deem it incomplete. The ‘section 50 letter’ is no longer automatic, as it has been since the introduction of the PIAB portal. This, as some of you may remember, was the main ‘selling point’ of the portal.

While careful instruction-taking can deal with most items in the amended section 11, the medical report is beyond the control of a solicitor and the claimant alike. Medical professionals nearly never provide a medical report by return, and it takes some weeks or months to be received. This is



PIG:ALAMY

Solicitors will run the gauntlet of new changes to PIAB legislation that are set to increase the number of statute-barred cases

not a criticism – it is a fact.

If the case were close to the expiration of the statute, PIAB would issue section 50 and ask for the medical report to be provided later. Not anymore!

- After sending an application, PIAB will review it as quickly as possible, with a target time of three working days. This is only a ‘target time’ – not a statutory time limit. If PIAB takes five or seven days to review the application, no provisions seem to be made for that delay.

- Following the review, if PIAB deems that the application is complete under the amended section 11, the application will be confirmed as complete for the purpose of section 50, with the effective ‘section 50 date’ being *the date the complete application was received*. No issues here.
- If, following review, any information is deemed missing for the purposes of section 11, PIAB will give 28 days to supply the missing information and, if not provided, PIAB will

close the file. That includes, for example, missing medical reports.

- Once the missing information is provided to PIAB and the application is deemed complete and valid, the effective section 50 date will be *the date when the last piece of missing information is provided to PIAB*. Please note: it is **not** the date of making the application.

### Statute of Limitations

Given PIAB’s discretion to assess the completeness of the application, the above changes put at risk all cases with looming *Statute of Limitations* dates. Effectively, if a case is less than 28 days from the statute, it is now at a very high risk of being statute-barred at PIAB’s discretion.

Even if the case is more than one month from the expiry of the statute, and a medical report is not to hand, the case is now high risk. One will not be able to hold a doctor liable in the case of a delay, save in extraordinary circumstances.

The changes create a whole new category of ‘high-risk cases’ with statute dates expiring in less than six months (or however long it may take to procure a medical

report) from the date of a first consultation.

One of the possibilities for practitioners in such a case is to seek the protection of the High Court and challenge the constitutionality of this provision, which appears to limit access to justice for personal-injury claimants. If the ease of filing a summons or civil bill is the threshold, the new PIAB rules are a significant, and seemingly discretionary, stumbling block for personal-injury claimants – yet another one.

Time is being shaved from both sides for the claimant – first, the statute was shortened from six down to two years, then section 8 of the *Civil Liability and Courts Act 2004* was introduced, demanding that a letter of claim be sent within two months (shortened now to one month) ‘or else’. Now, the last months of the statute are a minefield of liability.

One cannot help but wonder in whose interest these changes are being made, because it is certainly not in claimants’ interests. 

*Marcin Szulc is principal solicitor at Rostra Solicitors, Dublin 7, and a member of the Law Society’s Litigation Committee.*

## LAW SOCIETY RESPONSE

The Law Society says that, while the new PIAB legislation is broadly welcome, “significant access-to-justice concerns arise in respect of a number of its provisions. These include proposals that submitting a PIAB application will no longer ‘stop the clock’ on the *Statute of Limitations* unless a medical report (describing the injuries) is enclosed with the application, and claimants have signed the application form prior to its submission”.

In May, the Society met with PIAB to outline its concerns on these issues and to seek clarity around the provisions, which otherwise might be open to interpretation and challenge. Following this meeting, the Society sought and held a meeting with the Minister of State for Trade Promotion, Digital and Company Regulation on 19 July to highlight those concerns. The minister is determined to press ahead with the commencement of the second phase in September, but has undertaken to seek further clarity from PIAB on these issues. The Society will update members if anything further arises.





# THE MUMMY RETURNS

*The Historic and Archaeological Heritage Bill 2023*

may significantly change existing processes for  
repatriation and restitution in Ireland.

Martin Bradley gets digging



*“There is no more important question for western museums today than restitution.”*

– Dan Hicks, *The British Museums* (2020)

**In 1801, Thomas Bruce, the Seventh Earl of Elgin,** and his team stripped 15 *metopes* and 247 feet of the then surviving frieze of the Parthenon in Athens from the fabric of the building. This material was loaded into 200 boxes and shipped to England. Elgin’s justification was that he was acting legally under a *firman*, or permission, from the Ottoman Sultan Selim III, which stated “when they wish to take away some pieces of stone with old inscriptions and figures, no opposition be made...”

All of 220 years later, in October 2021, the UNESCO Advisory Board urged for the return of the *Elgin Marbles* to Greece. The British Government responded with a statement that the marbles had been acquired legally in accordance with the law at the time, and that repatriation would not occur.

### **Raiders of the lost ark**

Restitution and repatriation are separate but linked concepts: restitution occurs when a cultural object is returned to an individual or community; repatriation when cultural objects are returned to a nation or state at the request of the government of that nation or state.

A useful definition of a ‘cultural object’ is contained in the 1995 *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects*: “Cultural objects are those which, on religious or secular grounds, are of importance for archaeology, prehistory, history, literature, art or science.”

Restitution or repatriation normally occur on foot of a request. The owner or owners of a cultural object



PICTALAMY

make their case for the return of the object, either on the basis that it is held illegally (in contravention of an existing national or international law or treaty) or they request its return on broader ethical grounds.

However, there is an increasing movement towards cultural institutions being proactive in offering restitution or repatriation. Pressures on resources can make the prospect of restitution or repatriation attractive as an avenue for ‘deaccessioning’ of collection items, without the opprobrium that often accompanies attempts to sell or otherwise dispose of unwanted material. Northampton Borough Council’s sale of the 4,500 year old Egyptian *Sekhemka* sculpture may have resulted in a £7 million windfall, but it also resulted in the expulsion of its museum’s service from the UK Museums’ Association and loss of accreditation for five years.

### The last crusade

In Ireland, State ownership of cultural objects is provided for under the terms of statutes, including, but not restricted to, the *National Monuments Acts 1930-2014* and the *National Cultural Institutions Act 1997*.

Under section 68 of the 1997 act, the director of the National Museum of Ireland (NMI) may dispose of archaeological objects. Section 47 of the act allows for the transfer or exchange of cultural objects between designated cultural institutions. Section 18(2) allows the disposal by sale, exchange, or gift of any library material by the National Library under conditions similar to those imposed under Britain’s *Museums and Galleries Act 1992*.

There are clearly some significant gaps in the statutes – for instance, no provision is made for how the NMI might dispose of items that are not archaeological.

The NMI has produced a *Collections Disposal Policy*, which outlines principles in relation to deaccession, based on best international practice. The basic tenet of this policy is that the NMI will retain all cultural objects until there are exceptional reasons put forward in a written proposal for their deaccession.

Section 3 of the policy states, among other things: “Reasons for deaccession of a Museum Heritage Object may include:

- 3.1. Legal: Lack of title or other legal reasons where the holding of an object in the core collection is brought into question.
- 3.2. Repatriation: Response to a request to repatriate an object.”

Section 5.5 of the policy states that “objects will not be disposed of in any way that results in financial or commercial gain”.

### Kingdom of the crystal skull

One problematic category of cultural object, as defined under the UNIDROIT definition, is human remains. Human remains are captured under the definitions of cultural objects as “anatomy” or “products of archaeological excavations” or, indeed, from the perspective of their original collectors, “objects of ethnological interest”. The *UNESCO-UNIDROIT Model Legislative Provisions on State Ownership of Undiscovered Cultural Objects* of 2011 specify that states are also free to interpret more broadly than the strict definition given for cultural objects and, therefore, can apply it to human remains.

**T**he balancing of ethical considerations with scientific rationale for retention are often called into play when dealing with anatomical or archaeological human remains, as distinct from the ethnological category, which are addressed further below in light of the *UN Declaration on the Rights of Indigenous Peoples 2007* (UNDRIP).

One prominent example is the case of the ‘Irish Giant’ Charles Byrne, who grew to a height of 7’ 7” before his death in 1783. Byrne had requested a burial at sea to prevent his remains from being put on show, but they were purchased and eventually exhibited in the Hunterian Museum at the Royal College of Surgeons. The RCS decided to remove the remains from display following a refit, but opted to retain them for future scientific analysis.



The skeleton of the ‘Irish Giant’ Charles Byrne was put on show, against his wishes

In 1890, 13 human skulls were removed by academics from Inishbofin, off the coast of Co Galway, and subsequently gifted to Trinity College Dublin. In 2022, TCD set up a Legacies Review Working Group to “review the university’s complex historical legacies since its foundation in 1592”. One of its first decisions was to “work with the community to ensure that the (Inishbofin) remains are returned in a respectful manner and in accordance with the community’s wishes”. The skulls were returned to Inishbofin on 16 July 2023.

UNDRIP sets out at article 12 that:

- 1) “Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial

objects; and the right to the repatriation of their human remains.

- 2) States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.”

**T**he very diversity that is implicit in the term ‘indigenous’ itself opens up questions about the application of UNDRIP. According to the UN Permanent Forum on Indigenous Peoples, “an official definition of ‘indigenous’ has not been adopted by any UN-system body. Instead, the system has developed a modern understanding of this term based on ... self-identification as indigenous peoples at the individual level and accepted by the community as their member.”

## Temple of doom

These issues are complicated by the nature of Ireland's relationship with Britain and its close involvement in the administration of the British Empire during the period 1860 to 1914. In 1860, 40% of recruits to the British Army were Irish and "were drawn in particular to serve in the European regiments of Britain's Indian Armies and played an important role in the building of the British Empire", according to Britain's National Army Museum website. A direct result of this involvement was the collection and acquisition of around 11,000 ethnographic cultural objects that made their way back to Ireland via the Royal Dublin Society and TCD into the collections of the National Museum of Ireland from 1877 to 1922, including some materials sent back from Congo by Sir Roger Casement.

**F**ollowing the establishment of the Irish Free State in 1922, a movement to "accumulate, preserve and display such objects as may serve to increase and define the knowledge of Irish Civilisations, of the National History of Ireland" (1927 report to the NMI) resulted in ethnographic and colonial exhibits being de-emphasised. This change of focus met with public approval as "imperial war medals and uniforms [and] ... the disgusting spectacle of a dead or dying sepoy [an Indian soldier serving under British or other European orders] at the feet of a British officer was removed from our offended eyes" (*Irish Press*, 27 May 1937).

Other Irish institutions have similar holdings. The Ulster Museum repatriated ancestral Hawaiian human remains and sacred objects that were removed by collectors from burial caves in 1840. According to Dan Hicks, author of *The Brutish Museums*, the Hunt Museum in Limerick holds material looted during the destruction of Benin City, Nigeria, in 1897 – also known as the *Benin Bronzes*. In 2022, University College Cork announced its intention to repatriate a collection of mummified human remains dating from 100AD to about 975BC, on foot of enquiries from the Egyptian Embassy in Dublin.

Recent developments in Ireland include the *Historic and Archaeological Heritage Bill 2023* – at the time of writing before Dáil Eireann (third stage) – which enables the Irish State to accede to the 1995

*UNIDROIT Convention*. The State will also be enabled to ratify the 1970 *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*.

## Dial of destiny

On 20 June 2023, the Irish Government announced the formation of an advisory committee on the restitution and repatriation of cultural heritage. Membership of the committee will be drawn from the museum, archives and gallery sector, the civil service, and legal and ethical expertise, as well as representation from claimant communities.

**I**f Ireland accedes to the *UNIDROIT Convention*, it will be possible for private individuals to seek the return of stolen or illegally exported objects through the Irish courts.

Claims under the convention will be brought in the Circuit Court, which will be conferred with the necessary jurisdiction.

The convention places the burden on the possessor of the item to demonstrate that it "exercised due diligence when acquiring the object". Article 4(4) states: "In determining whether the possessor exercised due diligence, regard shall be had to all the circumstances of the acquisition, including the character of the parties, the price paid, whether the possessor consulted any reasonably accessible register of stolen cultural objects, and any other relevant information and documentation which it could reasonably have obtained, and whether the possessor consulted accessible agencies or took any other step that a reasonable person would have taken in the circumstances."

It is clear that the *Historic and Archaeological Heritage Bill 2023* may significantly change existing processes for repatriation and restitution in Ireland, particularly for any institutions that are not able to meet the *UNIDROIT Convention* burden of proof. The formation of the advisory committee on the restitution and repatriation of cultural heritage will, hopefully, lead to the creation of useful policies and guidance for institutions to navigate this potentially fraught new legal landscape.

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*Martin Bradley is a practising barrister who focuses on art and cultural-heritage law, GDPR and copyright. He is the Ireland national coordinator of Knowledge Rights 21, a qualified archivist with over 25 years' experience, and director of Archives Ireland.*

## LOOK IT UP

### LEGISLATION:

- *Historic and Archaeological Heritage Bill 2023*
- *Museums and Galleries Act 1992 (UK)*
- *National Cultural Institutions Act 1997*
- *National Monuments Acts 1930-2014*
- *UN Declaration on the Rights of Indigenous Peoples 2007*
- *UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970*
- *UNESCO-UNIDROIT Model Legislative Provisions on State Ownership of Undiscovered Cultural Objects (2011)*
- *UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects 1995*



Philip Lee is founding partner of the eponymous firm, with offices in Dublin, London, and San Francisco. The former European Masters fencing champion speaks with Mary Hallissey about life at the sharp end

# LEE M M

**ost lawyers become lawyers because** they want to change things,” says eminent trade and EU lawyer Philip Lee, who runs his own very successful firm in Dublin 2.

“It’s frustrating for me that I still see the things that I want to change, and that gets me motivated and passionate – but then, on Monday mornings, I dream of staying in bed, swimming, or going cycling! I would like to work less, but I am passionate about delivering change.” Lee always knew he wanted to be a lawyer, from a very early age, because he saw the law as effecting necessary change in society.

And he has achieved a lot in his distinguished career. 1993 was a big year – he



# En garde!



founded his own firm as a sole practitioner and married Una Hand. One was naïve; the other extraordinary good fortune, he quips.

By some miracle, he says, the practice has now grown to a staff of almost 200, with 37 partners, and was named Irish Law Firm of the Year in 2019. That same year, he won the gold medal for fencing in the European Masters. The latter is the big success, he says!

### Shake your moneymaker

Philip was at the forefront of the shake-up in global trade, which began with the World Trade Organisation agreement in 1994. He helped negotiate the import rules for bringing bananas into Europe. And the European social contract and its values are dear to his heart.

**H**e enjoyed studying law at UCD but focused mainly on the extracurricular activities. Thanks, he believes, to being a good French speaker rather than any academic competence, he won a scholarship in 1979 to study at the College of Europe in Bruges. It was an amazing year and a real life-changer, he says.

“I am an absolutely passionate believer in the wonders that the creation of the European Union has done for humankind, and for Europeans in particular,” he says.

### In Bruges

Philip subsequently won a scholarship for a summer programme in American law in the University of Leiden. Bruges left him with a career dilemma: “I had the chance to be a *stagiaire* in Europe, which might have resulted in a legal career in the European Commission or some other EU institution. Entry to the commission was far less competitive than now. No doubt now, my CV would not pass the first hurdle. But I had an apprenticeship with a very unusual lawyer, Max Abrahamson, who was a global leader in international arbitration.

“I greatly admired him – I thought not to work under him for my first job would be a mistake, but it did mean sacrificing my European ambitions, so that was a kind of crossroads.”

Philip worked very closely with Abrahamson as he travelled the world, with



“WE WERE GOING INTO A HOTBED OF, TO SOME EXTENT, CORRUPTION, BECAUSE THE MILITARY CONTROLLED BOTH INDUSTRY AND POLITICS, AND WERE FUNDED BY THE US THROUGH THE ILLEGAL PAYMENTS MANAGED BY THE INFAMOUS OLIVER NORTH

Max acting as an advocate in international arbitration, particularly on large construction projects.

“I probably blame Max to some extent for creating in me a belief that solicitors should be advocates. If you are a lawyer and an expert in an area of law, you should, I believe, present your own cases when the opportunity arises. I am proud of the fact I have acted as an advocate before the CJEU and the WTO appellate body, as well as running many large arbitrations.

“I’ve always had some discomfort with the tradition in Ireland of the split profession. I don’t think it’s healthy for solicitors not to believe that they are the experts in the law that they practice, but admittedly few of my colleagues share my views.”

Then the recession of the 1980s hit and Philip sensed that there wasn’t going to be a future in construction law.

### Into his shell

“I was lucky – my mother spotted an ad in *The Irish Times* for an in-house position, which turned out to be with Irish Shell. I had great fun in that job. I loved it, but they

probably thought I was a rubbish lawyer because, after two years, they suggested I become a manager.”

**P**hilip credits Shell with giving him great training as a manager, but eventually he realised that what Shell could give him was not what he wanted. His career priorities were being part of a community, being his own boss, and controlling his own destiny. “There was something about the legal analysis involved in being a lawyer that my brain missed,” he says about his decision to leave the corporate shelter of Shell and wing it on his own innate abilities. “I wanted to be admired for what I could do, rather than for who I represented as a company employee,” he says, despite the glamour of a job in his 20s with endless travel and daily briefings on troop movements and crude-oil prices.

### Going bananas

Then came an offer to take on the complex problems that Fyffes, the Irish banana importer, was dealing with in Central America. These difficulties included armed

militia destroying banana cargo, derailed trains, kidnappings, and death threats.

Being completely naïve, Lee plunged right in: “The American companies did not want a European company establishing a foothold in Central America, where America had dominated the industry – and the region – for close on 100 years,” he explains.

“We were going into a hotbed of, to some extent, corruption, because the military controlled both industry and politics, and were funded by the US through the illegal payments managed by the infamous Oliver North.

**“B**efore I arrived, every year there’d be a strike by the banana employees and the strike would end with them being shot. So, it was a rough territory. I had a special-forces-trained bodyguard who went everywhere with me, who was eventually murdered, which was very distressing. He had been my guardian angel. This was Wild West-type work, but I probably lacked sufficient ‘cop’ to realise how dangerous it actually was.

“If I went out of my hotel to go for a jog, my bodyguard was with me. He looked after me very well and kept me safe, but I’ve no doubt there were conversations about getting rid of this troublesome lawyer, because the company we were operating against had its own internal army.”

IT IS WORTH REMEMBERING THAT THE *TREATY OF ROME* ESTABLISHING THE EUROPEAN COMMUNITIES WAS DELAYED BY OVER A WEEK BY THE GERMANS BECAUSE THEY WANTED A SPECIAL PROTOCOL TO PROTECT BANANAS COMING INTO GERMANY

### Dangerous situation

“It was a complex and dangerous situation. The saviour was the EU ambassador for Central America, who had considerable influence. We set up an arbitration with the Honduran Government to try and bring peace to what was becoming a highly dangerous situation.

“Having the EU in on my side made a difference, because the US banana companies wanted a good relationship with the massive EU market, as the single European market lay ahead. At one stage in the week-long negotiations, in a dark and cigar-smoke-filled room in Tegucigalpa, the Honduran Minister for Finance took me aside and explained to me that the arrival of a European company doing business in hard currency and competing against US dominance

would do more for his people than all the efforts over many years by the UN and EU.”

### Hot potato

Following the adventures in Central America, Lee was tasked with finding an EU import regime that ensured a balance between the bananas grown by US companies in Central America, and the trade from former colonies in Africa, the Caribbean and the Pacific – the ACP countries.

“That took us several years working with others in Fyffes, including Patrick McCann SC, to design a system to regulate how trade in bananas would operate in Europe when the single market was introduced.

**“I**t is worth remembering that the *Treaty of Rome* establishing the European communities was delayed by over a week by the Germans because they wanted a special protocol to protect bananas coming into Germany. Why? Because during both world wars, bananas never landed in Europe. For this reason, bananas had a huge emotional resonance with German people and, though it may be hard to believe, were a political ‘hot potato’!

“We eventually created a complex regime that protected many banana-producing countries, some of which depended on the banana trade for over 60% of foreign earnings. Without the regime we negotiated, these countries faced certain bankruptcy.”

### Out on his own

Despite management offers at Fyffes, Philip Lee knew that practising law was what he wanted to do. So, he set up his own firm, despite not having worked for any great period in private practice in Ireland.

One of his first major clients was the ACP

## SLICE OF LIFE

### ● What makes you happiest?

My family, and sometimes my fencing when it becomes a bit zen-like!

### ● Best concert?

Leonard Cohen.

### ● Favourite song?

‘If I should fall behind’, by Bruce Springsteen. Summarises a relationship.

### ● Must-have gadget?

My backpack from Decathlon.

### ● Is it better to be born lucky or rich?

Lucky.

### ● Most grateful for?

The sea, and then my parents, and now my family.

### ● Favourite lunch companion, living or dead?

Peter Sutherland.

### ● Strengths as a lawyer?

Finding a solution.

### ● Why choose law?

To change things.

### ● Hobbies or interests?

Fencing, sailing and cycling.

### ● Career high?

Being the first private lawyer to appear before the WTO appellate body.

### ● Any guilty pleasures?

Are not all pleasures guilty?



group of banana-producing countries. Philip tendered to represent them in disputes before the WTO. “I am proud of the fact that I was the first private lawyer ever to appear as advocate before the appellate body of the new WTO. Before that, no private lawyers were allowed argue a case before the WTO. It had been reserved for lawyers who were in full-time employment of governments. That was an appalling approach to law, deeply unfair to small countries who wouldn’t have in-house legal specialists in trade, unlike the EU and the US,” he comments.

“It was highly complex and the biggest case in the history of trade. I represented the 77 ACP countries. In total, 130 countries were involved in the dispute.”

**S**ubsequently, he began lecturing on international trade law at UCD as a visiting professor and wrote a book on European public-procurement law for Butterworths.

“I had had this divergence between working for Max Abrahamson, a construction-law arbitration specialist, and my love of European law. The two of them merged harmoniously in the new rules about awarding government contracts, because the biggest ones are always construction contracts,” he says. The book’s publication led to a flood of instructions from Irish public bodies – “there was really nobody doing that area of law in Ireland at that stage,” he says.

“I went from bananas and oil to sewage treatment plants, roads, and waste-treatment plants – a little less glamorous. I did a lot of work, particularly on city-council projects such as the Port Tunnel, drainage and sewage schemes, and waste-to-energy schemes.

“We also accounted, at least for the first decade, for probably 80% of the legal challenges in the High Court to Government contract awards. But it distracted me from what might have been an alternative career as a specialist in international trade law – an area I still find fascinating – and a topic, the understanding of which, led me to set up a charity to develop trade capacity in Ethiopia.”

### Getting lucky

“Luck was with me. I managed, in the early days, to get brilliant lawyers to join me. Jonathan Kelly, Andy McConnell, Damien Young and Alice Whitaker joined very early on. It was they who made the firm a success. Suddenly, the firm grew from a half dozen to almost 200.”

The firm’s core philosophy was, and is, to create a supportive environment for lawyers to work in. “By way of example, we have just today finished a wonderful course on how to prepare women going on maternity leave, how to communicate with them on leave, and how to prepare them to come back to the firm afterwards, with a wonderful trainer, Sarah Courtney.

“The firm is still small compared to some of the bigger law firms, but there’s plenty of work. I would always try to maintain a good relationship with my other colleagues; I don’t necessarily see them as competitors. I see clients as people that I want to work with, and it’s really my relationship with the client that matters,” he says.

### Lasting legacy

In his spare time, Philip is a keen fencer, a sport he has pursued since the age of six.

“Perhaps, in my case, the sword is mightier than the pen! I was chair of Irish Fencing for several years and was, until last May, the reigning European Masters champion. That was and is a big thing in my life. I am still awaiting the freedom of the city and an open-top bus tour of Dublin city!”

**H**e’s also exceptionally proud of his children, and their social and humanitarian work. One is a deputy counsel at the ICC Court of Arbitration in Paris, another is working as a volunteer with refugees in Lesbos, while another is working in Nairobi with a French charity.

“My legacy, if any, on this planet will be my children,” he concludes.

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*Mary Hallissey is a journalist with the Law Society Gazette.*



# Family fortunes

There has been a narrowing of the grounds on which costs are awarded in matrimonial proceedings. Inge Clissmann SC and Ciara McLoughlin ask whether costs orders should be used as a tool to enhance matrimonial justice?

**he general rule in legal proceedings**, as all practitioners are aware, is that costs follow the event. Costs orders are framed as a binary win/lose parameter where an unsuccessful party bears the fees of a successful party. While understanding costs orders in terms of ‘victory’ or ‘loss’ is generally helpful in adversarial proceedings, it is somewhat problematic in the context of family-law proceedings.

As Barrett J rightly points out in *B v B*, family-law proceedings do not present the same win/lose scenario characteristic of most other legal actions: “I doubt there are many litigants who leave the family courts feeling that they have ‘won’. I suspect most people leave feeling a little dazed by all the emotions that have been at play. In most instances, the best that can be achieved in (and by) the court is a state of affairs that is not quite as bad as the state of affairs that pertained when the parties entered the courtroom.”

### Leading authority

The leading authority on costs orders in family-law proceedings is the 2005 decision of Mr Justice McKechnie in *BD v JD*. The judge dispelled the myth that there is a standing protocol against awarding costs in family-law proceedings: “I do not believe that any category of family-law case should, as a matter of principle, be exempt from these cost provisions. It cannot be right that litigation can be open ended without even the risk of any type of costs order ... I cannot accept that a court should be powerless to award costs even where the case, or the parties to it or their conduct within the proceedings, merit the making of such an order. If that were so, I firmly believe that both justice and the public would be ill served.”

In his view, there is a general rule against awarding costs in family-law proceedings, and a discretion to depart from the general rule where the interests of justice require it. He asserts that costs orders are



THERE COMES A POINT IN TIME WHEN THE SITUATION CHANGES; IT CHANGES WHEN THE LITIGATION BECOMES UNREASONABLY PROTRACTED AND BITTER AND, IN PARTICULAR, WHEN THAT HAS ARISEN BY REASON OF THE CONDUCT OF ONE OF THE PARTIES IN PARTICULAR

necessary in family-law proceedings to deter bad behaviour and to achieve the goals of finality and certainty in family-law litigation.

### A narrowing approach?

McKechnie’s judgment has been endorsed by the judiciary since its pronouncement almost 20 years ago. Mr Justice Jordan quoted it at length in his decision in *BR v PT* (2020). In this case, a husband brought an application for divorce a number of years after fully contested judicial-separation proceedings. Jordan J made a limited costs order against the husband for the following reasons:

- Upon initiating the divorce proceedings, the husband claimed to be regularising the terms of the judicial-separation proceedings. A year later, he drastically changed his claim, seeking significant orders for his financial provision.
- The wife’s solicitors made a reasonable open offer to the husband during the hearing. The husband vehemently refused

in writing, making unrealistic and covetous demands for his financial provision.

- The husband discharged his legal team, and represented himself in an obstructive and uncooperative manner. He failed to properly disclose his finances, issued multiple motions, and made allegations of criminal misconduct against the wife’s legal team.
- The husband’s strategic and tactical running of his case resulted in his wife unnecessarily accruing legal fees to defend herself.

While the factual matrix of the case clearly warranted the making of a costs order, one has to question whether the grounds for seeking a costs order are narrowing.

Jordan J observes: “It is true that there is still a tendency to consider family-law proceedings to be separate and apart from other types of litigation insofar as costs are concerned. Of course, that must be the situation in the initial stages of family-

law proceedings where the parties are endeavouring, with the assistance of the court, to untangle themselves from a failed relationship. But there comes a point in time when the situation changes; it changes when the litigation becomes unreasonably protracted and bitter and, in particular, when that has arisen by reason of the conduct of one of the parties in particular.”

Jordan J’s focus on a ‘turning point’ or ‘event’ in this particular case frames costs orders in family-law litigation in the traditional win/lose paradigm. Arguably, the idea that litigation has to be protracted and bitter in order to make an award of costs confines McKechnie J’s *dicta* to more limited sets of circumstances relating to the litigation process. Whereas McKechnie J appeared willing to make an award on broader holistic grounds, where:

- The case merits the making of an order,
- The parties to the case merit the making of an order, or

- The conduct of the parties within the proceedings merit the making of an order.

### Judicial aversion?

What is most interesting about the decision of *BR v PT* is that it showcases the perfect example of a situation where family-law litigation becomes unreasonably protracted and bitter – yet a full costs order was not made.

In the High Court case, the appellant failed on every ground of his unmeritorious divorce proceedings, and Jordan J stated that “the truth is that the court sees no good objection in principle to making a full order for the costs of the appeal against the appellant”.

Despite finding no objection in principle, the judge only awarded 20% of the wife’s costs to her, based on the facts of the case. Jordan J’s decision to make a partial award boils down to the husband’s willingness not to engage in further litigation and his limited financial resources.

In relation to the husband’s promise not to engage in future litigation, the court’s reasoning was somewhat conflicting. On the one hand, Jordan J stated that “the court is reluctant to accept an undertaking from the appellant in relation to future litigation. It seems that if the court did so, it might be said that the undertaking was extorted from him, on pain of otherwise suffering a costs order against him.”

**O**n the other hand, he concluded that the court “hears what Mr R says in relation to this litigation being at an end and is prepared to take him at his word. What he has said in that regard is influencing what it is going to do in relation to costs.”

These contrasting lines of reasoning are difficult to square with one another. Furthermore, it is somewhat peculiar that the court was unwilling to accept the appellant’s evidence in relation to every ground of his appeal, but was amenable on this particular point concerning further litigation. If anything, the court appears more ‘reluctant’ to make a costs order than to accept the appellant’s undertaking.

Secondly, with regard to the husband’s limited finances, it should be noted that he chose to bring a full appeal lasting four days and spend his resources on same, all the while depleting his former wife’s resources. His decision to appeal the decision of the Circuit Court, and his conduct therein, was clearly unwise and unwarranted. Nevertheless, his former wife was subjected to paying 80% of the costs she incurred as a result of his ‘mistakes’. If the judiciary are shying away from costs orders, even on the narrower ‘turning-point’ grounds, then what deterrent is there to bringing an unmeritorious appeal?

McKechnie J’s *dicta* are still quoted at length in all family-law cases concerning costs orders, but perhaps its force is a relic of the past.

### Motions and applications

Awarding costs for unwise motions and applications may be more palatable to judges and practitioners alike, as it aligns better with an orthodox understanding of costs orders.

In the decision of *BC v PK* (which issued four months after his previous judgment), Jordan J discussed costs orders in misconceived interlocutory applications. This case concerned an application brought by a father to dispense with the consent of the mother for their children to attend with a specific counsellor for the purpose of ongoing therapeutic care. As the specific counsellor prepared a section 47 report for the court, Jordan J held it was common sense that he should not be involved in counselling or therapeutic care on a continuing ongoing basis in order to maintain his independence while fulfilling his court duties under section 47. He awarded costs in favour of the wife for defending the application. Jordan J

again cited the judgment of McKechnie J in *BD v JD* as the *locus classicus* with regards to costs in family-law proceedings, and further stated that costs are awarded in the usual way regarding motions and applications: “It is the position when a court is dealing with substantive proceedings involving a resolution of a dispute concerning matrimonial assets owned by either one or both of the parties following a relationship breakdown that it will ordinarily make no order as to costs. This is so in circumstances where the court will, in the ordinary course of events, have regard to the cost of the litigation in deciding the issues in the case, including the division of the matrimonial assets. There is frequently evidence given in relation to those costs in the substantive proceedings. But where applications, such as motions of an interlocutory nature or applications such as this, after the resolution of matters, are made or brought, then the court is entitled to exercise its discretion in relation to an award of costs in the ordinary way.”

**J**ordan J was not stating that costs orders will be granted in all instances where a motion or an application fails in family-law proceedings, but rather where the application made is singularly unwise. This was underscored by Barrett J in *X v Y* (2020), where a mother sought a costs order against a father for bringing a motion for greater custody and access while divorce proceedings were pending. Barrett J refused to award costs in this case as the father brought the motion in good faith, and there was no requirement for him to wait for the hearing of the divorce case to ventilate issues relating to the children. He paraphrased McKechnie J, noting that the courts should be slow to award costs in family law litigation, but “if a case, or the parties, or the conduct of the parties merit the making of an order as to costs, such an order can be made”. In a further judgment, in *B v B* (2022), Barrett J refused to award costs against a former husband who successfully took a motion to reduce his monthly maintenance payments. He found that there was no compelling factor persuading the court to make a costs order, and again focused on the former husband’s legitimate entitlement to bring a motion of this nature.

### Access to justice

Of particular interest is Barrett J’s comments in *B v B* that difficulty paying legal fees is

not a sound legal basis for making a costs order: “There has been nothing in Mr B’s behaviour or in the manner in which these proceedings have been conducted, nor is there any other factor presenting, that would incline me to order that he should pay some or all of Ms B’s costs.

“I accept that Ms B may encounter some difficulty in meeting all of the legal costs that she has incurred in what have been fraught proceedings, and she has my genuine sympathy if this is so; however, that sense of sympathy does not offer a sound legal basis on which to order that some or all of her legal costs should now be paid by her ex-husband.”

**P**erhaps, on the facts of this case, the wife’s difficulty in paying her legal fees was not a compelling factor, as the husband also appeared to be struggling with his finances, given that he took a motion to reduce maintenance payable. However, if an inability to pay fees affects the proper provision afforded to the weaker spouse, it is indeed a compelling factor, as recognised by Hogan J in the Court of Appeal in *CC v NC*.

In the High Court decision, Abbott J made a decree of divorce conditional on the husband discharging his wife’s legal fees. Hogan J varied the form of the order in the Court of Appeal, but upheld the substance of the order. He made it clear that costs orders cannot be a precondition to divorce, but can be a necessary condition to achieve proper provision. He further stated that there are only four prerequisites to obtaining a decree of divorce under article 41.3.2 of the Constitution:

- 1) The spouses have lived apart for at least four years,
- 2) There is no prospect of reconciliation between the parties,
- 3) Proper provision must be made for the spouses, any children of either or both of them, and any other person prescribed by law, and
- 4) Any further conditions prescribed by law must be complied with.

**I**n terms of making an order for costs, Hogan J took a broad holistic view of the matrimonial pot rather than focusing on any acrimony or bitterness between the parties. Of course, it is noted that family-law judges always consider the legal costs of each

UNFORTUNATELY, THE REALITY IS THAT TIME IS MONEY IN LEGAL PROCEEDING, AND WITH EVERY DELAY COMES AN INCREASE IN COSTS FOR THE WEAKER SPOUSE AND MORE TIME IS SPENT STRUGGLING TO MAKE ENDS MEET

party, as sworn in their affidavit of means, in their overall assessment of the marital pot. However, there is very little discussion of how legal fees are taken into account in most reported judgments, and costs orders are rarely made in this regard.

### Equality of arms

Using costs orders more regularly may facilitate access to matrimonial justice by enabling both sides to have equal representation. Oftentimes, an impecunious client (that is, the dependant spouse) is forced to face a situation where they cannot obtain any, or at least equal, legal representation due to a lack of finances. In order to run a divorce case, clients engage legal representation, obtain valuations and accountants’ reports, and should ideally have the same number of counsel on each side. In most cases, the dependant spouse has to borrow money to bring divorce proceedings, which subsequently has to be repaid. Fees are generally paid out of a lump sum awarded to the dependant spouse, rather than a specifically designated costs order, frequently leaving little for the dependant spouse by way of financial provision.

Costs orders could be used to ringfence legal fees, which would level the inequality of arms where the distribution of assets between the parties, prior to the separation, demands it. Costs orders in family-law proceedings should not be understood in win/lose terms (as in civil litigation), but rather on a spectrum of promoting fairness where a case, its parties, or their conduct therein merits it.

### Delaying tactics

For a court to focus on an ‘event’ or a ‘turning point’ reorients the emphasis away from provision (as outlined above) and onto conduct. Jordan J’s decisions of *BR v PT* and *BC v PK* appropriately redress the behaviour of both husbands in circumstances where they took avaricious and heedless applications. However, difficulty regularly

arises where there is no key turnabout, but a party engages in dilatory, obstructive, or delaying behaviour.

Often clients delay proceedings by failing to exchange vouching or by failing to provide financial disclosure in a timely manner, or by inappropriately asking for adjournments at the direction’s list or case progression. This has very real consequences for a dependant spouse who faces increasing costs and delays. Unfortunately, the reality is that time is money in legal proceedings, and with every delay comes an increase in costs for the weaker spouse and more time is spent struggling to make ends meet. Arguably, costs orders could be effectively employed to encourage more expeditious litigation. Looming costs orders could prevent cases lying dormant for months on end and improve access to justice through the speedy and efficient resolution of matrimonial disputes.

**V**iewing costs orders as inherently adversarial results in their limited usage in family-law proceedings.

Recasting costs orders as a fairness spectrum, in line with previous judicial *dicta*, may encourage their usage in a broader set of circumstances to enhance matrimonial justice where (a) there is an inequality of arms, and (b) there is dilatory or bad behaviour.

*Inge Clissmann SC is a fellow of the International Academy of Family Lawyers. Ciara McLoughlin is a legal researcher studying for the Bar.*

## LOOK IT UP

### CASES:

- *B v B* [2022] IEHC 622
- *BC v PK* [2020] IEHC 432
- *BD v JD* [2005] IEHC 154 (unreported, 4 May 2005)
- *BR v PT* [2020] IEHC 205
- *CC v NC* [2016] IECA 410
- *X v Y* [2020] IEHC 579

PIC: ALAMY



The international transfer of personal data spun off the information superhighway when the CJEU invalidated Privacy Shield certification as a transfer mechanism in 2020.

The new *EU-US Data Privacy Framework*, adopted in July, seeks to get things back on the road. Elaine Morrissey hits top gear



**On 10 July 2023**, the European Commission adopted its adequacy decision (approval) for the *EU-US Data Privacy Framework (DPF)*, entering into force with immediate effect. This means that there is now a valid transfer mechanism for those companies that certify to the DPF (in essence, 'Privacy Shield 2.0'). This is very welcome and anticipated news for global organisations and for EU organisations engaging vendors in the US. This means that EU organisations can transfer EU personal data to organisations in the United States who certify to the DPF. Certification to the DPF, in essence, bolsters an organisation's privacy framework.

One mechanism to transfer personal data from the EU to the US was Privacy Shield certification. The *EU-US* and *Swiss-US Privacy Shield Frameworks* were designed by the US Department of Commerce, the European Commission, and the Swiss administration to provide companies with a mechanism to comply with data-protection requirements when transferring personal data from the EU and Switzerland to the US.

However, in 2020, the Court of Justice of the EU invalidated the Privacy Shield certification as a transfer mechanism.

Following the invalidation of Privacy Shield, many organisations sought to rely on standard contractual clauses (SCCs) as a transfer mechanism – and many readers will be all too familiar with the challenges of SCCs. It's been a bumpy ride – but help is here!

While Privacy Shield could no longer be relied on as a transfer mechanism, over 2,500 organisations continued to self-certify to the framework in anticipation that a new framework would come into place. (That number is higher when you include 'covered entities'. For example, while Amazon is one listing, it has five covered entities.)

The EU and the US had been working on an updated framework since the invalidation of Privacy Shield as a transfer mechanism.

### Update

On 10 July 2023, the EC adopted its adequacy decision (approval) for the EU-US DPF, which entered into force with immediate effect. This means that there is now a valid transfer mechanism for those companies that certify to the EU-US DPF. It is different to other adequacy decisions because, to avail of the benefits of the adequacy decision, organisations have to certify to the *Data Privacy Framework*. For organisations already operating to a GDPR standard, this certification is relatively straightforward.

For US-based companies dipping a toe into the EU market, however, there is much to do to meet the standard in advance of submitting an application. Certifying organisations must commit to comply with a detailed set of privacy obligations – this includes complying with GDPR-style principles: for example, purpose limitation, data minimisation, and data retention, as well as specific obligations concerning data security

and the sharing of data with third parties.

The new *Data Privacy Framework Programme* is the first stop for information on certification.

**T**he adequacy decision also supports other transfer mechanisms, for example, the use of SSCs and binding corporate rules. This is welcome, in light of a recent Irish Data Protection Commission decision against Facebook/Meta, which, in essence, found that the SCCs and Meta's supplemental measures were not sufficient, due to US surveillance of data and a lack of redress for individuals. The DPF addresses the key issues in the Facebook/Meta decision.

For those organisations that retained their Privacy Shield certification, they now breathe a sigh of relief as they are rewarded for their loyalty. Such organisations have automatically transitioned to DPF and have been able to immediately rely on DPF as a transfer mechanism.

### Who does this affect?

This is very good news for global organisations and for companies engaging vendors/suppliers in the US. The mammoth task set by SCCs and the need for supplementary measures was, in essence, impossible for any one organisation to achieve – organisations were tasked with making adequacy decisions themselves. The DPF also assists those relying on SCCs to transfer data from the EU to the US.

The list of those certified to DPF is publicly available on the DPF website and includes some household names, for example, Microsoft, Adobe, Amazon and Workday.

The decision also has had a positive impact on the need for transfer impact assessments (TIAs). The CJEU decision (and subsequent guidance) made it clear that data exporters

must conduct TIAs to assess, on a case-by-case basis, if the laws of the third country have an impact on the efficiency of the SCCs. This was, effectively, an impossible task for any organisation, which was seen in the DPC decision against Facebook/Meta.

For those relying on the DPF, a transfer impact assessment will technically not be needed, as the adequacy decision for the DPF replaces the adequacy assessment in the TIA. However, it is noted that we are only talking about the US here. If organisations are transferring EU personal data to countries outside the EU, and those countries do not have adequacy decisions, a suitable transfer mechanism will be required, together with consideration of supplementary measures and TIAs.

### Data subjects

Who and what is the EU trying to protect?

The EU is protecting individuals (data subjects) within the EU and aiming to ensure that the level of protection their data has within the EU travels with that data.

**A**s referred to, one of the biggest gaps was the lack of redress for individuals. However, this gap has now been closed. Data subjects in the EU can submit a complaint to their national supervisory authority – in the case of Ireland, the Data Protection Commission – to make use of the new redress mechanism about the collection and use of their data by US intelligence agencies. The supervisory authority will transmit the complaint to the relevant US authorities. The supervisory authority will ensure that the data subject is provided with information regarding the complaint-handling process and the outcome of the complaint. This ensures that individuals can turn to their local supervisory authority in their own language.

Complaints will be transmitted to the US by the European Data Protection Board. First, complaints will be investigated by the Civil Liberties Protection Officer of the US intelligence community. This person is responsible for ensuring compliance by US intelligence agencies with privacy and fundamental rights.

Second, individuals have the possibility to appeal the decision of the Civil Liberties Protection Officer before the newly created Data Protection Review Court (DPRC). This court is composed of members from outside the US Government who are appointed on the

DATA SUBJECTS IN THE EU CAN SUBMIT A COMPLAINT TO THEIR NATIONAL SUPERVISORY AUTHORITY – IN THE CASE OF IRELAND, THE DATA PROTECTION COMMISSION – TO MAKE USE OF THE NEW REDRESS MECHANISM ABOUT THE COLLECTION AND USE OF THEIR DATA BY US INTELLIGENCE AGENCIES



## THE EU IS PROTECTING INDIVIDUALS (DATA SUBJECTS) WITHIN THE EU AND AIMING TO ENSURE THAT THE LEVEL OF PROTECTION THEIR DATA HAS WITHIN THE EU TRAVELS WITH THAT DATA

basis of specific qualifications, who can only be dismissed for cause (such as a criminal conviction or being deemed mentally or physically unfit to perform their tasks) and cannot receive instructions from the government.

The DPRC has powers to investigate complaints from EU individuals, including to obtain relevant information from intelligence agencies, and can take binding remedial decisions. For example, if the DPRC found that data was collected in violation of the safeguards provided in an executive order, it could order the deletion of the data.

In each case, the court will select a special advocate with relevant experience to support the court, who will ensure that the complainant's interests are represented and that the court is well informed of the factual and legal aspects of the case. This will ensure that both sides are represented and introduce important guarantees in terms of fair trial and due process.

**O**nce the Civil Liberties Protection Officer or the DPRC completes the investigation, the complainant will be informed that either no violation of US law was identified, or that a violation was found and remedied.

At a later stage, the complainant will also be informed when any information about the procedure before the DPRC – such as the reasoned decision of the court – is no longer subject to confidentiality requirements and can be obtained. This new redress mechanism is available to individuals across the EEA, as the EU, Iceland, Lichtenstein, and Norway were designated as ‘qualifying states’ by the US Attorney General on 30 June 2023.

### What about the UK?

The adequacy decision sets the stage for the proposed UK extension to the DPF, facilitating data flows between the UK and the US to be introduced under UK law. Such a framework requires the US to designate the UK as a ‘qualifying state’ and the UK Secretary of State to issue an adequacy decision. The Department of Commerce has issued an advisory that, from 17 July 2023, US organisations that are part of the DPF can also self-certify for the UK extension, but cannot rely on it for UK personal-data transfers until the UK adequacy regulations come into force. There is no clear timeline for establishing the UK extension, but this is understood to be a priority.

The UK and US have reached a commitment to establish the *UK Extension to the Data Privacy Framework*, which will create a ‘data bridge’ between the two countries.

Similar to the UK, on 17 July, the Swiss-US DPF also became operational. Entities certified under the *Swiss-US Privacy Shield Framework* will transition to the DPF. However, as with the UK, transfers cannot be made until Switzerland issues an adequacy decision.

### All good news?

While this is good news from an EU-US perspective, it is highly likely that the DPF will be challenged. However, the EU and the US are confident that the DPF can withstand any such challenge.

International transfers are still a taxing topic, for example, those transferring data from China are currently in the process of navigating complex obligations, documentation, and certification or registration with relevant regulators.

The decision will be reviewed within one year and, thereafter, at least every four years. Those certified to the DPF will be monitoring the outcome of these reviews.

In summary, good news for now, with a few more bumps along the road, and plenty of challenges for solicitors and organisations operating in this space.

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*Elaine Morrissey is a member of the Law Society's Intellectual Property and Data Protection Law Committee and is assistant global DPO at ICON.*

## LOOK IT UP

### LITERATURE:

- ‘Adequacy decision for safe EU-US data flows’ (press release, European Commission, 10 July 2023)
- ‘All over the world’ (*Law Society Gazette*, June 2022)
- Data Privacy Framework Program: [www.dataprivacyframework.gov](http://www.dataprivacyframework.gov)
- ‘Information note on data transfers under the GDPR to the United States after the adoption of the adequacy decision on 10 July 2023’ (European Data Protection Board)
- ‘UK and US reach commitment in principle over data bridge’ (press release, Department for Science, Innovation and Technology and Chloe Smith MP, published on 8 June 2023)

# EYE

## of the beholder

Unconscious bias and its influence on decisions and judgments should not be underestimated.

Conor Kennedy looks at the impact of bias in tax-dispute decisions – and the steps practitioners can take to help achieve objective determinations



**According to the Harvard** TH Chan School of Public Health, “the human brain is hard-wired to make quick decisions that draw on a variety of assumptions and experiences without us even knowing it is doing so, meaning that our unconscious predispositions can influence our decision-making”. Those predispositions, in the form of unconscious or implicit bias, are shaped from “past experiences, to our cultural environment, to the influence of our social community and media around us”.

The Tax Appeal Commission, and indeed members of the judiciary, are fundamentally aware that impartiality is essential to the proper discharge of their duties, and that those duties should be performed without fear or favour, affection or ill-will, bias or prejudice. With the best of intentions taken as a given, those decision-makers must also be acutely aware of the significance of unconscious bias and its influence over the outcome of their decisions and judgments.

In the regularly cited judgment concerning judicial bias, *In re Medicaments and Related Classes of Goods (No 2)* ([2001] WLR



700), the Court of Appeal of England and Wales cautioned: “Bias is an attitude of mind which prevents the judge from making an objective determination of the issues that he has to resolve. A judge may be biased because he has reason to prefer one outcome of the case to another. He may be biased because he has reason to favour one party rather than another. He may be biased, not in favour of one outcome of the dispute, but because of a prejudice in favour of or against a particular witness, which prevents an impartial assessment of the evidence of that witness. Bias can come in many forms. It may consist of irrational prejudice or it may arise from particular circumstances,

which, for logical reasons, predispose a judge towards a particular view of the evidence or issues before him.”

This article focuses on the types of biases affecting the outcome of tax disputes – and the steps that practitioners should take to assist decision-makers to deliver an objective determination.

### Types of bias

Types of bias evolve over time, with gender, age, race, and sexual orientation receiving most media attention. The following forms of bias are relevant to decision-makers in resolving tax disputes:

1) *Anchoring bias* – caused by initial impressions and discounting the

significance of new information as it becomes available,

2) *Safety bias* – the tendency to rule against a taxpayer where there is some doubt over the credibility of a taxpayers’ portrayal of the facts or their understanding of the law,

3) *Positive bias or ‘halo effect’* – refers to a type of cognitive bias whereby our perception of someone is positively influenced by our opinions of their personal traits, qualifications, or social standing,

4) *Confirmation bias* – places disproportionate weight on existing beliefs, and

5) *Overconfidence bias* – the overestimating by decision-makers of their own experience or expertise.

### Anchoring bias

Decision-makers are more likely to listen to and consider the submissions and arguments of practitioners who have a reputation for honesty, integrity, and competency. While there is no questioning the honesty and integrity of the vast majority of accountants, tax agents, and lawyers, issues of competency can undermine a practitioner's credibility.

If known to the Tax Appeals Commission or the courts, the first-impression hurdle will be overcome. However, one must not be complacent, and due care and attention must be given not only to the initial submissions, but also to the subsequent carriage of the proceedings. Anything that undermines the perception of decision-makers requires greater effort in attempting to restore their confidence.

**T**hose practitioners who are new or are infrequent visitors to the Tax Appeals Commission or courts should be conscious of the importance of demonstrating their professionalism and competency to ensure that they give a good initial impression.

As part of the system of checks and balances in the legal process, a decision from the Tax Appeals Commission can be appealed to the High Court on a point on law, with a further right of appeal to the Court of Appeal. This review mechanism is an important focal point for decision-makers to ensure that their decisions are objective, fair and well-reasoned.

### Safety bias

As in all disputes, it is essential to identify the issues in dispute, the goal to be achieved, and the steps required to achieve

that goal. In advance of the hearing, a document should be prepared that identifies all the facts to be proven and the manner in which they must be proven, with reference to the rules of evidence.

While the practitioner can only do so much, the evidence must be given by their clients and/or nominated witnesses. Any omissions in fact, discrepancies, or proven contradictions in their evidence undermines credibility. Any doubt over the evidence or legal submissions will make it harder to steer the appeal commissioner or judge away from the safety bias.

### Positive bias

The appeal commissioners and judges are general practitioners and heavily rely on the expertise and knowledge of the practitioners appearing before them. When an experienced barrister appears on behalf of Revenue against a lay litigant or a solicitor from a small firm, there is an unconscious tendency to attribute a positive bias to the barrister. While barristers are specialist advocates, there are many competent solicitors and tax practitioners who possess a greater knowledge and experience of the law in dispute. To underestimate their competence is a mistake.

### Confirmation bias

Confirmation bias involves the perception and interpretation of facts that underlie existing beliefs. Confirmation bias can lead to a distorted understanding before properly examining any alternative.

### Overconfidence bias

It is very easy to fall into the overconfidence bias trap. In *Bookfinders Ltd v Revenue Commissioners* ([2020] IESC 60), the Chief Justice magnanimously admitted that: "My observations on the issue of statutory interpretation in the *O'Flynn* case were *obiter*. On reflection, they were, I think, unnecessary, incautiously expressed, and made without the benefit of opposing arguments. In particular, I think it was wrong to use the loaded word 'purposive' and to further suggest that the *Interpretation Act* mandated such an approach in respect of taxation legislation."

**A**ny successful entrepreneur would not have made the commercial breakthrough without overconfidence. Therefore, while overconfidence bias does not always lead to poor decisions, an element of restraint and self-reflection is required.

### Solid foundations

The Tax Appeals Commission had a busy year in 2022, having resolved 2,600 tax disputes and issued 166 written determinations. The standout headline from those statistics is that over 90% of cases settled before hearing. This is significant, and could reflect the decision of practitioners to reconsider their client's position if there is any issue with evidence or the legal foundations of the case.

Other than the tax-repayment type of appeals, whereby the basis for the decision is binary – either a valid claim has been made within four years or it has not – most cases concern evidential issues. In 80% of those cases, there was a failure to provide evidence or the wrong type of evidence to enable the appeal commissioner to overturn the Revenue assessment, leading to a finalisation of the taxes due. Therefore, the absence or the credibility of the evidence was instrumental in losing the confidence of the appeal commissioner.

**IN MANY DISPUTES, REVENUE WILL HAVE FORMED AN INTERPRETATION OF THE LEGISLATION CONTRARY TO THE TAXPAYER'S SUBMISSION, WHICH SHOULD BE COUNTERED BY WELL-BALANCED AND REASONED ARGUMENTS**



## SOME PRACTITIONERS USE SPURIOUS ARGUMENTS OR ARGUMENTS THAT POSSESS LITTLE LEGAL MERIT. THOSE ARGUMENTS TEND TO UNDERMINE ALL OF THE GOOD ARGUMENTS AND CAUSES A JUDGE OR AN APPEAL COMMISSIONER TO QUESTION THE PRACTITIONER'S PROFESSIONAL COMPETENCE AND TECHNICAL ABILITY

On many occasions, there will be facts that undermine a taxpayer's position. In those types of situations, it is advisable to address them head on and thereafter attempt to ameliorate their effect. Doing so enhances credibility, honesty, and integrity, and also reduces the potency of the unfavourable evidence to be adduced against the taxpayer at a later stage.

### Expert evidence

Expert evidence is also crucial in convincing a court or an appeal commissioner. In many of these cases, there is no real issue about the interpretation and application of the law. Obvious examples include share valuations or transfer-pricing disputes. Therefore, the capability of the expert is paramount.

**T**aking time to research the legislation governing the transaction, together with the supporting case law, is a prerequisite to ensuring that the case is well presented and gives a taxpayer the best opportunity in succeeding to get a decision-maker comfortable with ruling favourably. The more capable the presentation, the greater the

confidence instilled in the decision-maker.

In many disputes, Revenue will have formed an interpretation of the legislation contrary to the taxpayer's submission, which should be countered by well-balanced and reasoned arguments. Similarly, there will be case law that undermines the taxpayer's submissions. In such a situation, the adverse judgments should be addressed and ideally distinguished for the purposes of reducing their potency.

When presenting their cases, some practitioners use spurious arguments or arguments that possess little legal merit. Those arguments tend to undermine all of the good arguments and cause a judge or an appeal commissioner to question the practitioner's professional competence and technical ability. It also persuades the decision-maker to rely on a submission or argument whose provenance is more reliable or less risky.

### Remaining vigilant

Decision-makers strive to maintain impartiality and uphold the principles of justice and fair procedures. However, biases can unwittingly influence the decision-

making process. Proper training for decision-makers and the need for vigilance regarding unconscious bias will lead to an improvement in decision-making and ensure that the correct legal interpretation is applied to presented evidence. Furthermore, the system of checks and balances, such as appeals and judicial review, help mitigate the impact of bias and promote fairness in the tax-appeals and judicial system.

**T**herefore, in advance of a hearing, practitioners should prepare well and identify and be able to present all of the evidence. Well-balanced and logical legal arguments will thereafter enhance credibility and competency. Finally, be aware that unconscious bias can influence all of our decisions and, therefore, giving a good initial impression and maintaining professionalism and competence throughout the dispute process will greatly assist a decision-maker.

*Conor Kennedy is a barrister and head of tax strategy and disputes at EY Law.*

## LAW SOCIETY LIBRARY AND INFORMATION SERVICES – WE DELIVER!

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# Shaping your profession's future

Nominations for the Law Society's Council opened on 1 September and will close on 25 September 2023. For the first time in the Society's history, the election will take place online. Your Law Society needs you, so why not put yourself forward?

WE'RE CURRENTLY DEVELOPING A NEW STRATEGY FOR THE COUNCIL AND FOR THE LAW SOCIETY THAT MUST FULFIL THE FUTURE NEEDS OF THE PROFESSION. THE LANDSCAPE HAS CHANGED, AND WE NEED TO HAVE A COUNCIL THAT IS REFLECTIVE OF THE PROFESSION

**A**fter an 11-year stint on the Law Society Council, solicitor Chris Callan can now take a long and measured view of what's involved in the role. He firmly believes that those standing for election to Council must not confine themselves to representing any one particular constituency, but must take a more holistic view of the law as a regulated profession, with a strong public-interest remit.

With a refreshed executive leadership team now bedded in at the Law Society, Callan believes that there are exciting times ahead for those serving on Council: "There's a lot of scope for change and evolution in the next ten years," he observes.

Callan qualified in 1988 and, soon after, began working in the family practice in Boyle, Co Roscommon. After a merger in 2008, the firm became the much larger entity of Callan Tansey, which now has five regional offices and is known for its expertise in medical negligence.

## Shaping the response

Chris's initial introduction to Law Society committee work came when he was asked by his

cousin (then President Donald Binchy) to join the Future of the Law Society Task Force, which was being set up to help shape the Society's response to the publication of the *Legal Services Regulation Bill* in 2011.

That work was a valuable exercise in learning, Chris says. It opened the possibility of serving on Council, to which he was duly elected in autumn 2012: "I regret that I didn't try for Council earlier in my career, but that's hindsight," he says. "However, my focus until then had been on growing and expanding our own firm.

"I have really loved being on Council, it has been a fantastic experience. I started in the Regulation of Practice Committee and was very fortunate that, within a couple of years, I was chair of what was a quasi-judicial forum. It gave me a real insight – most of the solicitors who came before the committee were those whose practices had just got away from them, and they couldn't quite catch up. Then they got stressed and into trouble.

"The reality is that the Law Society has a public-interest function and has to make sure that the interests of clients are being protected," he notes.



Chris Callan

"Then I moved on to the Money-Laundering Reporting Committee, which I'm still on. That was invaluable to me, both professionally and personally. You gain a huge amount of personal growth when you're working with people of the calibre of those working for the Law Society and colleagues on Council. It was an absolute privilege, and I also saw very clearly, at first hand, the amount of work done by people working in the Law Society."

Chris subsequently became chair of the Finance Committee, which had the job of steering the Law Society sustainably through the COVID era while attempting to maintain Law Society services

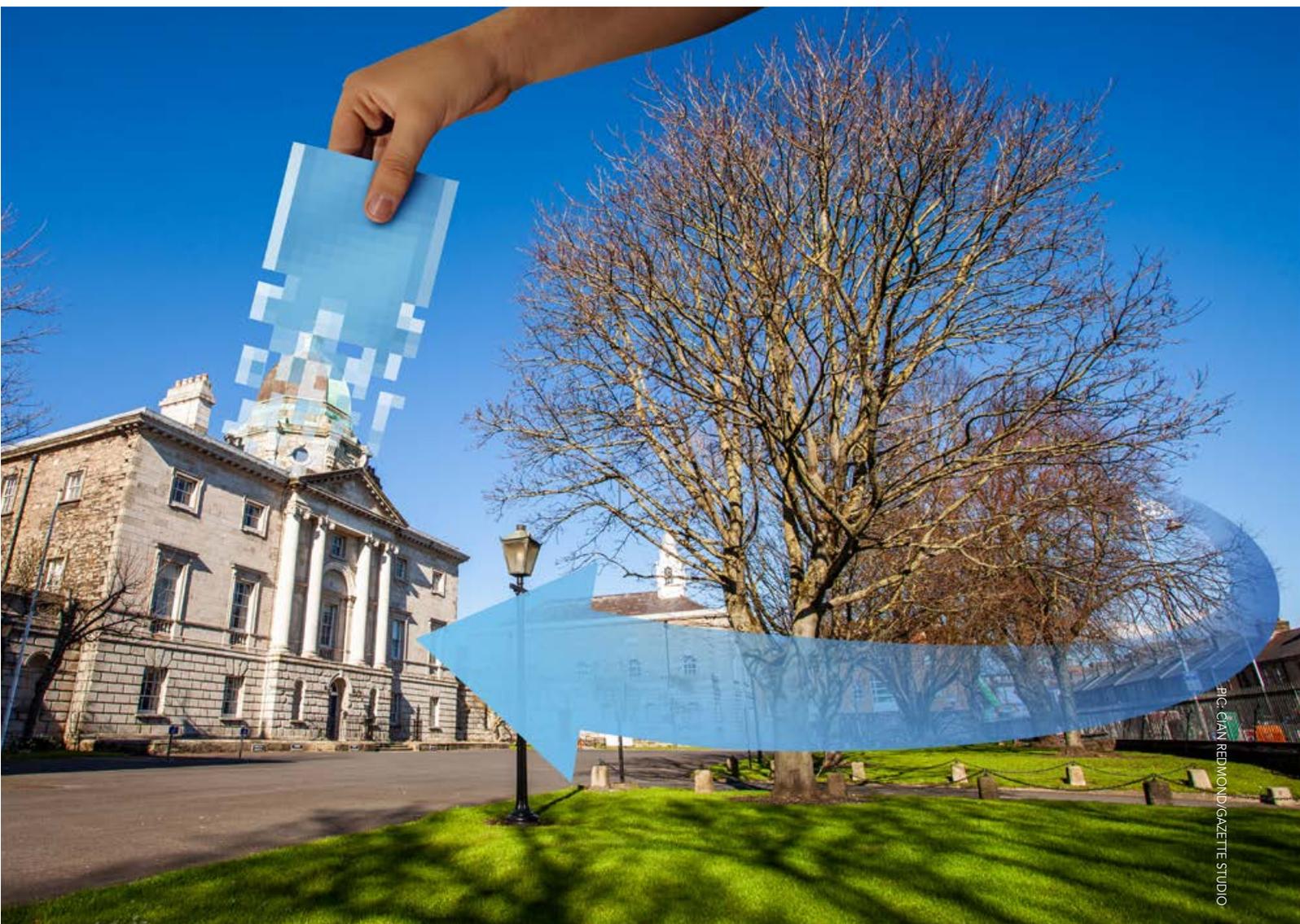


FIG. GIAN REDMOND/GAZETTE STUDIO

and managing expenditure.

He strongly encourages any solicitor who feels they would enjoy such learning and experience to consider running for Council. “They will gain an insight into the profession and a network of friends and colleagues that is hugely beneficial.”

The time commitment is significant, he notes, but one that comes with a huge pay-off: “The reality is, the busier you are, the more you get done!” he says. “If you make the commitment, you make the time.”

### Getting involved

Chris recommends anyone thinking of standing to get involved with a Law Society committee first. “The truth is that it took me a while to read myself into the job of being on Council. It does help if you’ve got an understanding of how the Law Society itself works, the various departments and directors’ areas, and how they fit together.”

What type of people does he feel the Council now needs?

“We’re currently developing a new strategy for the Council and for the Law Society that

must fulfil the future needs of the profession. The landscape has changed, and we need to have a Council that is reflective of the profession. That’s the most important thing.

“It’s a truism that every solicitor looks at the profession through their own work/life experience. But, of course, the Law Society and the profession are becoming ever more diverse.

“We must try to have a Law Society Council that considers the way society is moving, and gives voice to the various interest groups and segments in the profession, such as

increasing female participation and the greater role of the in-house sector,” he adds.

That said, Callan cautions would-be Council members against a too heavily weighted ‘sectoral approach’ to the job: “The real challenge for the individual on Council is to leave aside your own perspective and the temptation to see everything through that prism,” he says.

“In truth, you’re not there to represent a constituency – you’re there to represent the profession.”

No one sector should be allowed to dominate, he



SIGNIFICANT CHANGE LIES AHEAD FOR THE LEGAL PROFESSION, SO IT'S IMPERATIVE THAT YOUNGER MEMBERS HAVE THEIR VOICES HEARD AT LAW SOCIETY COUNCIL LEVEL IN ORDER TO SHAPE THEIR FUTURE

believes – whether that's the sole practitioner or the big firm. "You're not only serving the members you represent, but you're also serving and protecting the public interest," he states firmly. "If the profession is to remain strong and vibrant into the future, it will only do so if it really understands the public interest."

#### **A young hand at the tiller**

Fiona McNulty, a senior associate on the Mason, Hayes & Curran healthcare team, was elected to Council by its members following the unexpected death of solicitor Richard Grogan.

At the time, Fiona (34) was chair of the Younger Members' Committee, a position that

propelled her move on to Council. "I was elected by Council in a somewhat unusual way. Candidates putting themselves forward in the upcoming elections will be going the more traditional route," she explains.

Fiona believes that significant change lies ahead for the profession, so it's imperative that younger members have their voices heard at Council level in order to shape their future.

#### **Settling in?**

Fiona qualified in 2016 and initially worked in criminal defence before moving to MHC, which she describes as a progressive, modern, and outward-looking firm. She spends much time in court and



Fiona McNulty

specialises in child-care and capacity law.

Was it difficult to settle into sitting on Council?

"There is a lot to take in and learn, the workload is significant, and there was a lot of learning and reading, right from the start. But fellow

Council members were hugely welcoming and supportive, and very collegial in sharing advice and guidance,” she explains.

“In terms of workload, Council meetings are every six to eight weeks, and you need to devote almost the full day to the Council meeting, as well as preparation time. There is an expectation that members of Council will participate in various committees,” she adds.

“I was fortunate to have the full support of my firm in taking on the role. I do think it’s important that law firms – whether big or small – should encourage and facilitate their younger lawyers to be involved in committees, or to run for Council.”

So, while the workload is a significant commitment, Fiona believes it is fully achievable, with employer support.

### Priceless experience

While Council currently benefits from the priceless experience of very senior lawyers, Fiona believes that the younger members of the profession need to make sure that they have their say as well.

Those considering running should have a clear sense of what they wish to achieve, she suggests: “My role on Council is similar to the mandate of the Younger Members’ Committee – to represent the interests of, and advocate for, younger members. Others may have a different mandate.

“Have a clear sense of what you would like to achieve if elected, in terms of your priorities,” she suggests.

“The Law Society is currently formulating its strategy for 2024 onwards, and there’s a lot of competing interests in there. Younger members want to know that they will have some level of work/life balance, the right support structures in their

workplace, and opportunities for mentorship, advancement and promotion.

“I think career supports are a big part of that early stage of one’s career,” she says. “I am also trying to increase the sense of community within the legal profession. Many younger members are training within large corporate firms, and they get a lot from within their firm, but it can mean that the profession is a little bit more disjointed.”

Fiona’s goal is to build lateral collegiality across the profession and to create a network of younger lawyers and trainees, particularly in a climate of increasing movement and career mobility. Younger members

have their own agenda, which may be at variance with that of more senior lawyers, she points out, but “we need to work together”.

“I think younger members of the profession don’t necessarily want to work in the same way that lawyers have always worked. That was shown in a survey conducted two years ago by the Younger Members Committee.

“The profession will look very different in ten or 20 years’ time, and younger members have an opportunity now to influence what it will look like.”

*Mary Hallissey is a journalist with the Law Society Gazette.*

LAW FIRMS SHOULD ENCOURAGE AND FACILITATE THEIR YOUNGER LAWYERS TO BE INVOLVED

## LAW SOCIETY COUNCIL ELECTIONS 2023/24

Any solicitor holding current Law Society membership is welcome to put themselves forward each year for election to the Council for a two-year term.

The Council’s purpose is to act “for the better rule and government of the Society, and for the better direction and management of the concerns thereof”. Comprising 31 elected members, four provincial delegates, and 13 nominated members, the Council represents the Law Society and its members, both in the interests of the public and of the solicitors’ profession generally.

At least eight meetings are held annually on a hybrid basis to discuss a variety of matters, including reports from committees, assigning working groups and task forces, and selecting Society representatives to a variety of bodies.

The greater the diversity of membership across different areas of law, experience, geographic location and practice type, the more representative the Council will be. So, why not get involved?

### TAKING THE FIRST STEP

First of all, you will need to be nominated by two other Law Society members – neither of these can be an existing office holder.

This year, as part of the Law Society’s

‘digital-first’ policy, the nomination process will be conducted online, so whether you’re putting yourself forward or supporting a colleague’s nomination, you will need to login with your solicitor number and password. Nominations and voting will take place through the Law Society’s website ([www.lawsociety.ie](http://www.lawsociety.ie)), so you will need to know your solicitor number and password ahead of time.

### KEY DATES:

- 1 September – nominations open online on [lawsociety.ie](http://lawsociety.ie),
- 25 September – nominations close at 5pm,
- 12 October – closing date for sending in your canvassing profile (up to 500 words),
- 20 October – e-voting opens: login to [lawsociety.ie](http://lawsociety.ie) to get access to the secure e-voting system,
- 2 November – e-voting closes at 5pm,
- 9 November – election results announced at the AGM at Blackhall Place.

For further information, visit [lawsociety.ie/elections](http://lawsociety.ie/elections). Council election queries should be emailed to [councilelections@lawsociety.ie](mailto:councilelections@lawsociety.ie). Website login queries should be sent to [webmaster@lawsociety.ie](mailto:webmaster@lawsociety.ie).

# Safe haven

Insurers are understandably slow to quote clients who have weak IT systems. Cyber-insurance specialist Clare Fitzgibbon addresses some issues

SOLICITORS SHOULD ENSURE THEY HAVE GOOD SYSTEMS' PROTECTION IN PLACE. PREVENTION SHOULD BE THE PRIORITY. THE PURCHASE OF CYBER-INSURANCE SHOULD BE CONSIDERED AN ADDITIONAL LAYER OF PROTECTION FOR YOUR FIRM

Cyber-insurance is a speciality insurance product, designed to help law firms pay for financial losses that may occur in the event of a cyber-attack or data breach. Such an attack could potentially result in costly business-interruption costs, as well as significant legal, regulatory, and breach expenses when client information is compromised. This insurance is designed to help offset these financial impacts.

## What does it cover?

The product helps cover costs related to the remediation process, such as investigation, crisis communication, cost of legal services, and refunds to affected persons.

It is important to note that not all policies provide the same coverage. Solicitors should have a detailed consultation with their broker to consider and compare different policies and the level of cover involved. Solicitors should consider what their potential liability will be if they suffer a cyber-attack. Such consideration will assist determine the appropriate level of cover required. Solicitors should consider if their policy should extend to both first-party cover (damage to the solicitor's firm) and third-party liability (liability to third parties).

Solicitors should understand how their PII policy and cyber-policy will interact – for example:

- Will both be triggered by a cyber-attack? If so, which policy will respond first?
- How will excesses be dealt with?

## Why have cyber-insurance?

Solicitors are prime targets because of the amount of sensitive client information they hold on their computers and devices, such as clients' intellectual property, personal data, and financial information. Client funds are also a lucrative asset. A theft of the above can result in:

- Expensive business-interruption recovery costs,
- Cyber-extortion,
- IT-security-breach investigation and response costs,
- A client or supplier taking legal action against your business, and
- Regulatory fines.

Firms of all sizes, including sole practitioners, must be considered vulnerable, not least as even sole practitioners manage client accounts and hold client-sensitive information.

*Does standard PI insurance cover any cyber-risk?* Even if the PI product offers an element of cyber-cover, the majority of solicitors do not want potential cyber-claims or incidents to affect their PI insurance, as they are reliant on their PI insurance in order to open the doors of their businesses. This is the reason why the majority opt for

a separate stand-alone cyber-insurance product.

*What does cyber-insurance exclude?* Exclusions will vary between insurers, so it is important to understand applicable terms and conditions. Speak to your broker or insurer directly if you are unsure about any exclusions to your cover.

*Do solicitors need cyber-insurance?* Yes. Solicitors are prime targets and have suffered significant losses during and since the pandemic. However, cyber-insurance is not a replacement for good risk-management practices in your firm. Solicitors should ensure they have good systems' protection in place. Prevention should be the priority. The purchase of cyber-insurance should be considered an additional layer of protection for your firm.

## Mitigating risk

As cyber-insurance underwriters have changed their position on underwriting, chances are that the solicitor will not be able to obtain a quote for cyber-insurance without providing confirmation that they have secure systems in place. Insurers understandably do not seek to quote clients who have weak IT systems, as they are more prone to a large loss. As a result, it is a win/win situation for solicitors to have secure IT systems in place. We work with insurers who can 'ethically hack' or 'ping' your system externally

PIC: ALAMY



before they quote you, and they will notify you of any identified vulnerabilities in your IT systems. This could assist you with building first-step awareness of IT issues. You can set about remedying any such gaps with your IT provider, and then further mitigate your cyber-risk through investing in

the purchase of cyber-insurance.

Cyber-insurance is one of the most – if not the most – important investments that the practice owner can make to protect and mitigate the financial impact of a large cyber-loss, which could cause irreparable reputational and financial damage to your firm.

Cybersecurity risk assessments can help you ascertain your risks and what you need to do to offset and mitigate these (see the following article for more in-depth discussion).

*Clare Fitzgibbon is cyber-insurance specialist at McCarthy Insurance Group.*

EVEN IF THE PI PRODUCT OFFERS AN ELEMENT OF CYBER-COVER, THE MAJORITY OF SOLICITORS DO NOT WANT POTENTIAL CYBER-CLAIMS OR INCIDENTS TO AFFECT THEIR PI INSURANCE, AS THEY ARE RELIANT ON THEIR PI INSURANCE IN ORDER TO OPEN THE DOORS OF THEIR BUSINESSES

# Potential threats

**Cybersecurity assessments – what are they, why are they important, and how do you carry them out? Matthew Goodbun prepares the checklist**

IF A LAW FIRM IS FOUND TO HAVE INSUFFICIENT SECURITY AND HAS IGNORED RECOMMENDATIONS TO STRENGTHEN THEM, THEN THAT COULD POTENTIALLY JEOPARDISE THE VALIDITY OF ANY CYBERSECURITY INSURANCE THEY HAVE OR THE LIKELIHOOD OF THE SUCCESS OF A LEGAL CLAIM FOR DAMAGES

**A** cybersecurity assessment is an objective analysis of the way an organisation protects electronic information and IT assets – and whether the measures it has in place are effective and proportionate.

The primary goal of a cybersecurity assessment is to analyse and establish the effectiveness of how an organisation manages security risk related to the protection of electronic information and IT assets (processed on digital systems) from unauthorised access, alteration, damage, disclosure or misuse.

The findings of a cybersecurity assessment can help to identify areas of weakness within an organisation's defences. In the legal industry, every lawyer can positively contribute to strengthening the defences of a law firm. A ransomware attack or data breach could result in legal action being taken by affected parties, in addition to potential regulatory fines and reputational damage.

Moreover, if a law firm is found to have insufficient security and has ignored recommendations to strengthen them, that could potentially jeopardise the validity of any cybersecurity insurance they have or the likelihood of the success of a legal claim for damages. Needless to say, as with all insurance-related matters, solicitors need to report truthfully to their brokers regarding their IT risk

assessments and remediations when discussing cybersecurity insurance.

A lawyer may not need to fully understand every technical detail of a cybersecurity assessment, but law firms should educate their staff and provide best practices, so that appropriate security controls can be implemented and understood by everyone in the law firm.

## What does it involve?

There are numerous aspects to consider, including technical and non-technical defence mechanisms. These measures aim to mitigate the likelihood and impact of risks posed by internal and external threats that attempt to exploit IT vulnerabilities.

Assessments generally involve clarifying what IT applications, devices, software, and systems are used; reviewing relevant law firm policies and handbooks; assessing the training level and behaviour of staff; and understanding an organisation's internal and external risk factors, such as staff working off-site, sharing portable data-storage devices, and using their own personal devices for work. A cybersecurity assessment results in a formal report, with findings and recommendations to remediate identified risks.

## When should it be done?

Assessments should be carried out on a proactive basis, rather than after a security incident

or post-litigation. This can put a law firm in the best position, as the cybersecurity-threat landscape is ever-changing, with modern technologies and new adversarial tactics used by bad actors to disrupt organisations and compromise the security of information and assets. In the legal industry, client accounts are a popular target.

## How often?

There is no formal requirement. Where a law firm has achieved information-security certification, such as ISO 27001, a formal assessment may take place annually as part of the requirement to maintain such standards. Where the law firm has not achieved such standards, it can determine the frequency and scope of an assessment, depending on its needs. One law firm may need to focus more time and effort assessing some security measures than another, due to the nature of their business, the type of IT structure it has, recent suspected cyberattacks, and so forth.

## Who does the assessment?

While a law firm can assess itself, it is recommended that this type of assessment is best undertaken by an independent third party that can objectively analyse the effectiveness of security measures. An unbiased outcome can offer the most effective long-term benefit to the law firm, and may have a positive impact on your



PIC: ALAMY

cybersecurity premium. You will need to discuss this with your broker.

### What are the components?

There are technical and non-technical aspects to a cybersecurity assessment

that, at a high level, evaluates how effectively policies, processes, people and systems contribute to the security of electronic information and IT assets. Depending on the type of assessment, it is likely to cover IT governance, IT

risk management, IT asset management, hardware and software supply chain, identity and access control, system security, data protection, business continuity, security monitoring, and staff awareness and training.

There is no ‘wrong way’ to carry out a cybersecurity risk assessment, and they can be carried out in-house if the law firm feels that this is sufficient. However, such assessments will logically be more meaningful, comprehensive, and valuable when they are objectively carried out by a third-party expert.

*Next month, we will look at how to spot cybersecurity breaches, how they differ from data-protection breaches, how to react quickly when a breach occurs, and who to notify.*

*Matthew Goodburn is senior privacy consultant at BSI, which supports organisations in maintaining compliance with regulatory requirements and prioritising privacy.*

*This cybersecurity series is facilitated by Tanya Moeller, in-house counsel with ServiceNow and vice-chair of the Law Society’s Technology Committee; Nicola Kiely, a partner in Comyn Kelleher Tobin LLP and a member of the Technology Committee; and Deborah Leonard, secretary to the Conveyancing Committee.*

## CYBERSECURITY RISK ASSESSMENTS

### DO:

- Do agree on the scope of the cybersecurity assessment and prioritise the risks to be assessed, based on the importance of the electronic information and assets that a law firm needs to protect.
- Do focus on the safety and security of the office and client account in the operational processes of a busy law firm. (A future article will discuss best practices for lawyers regarding EFTs.)
- Do ensure that the assessment is written so that a non-technical audience can understand it, and that findings and recommendations are clearly articulated and proportionate.
- Do ensure that the findings, both good and bad, are communicated to senior management and that the identified risks are managed.

- Do understand the impact of your cybersecurity risk assessment on your cybersecurity insurance.

### DON'T:

- Don't delay a cybersecurity risk assessment. Even if in ‘year one’ you carry out the assessment in-house, and only by ‘year three’ you decide to outsource it to an independent professional, at least you are on your way to making your law firm as secure as it can be.
- Don't forget to start improving your defences – understanding the level of risk within your law firm is better than not attempting it at all.
- Don't cut corners to make a law firm look good – findings can be most valuable when they are objectively verifiable and not based on subjective opinions.
- Don't ignore any findings and recommendations.

# You are not **alone**

Lawyers doing complex and challenging work can avail of peer support through a range of programmes offered by Law Society Psychological Services, including the internationally recognised ‘Balint method’. Mary Hallissey reports

THE BENEFITS OF PEER-SUPPORT PROGRAMMES ARE SIGNIFICANT, PROVIDING A MEANS FOR LAWYERS TO CONNECT, SHARE EXPERIENCES, AND SEEK SUPPORT FROM COLLEAGUES WHO CAN RELATE TO THEIR UNIQUE CHALLENGES

**T**he Law Society has established some new peer-support programmes for lawyers dealing with complex and demanding work. This can include areas of practice, like family law, as well as for principals of firms who carry a great deal of responsibility.

Legal practice is often demanding, intellectually and emotionally, and can leave lawyers who do not have a supportive scaffolding around them vulnerable to stress and, over time, to burnout.

### Managing client expectations

The mental wellbeing of lawyers who deal with complex work is of growing concern to the Law Society.

Solicitors are trained to see their client’s situation through the eyes of the law. Dealing with client emotions and their high levels of expectation is not as easy for many. The complexity of cases may make it difficult for lawyers to find balance in their lives, which, in turn, can lead to a sense of isolation.

Facilitated peer support can be a helpful tool for lawyers who are dealing with such challenges. It provides a safe space for lawyers to connect, share experiences, and seek support from colleagues who can relate to their unique challenges. It can contribute to wellbeing by reducing stress, dealing with vicarious

trauma, preventing burnout, and fostering resilience and professional growth.

### Peer support

A Law Society peer-support initiative for solicitors was offered to Community Law and Mediation (CLM), facilitated by psychotherapist and member of the counselling team at Law Society Psychological Services, Paul Hughes, earlier this year.

The work done at CLM can be challenging, as well as rewarding, and Law Society Psychological Services offered a short-term reflective practice and processing group for staff members.

This facilitated group work can promote a deeper understanding of the individual’s response to the task of working with members of the public who may find themselves in challenging and distressing situations. The process may also provide useful tools for group members to engage with their work, while also processing difficult experiences.

Paul Hughes says that the success of the short-term group work at CLM was due to the diligent honesty of participants, who authentically shared their experiences.

### Difficult situations

Jane O’Sullivan (managing solicitor at CLM in Coolock, Dublin) explains that her staff

took part in the process group offered by Psychological Services from March to June: “We were eager to provide support to our solicitors, who deal on a day-to-day basis with people in very difficult situations who are often experiencing trauma. We found it to be a challenging and rewarding exercise and we would strongly encourage others to consider adding it to their practice. The process group provides a safe and supportive space for practitioners to share their experiences and learn from each other. The value of the group lies in the spirit of collegiality and generosity that is fostered, and the supportive dynamic which develops,” she adds.

Peer-support initiatives are an invaluable tool for building individual and group resilience, Jane believes: “The practice of law presents challenges and pressures that are sometimes unacknowledged, but are nonetheless important and potentially detrimental. The process group provides a mechanism for these challenges and pressures to be addressed and reduced. We commend Law Society Psychological Services for developing this initiative, which has the potential to assist a great many practitioners.”

PIC: SHUTTERSTOCK



### Guardrails

Lawyers dealing with complex cases should endeavour, where possible, to set boundaries between work life and personal life, with regular breaks to relax and de-stress.

Regular exercise is an important guardrail, as is talking to a trusted friend or colleague, or a therapist if struggling with stress or anxiety.

It is also important to remember that you are not alone.

A range of programmes is offered through Law Society Psychological Services, and you are encouraged to reach out to see how you can be supported.

The 'Balint programme' has already been offered by the Law Society on a pilot basis, as a peer-support network facilitated by Belinda Moller (group analyst and organisation consultant) and Sonia McEntee (law firm principal). The Balint method is recognised internationally as a tool for peer-group supervision for GPs, medical trainees, psychiatrists, psychologists, and social workers – recognising that client meetings are, by their nature, often deeply personal, provoking strong feelings and emotions.

The support offers the opportunity to practise

tolerating the extremely difficult and complex feelings that are part and parcel of professional life, while allowing participants to recover their psychological distance and develop a stronger capacity to think clearly in difficult situations.

Balint co-facilitators Belinda and Sonia will offer further insights into the Balint group later this year in a future article.

If you would like further information about peer support, please contact [ps@lawsociety.ie](mailto:ps@lawsociety.ie).

*Mary Hallissey is a journalist with the Law Society Gazette.*

PEER SUPPORT  
CAN CONTRIBUTE  
TO WELLBEING BY  
REDUCING STRESS,  
DEALING WITH  
VICARIOUS TRAUMA,  
PREVENTING  
BURNOUT, AND  
FOSTERING  
RESILIENCE AND  
PROFESSIONAL  
GROWTH



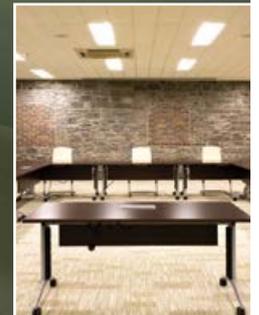
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NO RESPONSIBILITY IS ACCEPTED FOR ANY ERRORS OR OMISSIONS, HOWSOEVER ARISING

## LPT ON TRANSFERS

CONVEYANCING COMMITTEE

● Section 126 of the *Finance (Local Property Tax) Act 2012* provides that a liable person who proposes to sell a residential property shall, before the completion of the sale of the property, pay to the Revenue Commissioners any Local Property Tax, penalties imposed under the act, and accrued interest that is due and payable in respect of that property.

Section 125 of the act provides that a sale includes a transfer “for no consideration or consideration which is significantly less than the chargeable value of the residential prop-

erty at the time of its transfer”.

Section 127 of the act provides that, where a liable person does not pay the Local Property Tax in accordance with section 126, any unpaid Local Property Tax shall remain a charge on the relevant residential property to which it relates.

Revenue has highlighted to the Conveyancing Committee that a small but significant number of properties are changing ownership with an outstanding LPT liability. Revenue has advised the committee that, while the majority of transfers are arm’s-length transactions, some

relate to voluntary transfers or partially voluntary transfers. In accordance with section 127 of the act, where the LPT charge is not satisfied before the transfer of ownership takes place, the new owner will receive an encumbered asset, as the charge remains on the property.

Revenue has also highlighted that the pursuit of outstanding liabilities after transfer is standard practice. Revenue states that the **LPT clearance process** must be followed *before* the property is transferred.

## CONDITIONS IN LOAN OFFERS

CONVEYANCING COMMITTEE

● It has been brought to the attention of the Conveyancing Committee that one or more lenders participating in the residential mortgage lending certificate of title system are issuing loan offers with conditions requesting the certifying solicitor to confirm certain title matters prior to drawdown. Examples include lenders seeking confirmation of matters relating to roads and services or planning.

Practitioners are reminded that the approved form of certificate of title under the system states that a good marketable title means a title of a quality commensurate with prudent standards of current conveyancing practice.

The committee encourages practitioners to maintain an open dialogue with the lender prior to an undertaking being given, in order

to secure agreement on any proposed qualifications to the certificate of title.

Notwithstanding this, the committee is of the view that, if the relevant title matter is covered by the undertaking solicitor’s certificate of title without qualification, then the lender operating within the system should not be seeking separate confirmation of the matter prior to drawdown (or at all).

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**Irish Tax Institute**



# PIAB LEGISLATION – IMPORTANT CHANGES

LITIGATION COMMITTEE

● As you may be aware, PIAB legislation and rules changed significantly from 4 September 2023.

The main impact of these important developments is that claims are now more at risk of being statute-barred. The main concerns arising here for practitioners are as follows: currently, section 50 operates to ensure that once the board receives a completed application, it issues an acknowledgment that has the effect of pausing limitation periods for the duration of the assessment by the board. Until now, if a claim is close to the limitation period, PIAB issues a section 50 acknowledgment and asks for a medical report to be provided later. Not anymore.

● Now, after sending either a postal appli-

cation or a Solicitor Portal application (and upon the review by PIAB), the solicitor and/or claimant will be updated on the status of the application.

- PIAB will review applications as quickly as possible, with a ‘target time’ of three working days. This is only a ‘target time’ – not a statutory time limit.
- Following review, if the application is complete and valid and all the information as required under section 11 is provided, the application will be confirmed as complete for the purpose of acceptance by PIAB and for the purpose of the section 50 acknowledgment being issued with effect from *the date the complete application was received*.
- *If, following review, any information is missing for the purpose of section 11 (and this in-*

cludes the provision of a medical report), PIAB will give *28 days to supply* the missing information and, if same is not provided, PIAB will close the file.

- Once the missing information is provided to PIAB and the application is deemed complete and valid, the effective date for the purposes of the section 50 acknowledgment will be *the date when the last piece of missing information is provided to PIAB, and not when the application was originally filed*.

The Law Society recommends extreme caution with claims being filed with the board following the commencement of these changes, particularly where the limitations period is close to expiry.

# TRANSFER OF PORTFOLIO OF MORTGAGE LOANS

CONVEYANCING COMMITTEE

● This guidance note relates to the transfer of certain loans by Ulster Bank Ireland DAC to Permanent TSB plc (PTSB) (‘the Transaction’). Colleagues should note that, to address any challenges that may arise for practitioners or borrowers (due to the time required to register the volume of charges pursuant to the Transaction), PTSB confirms that it has agreed the following interim process with Tailte Éireann (TÉ). This aims to facilitate PTSB in releasing and discharging redeemed mortgages that form part of the Transaction, prior to completion of the registration of the Transaction in TÉ.

## Form 56 Transfer Deed

Following receipt of evidence by PTSB that a loan that forms part of the Transaction has been redeemed in full – but where the trans-

fer of the charge has not yet been registered in TÉ and has not yet been assigned a dealing number – PTSB confirms that it will provide:

- 1) A redacted copy of the Form 56 Transfer Deed (pursuant to which the redeemed loan/charge was acquired with the relevant loan/charge highlighted) to the redeemed party or their solicitor, along with
- 2) A deed of discharge executed by PTSB.

PTSB reports that this will facilitate the party redeeming their loan in lodging an application with TÉ for discharge of the charge. It will also provide sufficient evidence of the chain of title to TÉ to enable TÉ to register the discharge of the relevant charge.

PTSB confirms that any TÉ application should refer to ‘Project Sun’ for identification purposes, so that TÉ can identify that

the application forms part of the Transaction and, as such, is covered by the agreed interim process. PTSB confirms that there is no requirement for practitioners to lodge the Power of Attorney and legal statement applicable to the Transaction.

## Deed of discharge

Where a dealing number has been obtained, PTSB confirms that its standard deed of discharge will be amended to recite the dealing number of the relevant application for registration of the charge. PTSB reports that this will evidence the chain of title and enable TÉ to process the deed of discharge and, ultimately, register the discharge of the relevant charge. As above, the TÉ application should refer to ‘Project Sun’, for identification purposes. 

## LEGAL EZINE FOR MEMBERS

The Law Society’s *Legal eZine* for solicitors is now produced monthly and comprises practice-related topics such as legislation changes, practice management and committee updates.

Make sure you keep up to date: subscribe on [www.lawsociety.ie/newsletters](http://www.lawsociety.ie/newsletters) or email [eZine@lawsociety.ie](mailto:eZine@lawsociety.ie).



## NOTICES: THE HIGH COURT

● **In the matter of Rody Kelly Corrigan, a solicitor previously practising as Rody Kelly Corrigan, Solicitors, at The Glass House, 11 Coke Street, Smithfield, Dublin 7, and in the matter of the Solicitors Acts 1954-2015 [2023 no 26 SA]**

Take notice that, on 5 July 2023, the President of the High Court ordered that Rody

Kelly Corrigan be suspended from practice for 12 months from 27 April 2023.

**In the matter of Patrick Delaney a solicitor previously practising as Patrick Delaney Solicitors, Parkside House, Castleknock, Dublin 15, and in the matter of the Solicitors Acts 1954-2015 [2023 no 52 SA]**

Take notice that, by order of the President of the High Court made on 10 July 2023, it was ordered that the name of Patrick Delaney be struck from the Roll of Solicitors.

*Niall Connors, Registrar of Solicitors, Law Society of Ireland, 13 July 2023*

## SOLICITORS DISCIPLINARY TRIBUNAL

REPORTS OF THE OUTCOMES OF SOLICITORS DISCIPLINARY TRIBUNAL INQUIRIES ARE PUBLISHED BY THE LAW SOCIETY OF IRELAND AS PROVIDED FOR IN SECTION 23 (AS AMENDED BY SECTION 17 OF THE SOLICITORS (AMENDMENT) ACT 2002) OF THE SOLICITORS (AMENDMENT) ACT 1994

● **In the matter of John Moylan, a solicitor of Richard Moylan & Co Solicitors, Shortcastle, Mallow, Co Cork, and in the matter of an application by Deirdre O'Flynn to the Solicitors Disciplinary Tribunal [2019/DT36]**

*Deirdre O'Flynn (applicant)*

*John Moylan (respondent solicitor)*

On 6 April 2022, the tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor, in that he:

- 1) Falsified 18 legal documents and repeatedly witnessed the applicant's forged signature on documents from 1997 to 2011. The applicant's signatures are forged, yet the respondent solicitor and associate solicitors of his office purported to witness all 18 documents as signed by the applicant, in his presence and/or in the presence of his associate solicitors. Documents, among others, to include conveyance memorial indenture, board resolutions, loan offer, conditions and acceptance, collateral security agreement, indenture deed, memorial deed, transfer deed. Three of these documents were sworn, two by the respondent solicitor and one by an associate solicitor.
- 2) Purported to witness (to include junior associate solicitors for whom he was responsible) the applicant's signatures on 18 documents when all these signatures were forged. Failed to witness the applicant signing these documents, despite stating otherwise and, on two occasions, swearing to having done so.
- 3) Swore a memorial to the effect that he had witnessed the applicant's signature to a deed dated 29 January 1998, and swore a memorial of indenture of conveyance, dated 8 July 1997, when these signatures

were forgeries.

- 4) In his capacity as a principal, allowed a junior associate solicitor to swear a memorial to the effect that she witnessed the applicant's signature on a deed when it was forged, dated 9 June 1997.

The tribunal ordered that the respondent solicitor:

- 1) Stand censured,
- 2) Pay a fine of €15,000 to the compensation fund,
- 3) Pay a sum of €15,000 as a contribution towards the whole of the costs of the applicant.

**In the matter of Christopher Walsh, a solicitor practising as Christopher B Walsh, Solicitors, 90 Park Drive Avenue, Castleknock, Dublin 15, and in the matter of the Solicitors Acts 1954-2015 [2021/DT06 and High Court 2023/3 SA]**

*Law Society of Ireland (applicant)*

*Christopher Walsh (respondent solicitor)*

On 3 November 2022, the tribunal found the respondent solicitor guilty of misconduct in that he:

- 1) Failed to comply with an undertaking given by him, dated 28 March 2003, on behalf of his named client/borrower over a named property, given to a named bank to complete the legal formalities in relation to the contract for sale of the property, insofar as to ensure that his client would obtain a good marketable title to the property free from incumbrances, save for the bank's mortgage/charge and pending completion of the transaction above and the receipts of the documents of title, to hold the said documents in title in trust for the bank and to their order, and to deliver them to the

bank or on the bank's earlier demand,

- 2) Failed to reply adequately or at all to the applicant's correspondence, in particular letters dated 1 May 2019, 25 June 2019, 5 July 2019, 28 August 2019, 15 October 2019, 4 December 2019, 25 September 2019, 13 November 2020, 12 February 2021, and 23 July 2021.

The matter came before the High Court on 8 May 2023, and the court ordered that:

- 1) The respondent solicitor not be permitted to practise as a sole practitioner or in partnership and that he be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the applicant,
- 2) The respondent solicitor pay the sum of €7,551.50 as a contribution towards the costs of the applicant in the tribunal proceedings,
- 3) The respondent solicitor pay the sum of €2,000 to the compensation fund,
- 4) The respondent solicitor pay the sum of €3,700.50 to the Law Society for its costs of the High Court application.

**In the matter of Rody Kelly Corrigan, a solicitor previously practising as Rody Kelly Corrigan, Solicitors, The Glass House, 11 Coke Street, Smithfield, Dublin 7, and in the matter of the Solicitors Acts 1954-2015 [2021/DT08 and High Court 2023 no 26 SA]**

*Law Society of Ireland (applicant)*

*Rody Kelly Corrigan (respondent solicitor)*

On 17 October 2022, the tribunal found the respondent solicitor guilty of professional misconduct, in that he:

DATE	EVENT	CPD HOURS	FEE	DISCOUNTED FEE*
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### IN-PERSON CPD CLUSTERS 2023

14 September	<b>Essential General Practice Update Kerry 2023</b> , Ballygarry House Hotel and Spa, Tralee			€150
20 October	<b>North East CPD Day 2023</b> , The Glencarn Hotel, Castleblayney, Co. Monaghan			€150
26 October	<b>Connaught Solicitors' Symposium 2023</b> , Breaffy House Resort, Castlebar, Co. Mayo			€150
16 November	<b>Practitioner Update Cork 2023</b> , The Kingsley Hotel, Cork			€150
23 November	<b>General Practice Kilkenny 2023</b> , Hotel Kilkenny, Kilkenny			€150

### IN-PERSON AND LIVE ONLINE

20 September	<b>Probate Cases - Tips for Solicitors drafting wills and taking instructions</b>	1 general (by eLearning)	Zoom webinar		€65
27 September	<b>Workplace Conflict Resolution Training</b>	3 management and professional development skills (by group study)	Law Society of Ireland		€175
28 September	<b>EU &amp; International Affairs Committee Annual Seminar</b>	2 general (by group study)	Law Society of Ireland		€135
28 September	<b>Legal Education Outreach for schools and communities</b>	2 management and professional development skills (by group study)	Law Society of Ireland		Complimentary
03 October	<b>The Business of Wellbeing Summit 2023</b>	2.5 management and professional development skills (by eLearning)	Zoom webinar		Complimentary
04 October	<b>Environmental and Planning Law Committee Climate Justice Conference</b>	TBC	TBC	€198	€175
05 October	<b>Younger Members Annual Conference</b>	2 general (by group study)	Law Society of Ireland		Complimentary
12 October	<b>In-house &amp; Public Sector Annual Conference</b>	4 general (by group study)	Law Society of Ireland	€198	€175
19 October	<b>Property Law Annual Update</b>	3.5 general (by eLearning)	Zoom webinar	€198	€175
25 October	<b>Litigation Annual Update</b>	3.5 general (by eLearning)	Law Society of Ireland	€198	€175
26 October	<b>Training of lawyers on EU law relating to vulnerable groups of migrants (TRALVU)</b>	5.5 general (by group study)	Law Society of Ireland		Complimentary
08 November	<b>Employment &amp; Equality Law Annual Update</b>	3.5 general (by eLearning)	Zoom webinar	€198	€175
15 November	<b>Business Law Annual Update</b>	3.5 general (by eLearning)	Zoom webinar	€198	€175
17 November	<b>Human Rights Annual Conference</b>	4 general (by eLearning)	Law Society of Ireland	€198	€175

### ONLINE, ON-DEMAND

Available now	<b>Legaltech Talks Hub</b>	See website for details			Complimentary
Available now	<b>Legislative Drafting Masterclass</b>	3 general (by eLearning)		€280	€230
Available now	<b>Suite of Social Media &amp; Website Courses</b>	Up to 4 management & professional development skills (by eLearning)		€175	€150
Available now	<b>4th Annual IMRO Lecture</b>	See Legaled Talks CPD Training Hub			Complimentary

SEE WEBSITE FOR ONLINE, ON-DEMAND COURSES IN PROPERTY LAW, EMPLOYMENT LAW, CONSTRUCTION LAW AND MORE

Law Society Professional training, in collaboration with EIPA (European Institute of Public Administration), is offering free EU-funded training to Irish-based solicitors on criminal and civil law. Upcoming training to be held in Luxembourg (most expenses paid) is as follows: **European Investigation Order: 27-28 September 2023 (One space available) | EU Procedural guarantees instruments: 13-14 December 2023 (Three spaces available)**. Expressions of interest to Anne Tuite, A.Tuite@lawsociety.ie

- 1) Allowed a deficit of €64,472.50 in client funds as of 11 July 2019 by:
  - a) Misappropriating the sum of €50,000 from the purchase money furnished to him by a client,
  - b) Misappropriating the sum of €6,300 in respect of stamp duty and €1,062.50 in respect of registration fees in relation to the same purchase,
  - c) Misappropriating the sum of €7,380 due to senior counsel in respect of a claim settled,
- 2) Misappropriated the sum of €17,500 from the settlement in a case, which was subsequently repaid from monies received in a conveyancing matter,
- 3) Caused a claim of €58,466.43 to be paid from the compensation fund in respect of his former client whose funds he had misappropriated.

The matter was referred to the High Court and, on 5 July 2023, the court ordered that:

- 1) The respondent solicitor be suspended from practise for a period of 12 months from 27 April 2023,
- 2) In the event that the respondent solicitor wishes to practise as a solicitor following that period of suspension,
  - a) He not be permitted to practise as a sole practitioner or in partnership,
  - b) He be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of another solicitor of at least ten years' standing, to be approved in advance by the Society,
  - c) He not be permitted to have access to client funds.
- 3) The restrictions referred to at (2) above apply to every practising certificate obtained by the respondent solicitor in the event of a resumption of practise after the period of suspension referred to at paragraph (1) above,
- 4) The applicant have liberty immediately to re-enter the proceedings to seek to have

- the respondent solicitor's name struck off the Roll of Solicitors in the event of any breach of the restrictions on his practice or any further acts of dishonesty,
- 5) The respondent solicitor pay a specified amount by means of contribution towards the applicant's costs before the tribunal and the applicant's measured costs in respect of its application to the High Court.

**In the matter of Patrick Delaney, a solicitor previously practising as Patrick Delaney, Solicitors, Parkside House, Castleknock, Dublin 15, and in the matter of the *Solicitors Acts 1954-2015* [2019/DT52 and 2020/DT08 and High Court 2023 no 52 SA] *Law Society of Ireland (applicant) Patrick Delaney (respondent solicitor)***

### 2019/DT52

On 30 March 2023, the tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor, in that he failed to ensure there was furnished to the Society an accountant's report, as required by regulation 26 (1) of the *Solicitors Accounts Regulations 2014* (SI 516 of 2014), for the year ended 5 December 2018 within six months of that date.

### 2020/DT08

On 30 March 2023, the tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor, in that he:

- 1) Caused an actual deficit in client funds of €1,530,566.16 as of 2 September 2019, with a further potential deficit of €767,401.76 being identified, making an apparent deficit of €2,297,967.91 in client funds as of 2 September 2019,
- 2) Misappropriated client funds by engaging in a process of teeming and lading,
- 3) Failed to lodge client monies received to the client's bank account,
- 4) Made unauthorised withdrawals from the client bank account,

- 5) Made unauthorised transfers to ledger cards of unrelated clients,
- 6) Transferred professional fees when not in funds to do so,
- 7) Delayed in redeeming mortgages, as the relevant money for this purpose was misappropriated and redemption was not possible until further unrelated money was received,
- 8) Allegedly failed to stamp and register deeds,
- 9) Misappropriated monies belonging to clients by way of payment to gambling websites,
- 10) Made unauthorised withdrawals by way of cash totalling €28,870 from the client bank account,
- 11) Failed to keep proper books of accounts, in breach of regulation 13 of the *Solicitors Accounts Regulations*,
- 12) Was in breach of the *Solicitors Accounts Regulations*, including regulations 4(1), 6(5), 7(1), 9(4), 11(4), 12(1), 25, and 26,
- 13) Caused claims of €3,472,045.74 to be made on the compensation fund up to 5 May 2020, with payments of €925,457.46 being discharged as at that date.

The tribunal directed that the Society bring its findings and reports before the High Court and, on 10 July 2023, the court ordered that:

- 1) The respondent solicitor's name be struck off the Roll of Solicitors,
- 2) The respondent solicitor pay the sum of €11,000 to the compensation fund,
- 3) The respondent solicitor pay €1,500,000 as restitution to the applicant,
- 4) The respondent solicitor pay €9,786 as a contribution towards the whole of the costs of the applicant in the tribunal proceedings,
- 5) The respondent solicitor pay the applicant the sum of €3,604, representing the applicant's costs of the High Court application. 



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**WILLS**

**Casserly, Peter (deceased)**, late of An Teaghlaigh Uilinn Nursing Home, Moycullen, Co Galway, and formerly of St James, Raleigh Row, Galway, who died on 20 March 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding his will, please contact Padhraic Harris & Co, Solicitors; tel: 091 562 066, email: [info@harrissolrs.ie](mailto:info@harrissolrs.ie)

**Cowley, John (deceased)**, late of Letterlough, Newport, in the county of Mayo, who died on 18 December 2008. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact Patrick J Durcan and Co, Solicitors, James Street, Westport, Co Mayo; DX 53002 Westport; tel: 098 25100, email: [admin@patrickjdurcan.ie](mailto:admin@patrickjdurcan.ie)

**Critchley, Denis (deceased)**, late of 110 Westpark, Rathcoole, Co Dublin, who died on 10 October 2022. Would any person having knowledge of any will executed by above-named deceased please contact Colm O'Coilain and Co, Solicitors, First Active House, Old Blessington Road, Tallaght, Dublin 24; tel: 01 459 0684, email: [solicitor@ocochlain.ie](mailto:solicitor@ocochlain.ie)

**D'Arcy, Patrick (deceased)**, late of Ullard, Graiguenamanagh, Co Kilkenny, otherwise Ullard, Borris, Co Carlow, who died on 18 December 2022. Would any person having knowledge of a will made by the above-named deceased please contact Jason Dunne, John A Sinnott & Co, Market Square, Enniscorthy, Co Wexford; DX 26012 Enniscorthy; tel: 053 923 3111, email: [info@johnasinnottsolicitors.ie](mailto:info@johnasinnottsolicitors.ie)

**Dowling, Margaret (deceased)**, late of 1 Thornbrook, Tipper Road, Naas, Co Kildare; or c/o Mary Keane, Cloneen Village, Clonmel, Co Tipper-

**RATES****PROFESSIONAL NOTICE RATES****RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:**

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- **Title deeds** – €325 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €163 (incl VAT at 23%)

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No recruitment advertisements will be published that include references to ranges of post-qualification experience (PQE). The Gazette Editorial Board has taken this decision based on legal advice that indicates that such references may be in breach of the *Employment Equality Acts 1998 and 2004*.

ary; or Aperee Living Nursing Home, Friary Walk, Callan, Co Kilkenny; and formerly of 'The Gondola', Newcastle, Co Dublin (public house), who died on 15 May 2023. Would any person holding or having knowledge of a will made by the above-named deceased please contact Donal T Ryan & Co, Solicitors, 89-90 Main Street, Cashel, Co Tipperary; tel: 062 61288, email: [amodonnell@dryan.ie](mailto:amodonnell@dryan.ie)

**Draper, Percy (deceased)**, late of Ballyhall, Roscrea, Co Tipperary, who died on 11 May 2022. Would any solicitor holding or having knowledge of a codicil by the above-named dated 13 August 2020 please contact Sheelagh Doorley of Devitt Doorley Solicitors, The Valley, Roscrea, Co Tipperary; tel: 0505 22153, email: [info@devittdoorley.ie](mailto:info@devittdoorley.ie)

**Dunleavy, Imelda (deceased)**, late of Charlemont, off Griffith Avenue, Dublin 9 (previously of The Orchard, Grove House, Milltown, Dublin 6) who died on 28 June 2023. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Frank O'Connor & Co, Solicitors, Upper Main Street, Dingle, Co Kerry; tel: 066 915 1448, email: [foconnor@dinglelaw.com](mailto:foconnor@dinglelaw.com)

**Flanagan, Patrick (or se Paddy) (deceased)**, late of Tarmon Castlereagh, Co Roscommon, who died on 23 July 2023. Would any person having knowledge of any will made by the above-named deceased please contact Padraig Kelly, Solicitors, Strokestown, Co Roscommon, quoting ref: F/8/23; tel: 071 963 3666, email: [info@pksolrs.ie](mailto:info@pksolrs.ie)

**Gardiner, John (deceased)**, late of 32 Cherrywood Park, Clondalkin, Dublin 22, who died on 20 December 2021. Would any person holding or having knowledge of any will made by the above-named deceased please contact Rolleston McElwee Solicitors LLP, 4 Wesley Place, Portlaoise, Co Laois, R32 EH30; tel: 057 862 1329, email: [info@rmclaw.ie](mailto:info@rmclaw.ie)

**Geary, Joseph/Joe, otherwise Seósam O'Gáora (deceased)**, late of Creagh House, Doneraile, Co Cork; or Lisnagrough, Doneraile, Co Cork; or Cornahinch, Doneraile, Co Cork; or 13 Mallow Road, Doneraile, Co Cork, who died on 27 November 2010. Would any person having knowledge of any will made by the above-named deceased please contact Matthew J Nagle & Co, Solicitors, Broadview House, Mallow, Co Cork; DX 31 901 Mallow 2; tel: 022 42266 (ref: JC)

**Gill, Nicolas (deceased)**, late of 138 Rockford Park, Blackrock, Co Dublin, who died on 3 June

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2010. Would any person having knowledge of a will made by the above-named deceased please contact Sighle Duffy, Murray Flynn LLP, Solicitors, 12-16 Fairview Strand, Fairview, Dublin 3; tel: 01 836 3551, email: [sduffy@murrayflynn.ie](mailto:sduffy@murrayflynn.ie)

**Haveron, Maureen (otherwise Mary Veronica) (deceased)**, late of The Handy Store, 3 Ann Street, Dundalk, Co Louth. Would any person having knowledge of any will made by the above-named deceased, who died on 24 August 2022, please contact AC Forde & Co, Solicitors, 14 Lansdowne Road, Dublin 4; tel: 01 660 8955, email: [info@acforde.com](mailto:info@acforde.com)

**Healy, John (otherwise Seán O hEalái) (deceased)**, native of Derry City, late of 56 Shanid Road, Harold's Cross, Dublin 6W, who sadly passed away there on 6 March 2023. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Nick O'Dowd at MMP Solicitors, 12 Clarendon Street, Derry City BT48 7ET, although preferably by email: [nodowd@mmp.legal](mailto:nodowd@mmp.legal)

**Kelly, Kenneth (deceased)**, late of Moyglass, Strokestown, Co Roscommon, who died on 2 August 2023. Would any person having knowledge of any will made by the above-named deceased please contact Pádraig Kelly, Solicitors, Strokestown, Co Roscommon, quoting ref: K/12/23; tel: 071 963 3666, email: [info@pksolrs.ie](mailto:info@pksolrs.ie)

**Kennedy, Margaret (deceased)**, late of Lisieux, Meath Road, Bray, Co Wicklow, who died on 29 July 2021. Would any firm having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in contact with the deceased regarding her will, please contact Kenny Sullivan Solicitors, Market Court, Townhall, Bray, Co Wicklow; tel 01 282 8124, email: [info@kennysullivan.ie](mailto:info@kennysullivan.ie)

**Larkin, Edward Philip 'Ned' (deceased)**, late of 16 St John's Road, Lakeside, Co Kilkenny, formerly of 12 Callan Court, Lakeside, Co Kilkenny and 183 Roberts Hill, Circular Road, Co Kilkenny, who died on 20 July 2022. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Seamus Maguire & Co, Solicitors, Rosemount, Main Street, Blanchardstown, Dublin 15; tel: 01 821 1288, email: [susanpower@seamusmaguire.ie](mailto:susanpower@seamusmaguire.ie)

**Long, Rodger (deceased)**, late of Gurraun Lower, Maree, Oranmore, Co Galway. Would any person having knowledge of a will executed by the above-named deceased, who died on 22 June 1985, please contact Colman Sherry Solicitors, The Square, Gort, Co Galway; tel: 091 631 383, email: [info@colmansherry.ie](mailto:info@colmansherry.ie)

**MacCon, Dr Charles Francis (otherwise known as McConn) (deceased)**, late of Threadneedle Road, Salthill, Galway, who died on 19 July 1981. Would any person holding or having knowledge of a will made by the above-named deceased please reply to **box 01/07/2023**

**O'Donnell, Anne (otherwise Annie) (deceased)**, late of Currakyle, Caher, Co Clare. Would any person having knowledge of a will executed by the above-named deceased, who died on 26 June 2023, please contact Colman Sherry Solicitors, The Square, Gort, Co Galway; tel: 091 631 383, email: [info@colmansherry.ie](mailto:info@colmansherry.ie)

**Odlum, Jonathon Francis (deceased)**, late of Sitio da Calcada, parish of Sao Bartolomeu de Messines, Municipality of Silves, Portugal, who died on 21 December 2020. Would any person having knowledge of the whereabouts of a last will and testament made by the above-named deceased please contact John L Mulvey & Co, Solicitors, Main Street, Tallaght, Dublin 24; tel: 01 451 5055, email: [info@jlms.ie](mailto:info@jlms.ie)

**Quinn, Joseph (orse Patrick Joseph Quinn) (deceased)**, late of 53 Hamilton Place, Navan Road, Trim, Co Meath, who died on 27 January 2023. Would any person having knowledge of any will made by the above-named deceased please contact Brian Callaghan, Regan McEntee & Partners Solicitors, High Street, Trim, Co Meath; DX 92002 Trim; tel: 046 943 1202

**Peyton, Angela (deceased)**, late of 113 Ballyfermot Parade, Ballyfermot, Dublin 10, who died on 15 May 2021. Would any person having knowledge of any will made by the above-named deceased please contact Johnston Solicitors, 306 Ballyfermot Road, Ballyfermot, Dublin 10; email: [info@johnstonsolicitors.ie](mailto:info@johnstonsolicitors.ie)

**Phelan, Denis (deceased)**, late of 56 Aghnaharna Drive, Portlaoise, Co Laois, formerly of 10 Rossvale, Mountmellick Road, Portlaoise, Co Laois and 3 Powerscourt, Abbeyleix Road, Portlaoise, Co Laois, who died on 7 February 2023. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Eimear Dunne, Solicitors, 1 Coote Street, Portlaoise, Co Laois; DX47006 Portlaoise; tel: 057 868 0903, email: [info@eimeardunnesolicitors.com](mailto:info@eimeardunnesolicitors.com)

**Phelan, James (deceased)**, late of 2 Millbrook Grove, Shinrone, Co Offaly. Would any person having knowledge of a will executed by the above-named deceased, who died on 17 May 2023, please contact Colman Sherry Solicitors, The Square, Gort, Co Galway; tel: 091 631 383, email: [info@colmansherry.ie](mailto:info@colmansherry.ie)

**Reilly, Michael (deceased)**, late of Lecarrow, Breaffy, Castlebar, Co Mayo, who died on 30 March 2013. Would any firm having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in contact with the deceased regarding his will, please contact Kevin M Bourke, solicitor, Ellison Street,

Castlebar, Co Mayo; tel: 094 902 2566, email: [solbourke@gmail.com](mailto:solbourke@gmail.com)

**Tobin, William (Willie) (deceased)**, late of 44 Larkfield Grove, Harold's Cross, Dublin, who died on 9 May 2023. Would any person holding or having knowledge of the whereabouts of any will executed by the above-named deceased please contact Regan McEntee & Co, Solicitors, High Street, Co Meath; tel: 046 943 1202, email: [amurphy@reganmcentee.ie](mailto:amurphy@reganmcentee.ie)

**Watson, Orla (deceased)**, late of 17 Brackenstown Village, Swords, Co Dublin, who died on 20 March 2023. Would any person having knowledge of any will executed by the above-named deceased please contact Michael O'Flaherty, Crean & O'Flaherty Solicitors, Millwood, Carrigduff, Bunclody, Co Wexford; DX 26003 Enniscorthy; tel: 053 937 7938, email: [michael@creanandco.ie](mailto:michael@creanandco.ie)

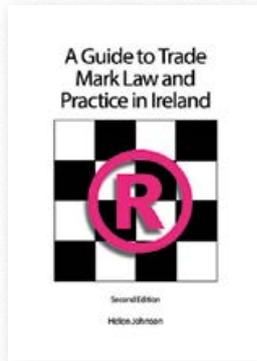
#### TITLE DEEDS

**Brewster, Kathleen (deceased), late of 18 Crotty Avenue, Walkinstown, Dublin 12.** Would any person having knowledge of the whereabouts of the title deeds of the above-named property, or if any firm is holding same, please contact Peter Doyle Solicitors, 24 Sundrive Road, Dublin 12; DX 111005 Kimmage; tel: 01 4900 500, email: [admin@peterdoylesolicitors.ie](mailto:admin@peterdoylesolicitors.ie)

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of the *Landlord and Tenant (Amendment) Act 1980* and in the matter of an application by Nial Murphy**

Any person(s) having interest in the superior interests and/or freehold estate of the following property: the hereditaments and premises at 54 New Street, Macroom, in the county of Cork. Take notice that the said Nial Murphy intends to apply to the Circuit Court for the county of Cork for a reversionary lease in the aforementioned prop-

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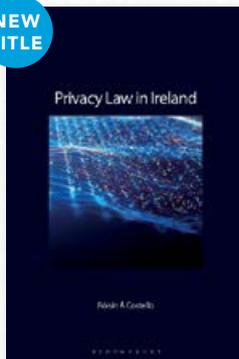
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erty, pursuant to part III of the *Landlord and Tenant (Amendment) Act 1980*, and any party asserting that they hold an interest in the said property are called upon to furnish evidence of title to the below-named firm of solicitors. In particular, such person or persons who are entitled as successors or assigns to the interest of one Margaret Hartnett pursuant to lease of 19 June 1873 made between the said Margaret Hartnett of the one part and Timothy Twomey of the other part, whereby the aforementioned property was demised to the said Timothy Twomey for a term of 95-and-one-half years, subject to a yearly rent of £1:5:0 and to the covenants and conditions therein contained, should provide evidence of their title to the below-named firm of solicitors.

In default of such evidence of the current holders of the said interest in the above mentioned property being received within a period of 21 days from the publication of this notice, the said Nial Murphy intends to proceed with an application before Cork Circuit Court for a reversionary lease and for such directions and/or orders as may be appropriate on the basis the person or persons entitled to the superior interest including the freehold interest in the aforesaid premises are unknown or unascertained.

Take notice thereafter, the said Nial Murphy intends to submit an application to the county registrar for the county of Cork pursuant to the *Landlord and Tenant (Ground Rents) Acts 1967-2019* for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and any party asserting they hold a superior interest and/or freehold interest therein are called upon to furnish evidence of title to the below-named firm of solicitors.

In default of such notice being received within the said period of 21 days, the said Nial Murphy intends to proceed with an application before the county registrar for the county of Cork to purchase the fee simple in the above premises and for such directions as may be appropriate on the basis the person or persons entitled to the superior interest including the freehold interest in the said premises are unknown and unascertained.

Date: 8 September 2023

Signed: *CW Ashe & Co (solicitors for the applicant), South Square, Macroom, Co Cork, P12 YA39*

**In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Acts 1978-2005* and in the matter of an application by Larkfield Limited and in the matter of 26 Willow Road, Dundrum, Dublin 16**

Take notice any person having an interest in the freehold estate or any intermediate inter-

ests in 26 Willow Road, Dundrum, Dublin 16, otherwise that plot of ground being portion of the estate of “the trustees of the hospital founded by George Simpson Esquire” known as ‘Wyckham’, situate in the barony of Rathdown and county of Dublin, which said plot of ground with dimensions and abutments and boundaries is more particularly described and delineated on the map or plan endorsed upon an indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part and thereon surrounded by a red verge line and bounded on the north by site no 115, on the south by site no 117, on the west by site no 21, on the east by road known as Willow Road, and known as site no 116 Wyckham Park, Dundrum, in the county of Dublin, held under an indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part for a term of 98 years from 1 January 1953, subject to the yearly rent of £25 and subject to the covenants and conditions therein.

Take notice that Larkfield Limited intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Larkfield Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate that the person or persons beneficially entitled to the intermediate interests including the fee simple in the aforesaid property are unknown or unascertained.

Date: 8 September 2023

Signed: *Gleeson McGrath Baldwin LLP (solicitors for the applicant), 29 Anglesea Street, Dublin 2*

**In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Acts 1978-2005* and in the matter of an application by Larkfield Limited and in the matter of 28 Willow Road, Dundrum, Dublin 16**

Take notice any person having an interest in the freehold estate or any intermediate interests in 28 Willow Road, Dundrum, Dublin 16, otherwise that plot of ground being portion of the estate of “the trustees of the hospi-

tal founded by George Simpson Esquire” known as ‘Wyckham’, situate in the barony of Rathdown and county of Dublin, which said plot of ground with dimensions and abutments and boundaries is more particularly described and delineated on the map or plan endorsed upon an indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part, and thereon surrounded by a red verge line and bounded on the north by a laneway, bounded on the south by site no 116, on the west by site no 23, on the east by Willow Road, and known as site no 115 Wyckham Park, Dundrum, in the county of Dublin, held under an indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part for a term of 98 years from 1 January 1953, subject to the yearly rent of £25 and subject to the covenants and conditions therein.

Take notice that Larkfield Limited intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Larkfield Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate that the person or persons beneficially entitled to the intermediate interests including the fee simple in the aforesaid property are unknown or unascertained.

*Date: 8 September 2023*

*Signed: Gleeson McGrath Baldwin*

*LLP (solicitors for the applicant),  
29 Anglesea Street, Dublin 2*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Clarman Developments Limited: notice of intention to acquire the fee farm grant interest pursuant to section 4 of the *Landlord and Tenant (Ground Rents) Act 1967*, Cullens Yard, Sweeney’s Terrace, Dublin 8, in the county of Dublin**

Any person having an interest in the fee farm grant or any estate or interest in the above property, take notice that Clarman Developments Limited intends to submit an application to the county registrar of the county of Dublin for the acquisition of the fee farm grant interest and all intermediate interests in the aforesaid property, and any persons asserting that they hold a superior interest in the property are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In particular, any person having an interest in the lessor’s interest in a lease for lives dated 23 September 1719 between Jacob Poole of the one part and Owen Sweny of the other part and in covenants and conditions reserved in a fee farm grant dated 27 February 1852 between the Right Honourable Earl of Meath of the one part and the Reverend John Sweny, rector of Cleenish in the county of Fermanagh of the other part, in respect of premises commonly known as Cullens Yard, Sweeney’s Terrace, Dublin 8, in the city of Dublin, for John Sweny, his heirs, and assigns forever, subject to the yearly rent in the amount of £4.10s, should provide evidence of title to the below named.

In default of any such information being received by the applicant, Clarman Developments Limited intends to proceed with the application before the county registrar and will apply to the

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county registrar for the county of Dublin for directions as may be appropriate on the basis that the person or persons entitled to the superior interest, including the fee farm grant interest, in the said premises are unknown and unascertained.

*Date: 8 September 2023*

*Signed: Gore & Grimes Solicitors  
LLP (solicitors for the applicant),  
Three Haddington Buildings,  
Percy Place, Dublin 4*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Clarman Developments Limited: notice of intention to acquire the fee farm grant interest pursuant to section 4 of the *Landlord and Tenant (Ground Rents) Act 1967*, Sweeney’s Terrace (formerly known as Sweeney’s Lane), in the county of Dublin**

Any person having an interest in the fee farm grant or any estate or interest in the above property, take notice that Clarman Developments Limited intends to submit an application to the county registrar of the county of Dublin for the acquisition of the fee farm grant interest and all intermediate interests in the aforesaid property, and any persons asserting that they hold a superior interest in the property are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In particular, any person having an interest in the lessor’s interest in a lease for lives dated 23 September 1719 between Jacob Poole of the one part and

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[horanroddy@gmail.com](mailto:horanroddy@gmail.com)  
if interested.

Owen Sweny of the other part, in covenants and conditions reserved in a fee farm grant dated 27 February 1852 between the Right Honourable Earl of Meath of the one part and the Reverend John Sweny Rector of Cleenish in the county of Fermanagh of the other part, for John Sweny, his heirs, and assigns forever, subject to the yearly rent in the amount of £4.10s, and in the covenants and conditions reserved in a fee farm grant dated 22 May 1851 between the Right Honourable William Earl of Meath on the one part and John Busby on the other part, for John Busby, his heirs, and assigns forever, subject to the yearly rent in the amount of £78:16s 6p in respect of the premises situate at Sweeney’s Terrace (formerly known as Sweeney’s Lane) in the parish of Saint Luke and city of Dublin, should provide evidence of title to the below named.

In default of any such information being received by the applicant, Clarman Developments Limited intends to proceed with the application before the county registrar and will apply to the county registrar for the county

of Dublin for directions as may be appropriate on the basis that the person or persons entitled to the superior interest, including the fee farm grant interest, in the said premises are unknown and unascertained.

*Date: 8 September 2023*

*Signed: Gore & Grimes Solicitors LLP (solicitors for the applicant), Three Haddington Buildings, Percy Place, Dublin 4*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of an application by John Corbett of 43-45 Main Street, Clogheen, Co Tipperary: notice of intention to acquire fee simple (section 4)**

To: Shanbally Estate Company, its administrators, liquidators, successors and assigns, and Thomas K O'Mahony, his executors, administrators, successors and assigns. This notice refers to all that and those the premises comprising the shop and dwellinghouse, out-offices, yard and garden situate at 43 Main Street, Clogheen, in the county of Tipperary, and more particularly described on the map annexed hereto and thereon outlined in red, together with a right of passage for carts, cars, on foot, and for animals through the yard and porch on the west side of the said premises, more particularly described on the map annexed hereto and thereon coloured blue. The applicant, of 43-45 Main Street, Clogheen, Co Tipperary, holds the premises described in paragraph 1 as successor in title to the late John Corbett, under an indenture of lease dated 30 November 1954 made between Shanbally Estate Company of the one part and Catherine Collins of the other part, under which the premises was demised for a term of 99 years from 25 March 1954, yielding and paying the annual rent of £7, paid by equal half yearly instalments.

Take notice that John Corbett, being the person entitled to acquire the fee simple in the land described in paragraph 1 above under the said act of 1967 (and part II of the *Landlord and*

*Tenant (Ground Rents) (No 2) Act 1978*), propose to purchase the fee simple in the land described above, and further take notice that, on 9 October 2023 at 10.30 o'clock in the forenoon or at the first available opportunity thereafter, the aforesaid application shall be listed for hearing before the county registrar sitting at the Courthouse, Clonmel, in the county of Tipperary.

*Date: 8 September 2023*

*Signed: John Corbett, c/o Shields Solicitors (solicitors for the applicant), Barrack Street, Cabir, Co Tipperary*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of an application by John Corbett of 43-45 Main Street, Clogheen, Co Tipperary**

Notice requiring further information from a lessor, section 7(1), to: the Shanbally Estate Company, its administrators, liquidators, successors and assigns, and Thomas K O'Mahony, his executors, administrators, successors and assigns. This notice refers to all that and those the premises comprising the dwellinghouse, shop, out-offices, yard and garden situate at 43 Main Street, Clogheen, in the county of Tipperary, and more particularly described on the map annexed hereto and thereon outlined in red, together with a right of passage for carts, cars, on foot and for animals through the yard and porch on the west side of the said premises, more particularly described on the map annexed hereto and thereon coloured blue.

The applicant, of 43-45 Main Street, Clogheen, Co Tipperary, holds the premises described in paragraph 1 as successor in title to the late John Corbett, under an indenture of lease dated 30 November 1954 made between Shanbally Estate Company of the one part and Catherine Collins of the other part, under which the premises was demised for a term of 99 years from 25 March 1954, yielding and paying the annual rent of £7 paid by equal half-yearly instalments.

Take notice that John Corbett, being the person entitled to acquire the fee simple in the land described in paragraph 1 above under the said act of 1967 (and part II of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*), require you to give to me, within one month after the service of this notice on you, the following information: (a) the nature and duration of your reversion in the land, (b) the nature of any incumbrance on your reversion in the land, and (c) the names and addresses of (i) the person entitled to the next superior interest in the land (if any), (ii) the owner of any such incumbrance (if any).

*Date: 8 September 2023*

*Signed: John Corbett, c/o Shields Solicitors (solicitors for the applicant), Barrack Street, Cabir, Co Tipperary*

**In the matter of the *Landlord and Tenants Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of the premises known as 3 Stable Lane and situate at the rear of 24 Cumberland Street South, Dublin 2**

Take notice that James Healy (Brass-Founders-Engineers) Limited intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the fee simple and all intermediate interests in the land described in the schedule hereto, which said land it holds for a term of 99 years from 1 December 1948 under a lease dated 12 June 1951 and made between Denis Francis Atkinson of the one part and JJ Lynch & Sons Limited of the other part, and take notice that any party asserting that they hold a superior interest in the said lands or any part thereof and, in particular, that they are the successors in title of Denis Francis Atkinson, the lessor under the said lease, or William Joseph Tyndall, the grantor under a *Renewable Leasehold Conversion Act* grant dated 18 March 1873, William Joseph Tyndall to Charles Robert Atkinson, are hereby called upon to furnish evidence

of their title to such interest to the below named within 21 days from the date of this notice, and take notice that, in default of any such evidence being received, the applicant intends to proceed with the said intended application at the end of 21 days from the date of this notice and to apply to the county registrar for the county of the city of Dublin for such directions as may be appropriate on the basis that the persons now entitled to the lessor's interest under the said lease and to the fee farm grantor's interest under the aforesaid *Renewable Leasehold Reversion Act* grant and to any interests superior thereto are unknown and unascertained.

*Date: 8 September 2023*

*Signed: Donal O'Kelly & Co (solicitors for the applicant), 1 Grand Canal Wharf, South Dock Road, Ringsend, Dublin 4*

**In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Eugene Carlyle**

Any person having a freehold estate or any intermediate interest in all that and those the lands at Kilmore Road, Artane, Dublin 5, registered in Folio DN158622L, being portion of the property the subject of an indenture of lease dated 29 February 1960 between Nupro Limited of the one part and Presomatic Limited of the other part for a term of 988 years from 1 November 1959 at a yearly rent of 1 shilling (if demanded), the property the subject of the lease being therein described as follows: "all that and those the lands of Artane North, containing two acres, no rood, and one perch statute measure or thereabouts, as more particularly delineated on the map annexed thereto and thereon coloured red".

Take notice that Eugene Carlyle, the person being entitled to the lessee's interest in the said lands at Kilmore Road, Artane, Dublin 5, registered in his name in Folio DN158622L, intends to apply to the county registrar

of the county of Dublin to vest in him the fee simple and any intermediate interests in the said premises, and any party asserting that they hold a superior interest in the said premises is called upon to furnish evidence of title to same to the below-named within 21 days from the date of this notice.

In default of any such notice being received, Eugene Carlyle intends to proceed with the application before the Dublin county registrar at the end of 21 days from the date of this notice and will apply to the Dublin county registrar for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the aforesaid property are unknown or unascertained.

*Date: 8 September 2023*

*Signed: Fiona Murray Solicitors (solicitors for the applicant), The Camden Business Centre, 12 Camden Row, D08R9CN*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of an application to acquire the fee simple by Margaret Rockett in respect of premises known as the Cotton Mill, situated at 6-7 Main Street, Portlaw, Co Waterford**

In the matter of an application to acquire the fee simple, take notice that Margaret Rockett, whose place of abode is at 29 Cul Rua, Portlaw, Co Waterford, intends to apply to the county registrar sitting at Waterford Courthouse, Catherine Street, Waterford, at the sitting thereof on 18 September 2023 at 10:30 o'clock in the forenoon or as soon thereafter as the application may be taken in its order in the court list, to acquire the fee simple in the premises known as the Cotton Mill, situated at 6-7 Main Street, Portlaw, Co Waterford.

Any party claiming any interest in the above-mentioned premises shall contact the county registrar sitting at Waterford Courthouse, Catherine Street, Waterford.

*Date: 8 September 2023*

*Signed: HD Keane Solicitors LLP (solicitors for the applicant), 22 O'Connell Street, Waterford*

**In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of 79 Morehampton Road, Donnybrook, Dublin 4, and in the matter of an application by Mary Galvin (applicant) by her attorney and next friend, Joseph Galvin**

Take notice that any person having any interest in the freehold estate or any intermediate estate of the following property: all and singular the dwellinghouse, shop and premises known as 79 Morehampton Road, Donnybrook, Dublin 4, together with the yard and plot of ground at the rear thereof, situate in the parish of St Mary's, Donnybrook, in the city of Dublin, together with the use of the passage or stable lane at the rear of the said premises entering on the Marlborough Road, being that part of the property that is held by the applicant under an indenture of lease dated 10 May 1900 and made between Patrick J Newport of Marlborough Road, Donnybrook, in the county of Dublin, of the one part, and Michael Cullen, 79 Morehampton Road, Donnybrook, in the county of Dublin, of the other part, for a term of 166 years from 1 May 1900, subject to a yearly rent of IR£13.6.8 but indemnified against all but IR£6.13.4 thereof, and to the covenants and conditions therein contained, and also being part of the property that was demised by an indenture of lease dated 8 April 1897 between William H Clarke of 17 Rialto Terrace, South Circular Road, Kilmainham, in the county of Dublin, of the one part, and John Newport of 18 Marlborough Road, in the county of Dublin, of the other part, for a term of 150 years at the yearly rent of IR£20 from 1 May 1918.

Take notice that the above-named applicant intends, by her attorney and next friend Joseph Galvin, to submit an application to the county registrar for the

county of the city of Dublin for acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest, including the freehold reversion in the aforesaid premises (or any of them), are called upon to furnish evidence of title to the applicant's below-named solicitors within 21 days from the date of this notice.

Take notice that, in default of any such notice being received, the applicant, by her attorney and next friend, intends to proceed with the application before the county registrar on the expiry of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

*Date: 8 September 2023*

*Signed: Finlay and Company (solicitors for the applicant), Pembroke House, 28-32 Upper Pembroke Street, Dublin 2*

**In the matter of the *Landlord and Tenant (Ground Rent) Acts 1967-2005* (as amended) between Patrick Walsh and Deirdre Walsh (applicants) and the unascertained successors entitled to the right Reverend John Godfrey and very Reverend John Percey Phair and the Reverend Andrew Albert Victor Hogg (otherwise known as the Heatley and Rodgers Estate), formerly of St Canice's Library, Kilkenny, and 'The Vicarage', St John's, Kilkenny (respondents)**

Notice of application: whereas the applicants are entitled to the leasehold interest in the premises known as Clonad, Newpark, Castlecomer Road, Kilkenny, more particularly set out and delineated in red on the map annexed hereto ('the property'), being property the subject of a lease dated 23 December 1924 and made between the Right Reverend John Godfrey and the Very Reverend John Percey Phair and the Reverend Andrew Albert

Victor Hogg of the first part, Arthur Godfrey Davis of the second part, and Hannah Walsh of the third part, for the term of 99 years from 29 September 1924, subject to the yearly rent of £4 per annum. The lands the subject of the lease are therein described as "all that part of the lands at Newpark Lower now in the occupation of the lessee containing 1 acres, 2 roods, 15 perches statute measure or thereabouts, situate in the parish of St Canice, barony of Gowran and county of Kilkenny", as more particularly set out on the map annexed to the lease and includes the property. The lease is a lease to which sections 9, 10, and 10(1) of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* applies. A copy of the lease is exhibited in the affidavit of Patrick Walsh and Deirdre Walsh attached to this notice of application, and whereas the applicants, being the persons entitled under section 9 and section 10(1) of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* (as amended) to purchase the fee simple and any intermediate interests in the property, are desirous of purchasing the fee simple and all intermediate interests in same, and whereas the respondents are entitled to the lessor's interest under the lease.

Take notice that, on 13 September 2023, at the hour of 10:30am or at the first available opportunity thereafter, application will be made to the county registrar for the county of Kilkenny sitting at the Courthouse, Kilkenny, for an order: (1) confirming that the applicants are entitled to acquire the fee simple in all that and those the property, (2) determining the purchase price payable in respect of the said acquisition, (3) determining the costs payable by the parties in respect of the hearing, and (4) granting such further or other relief as may be necessary in the circumstances of the case.

To: the Kilkenny County Registrar, Kilkenny Circuit Court Office, Kilkenny, and to: the unascertained successors entitled to the Right Reverend John Godfrey and the Very Reverend John



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## CONTACT DETAILS

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Percey Phair and the Reverend Andrew Albert Victor Hogg (otherwise known as the Heatley and Rodgers Estate), formerly of St Canice's Library, Kilkenny, and the Vicarage, St John's, Kilkenny.  
*Date: 8 September 2023*

*Signed: Walter A Smithwick & Son (solicitors for the applicants), Parliament Street, Kilkenny*

**In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Mr Hugh Grainger**

Any person having a freehold estate or any intermediate interest in all that and those the dwellinghouse and premises known as 4 Marino Avenue, off the Malahide Road, in the parish of Clontarf, barony of Coolock and county of Dublin, the subject of a head lease dated 6 April 1853 between (1) JEV Vernon and (2) George Austin.

Take notice that Mr Hugh Grainger intends to apply to the county registrar of the county of Dublin to vest in it the fee simple, any intermediate interests in the said property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to same to the below named within 21 days.

In default of any such notice being received, Mr Hugh Grainger intends to proceed with the application before the Dublin county registrar at the end of the 21 days from the date of this notice and will apply to the Dublin county registrar for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the aforementioned property are unknown and unascertained

*Date: 8 September 2023*

*Signed: O'Sullivan Associates (solicitors for the applicant), 10 Herbert Street, Grand Canal Dock, Dublin 2*

**In the matter of the *Landlord and Tenant Acts 1967-2009***

**and in the matter of the *Landlord and Tenant (Ground Rents) (No 2)* and in the matter of the premises known as 1 Upper Lesson Street, Dublin 4: an application by Desmond Kiloran**

Take notice that any person having a freehold estate or any intermediate interest in the premises known as 1 Upper Lesson Street, Dublin 4, held under lease dated 24 August 1844 between the Company of Undertakers of the Grand Canal of one part and Frederick Storey of the other part for a term of 200 years from 29 September 1844, subject to a yearly rent of 7 pounds, 11 shillings, and the covenants by the lessee and the conditions therein contained.

Take notice that the applicant intends to apply to the county registrar for the city of Dublin for the acquisition of the freehold interest and all intermediate interests in the premises, and any party asserting that they hold a superior interest in the premises is called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the county Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the lands are unknown or unascertained.

*Date: 8 September 2023*

*Signed: Hayes Solicitors LLP (solicitors for the applicant), Lavery House, Earlsfort Terrace, Dublin 2*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019: notice of intention to acquire the fee simple***

To: Mary Isabella Blood, late of Moreton House, Ross-on-Wye, Herefordshire, England; Mary Roche Whiteside, late of Sand-ileigh, Hoole, Chester, England; William Wall, late of Agada,

Imokilly, in the county of Cork; their executors, administrators, successors or assigns.

Description of the lands to which the notice refers: all that and those the hereditaments and premises comprising a family home and workshop situate on Main Street, Aghada, Imokilly, in the county of Cork.

Particulars of the lease or tenancy: held under a yearly tenancy created by express contract or arising by operation of law or by inference on the expiration of a lease agreed between the said Mary Isabella Blood and Mary Roche Whiteside of the first part and William Wall of the second part, subject to the yearly rent and covenants therein described. An assignment agreed between the said William Wall of the first part and Michael Joseph Brice of the second part in or about 1929, subject to the yearly rent and covenants therein described. Part of the lands excluded: none.

Take notice that Margaret Hennessy, as legal personal representative of the estates of Joseph Brice and Margaret Una Brice (deceased), being the person entitled under the above-mentioned acts, as amended, proposes to purchase the fee simple and all intermediate interest in the lands and premises described in the foregoing paragraphs.

*Date: 8 September 2023*

*Signed: De Burca Greene Solicitors (solicitors for the applicant), 1st Floor, Classic House, 11/12 Washington Street, Cork*

**In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019: notice requiring information from a lessor***

To: Mary Isabella Blood, late of Moreton House, Ross-on-Wye, Herefordshire, England; Mary Roche Whiteside, late of Sand-ileigh, Hoole, Chester, England; William Wall, late of Agada, Imokilly, in the county of Cork; their executors, administrators, successors or assigns.

Description of the lands to which the notice refers: all that and those the hereditaments and premises comprising a family home and workshop situate on

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086 784 3376**

Main Street, Aghada, Imokilly, in the county of Cork.

Particulars of the lease or tenancy: held under a yearly tenancy created by express contract or arising by operation of law or by inference on the expiration of a lease agreed between the said Mary Isabella Blood and Mary Roche Whiteside of the first part and William Wall of the second part, subject to the yearly rent and covenants therein described. An assignment agreed between the said William Wall of the first part and Michael Joseph Brice of the second part in or about 1929, subject to the yearly rent and covenants therein described. Part of the lands excluded: none.

Take notice that Margaret Hennessy, as legal personal representative of the estates of Joseph Brice and Margaret Una Brice (deceased), being the person entitled under the above mentioned acts, as amended, proposes to purchase the fee simple and all intermediate interest in the lands described in the foregoing paragraphs and require you to give us, within a period of one month after service of this notice on you, the following information: nature and duration of your reversion in the land; nature of any encumbrance on your reversion in the land; name and address of (a) the person entitled to the next superior interest in the land and (b) the owner of any such encumbrance. The owner of the fee simple interest in the land and any other intermediate interest or encumbrance.

*Date: 8 September 2023*

*Signed: De Burca Greene Solicitors (solicitors for the applicant), 1st Floor, Classic House, 11/12 Washington Street, Cork* 

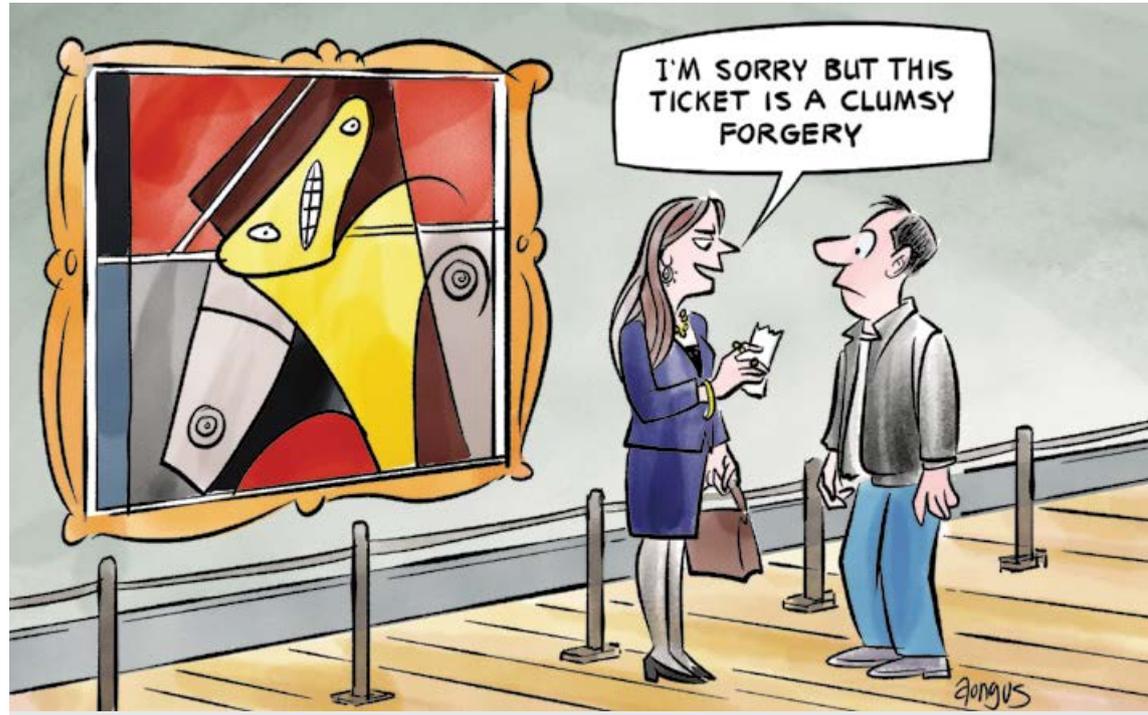


## PRO BONOBO

## How to steal a million

● A 54-year-old woman who worked at Switzerland's Fondation Beyeler museum has been found guilty of stealing 986,000 Swiss francs (€1.03 million) from it between 2008 and 2019, *ARTnews.com* reports.

The cashier used various methods to skim money from ticket sales, including selling emergency pre-printed tickets and pocketing the cash. Often, she sold the same ticket twice by giving some customers receipts instead of tickets, saying there had been a technical problem that meant the ticket couldn't be printed. The scheme was rumbled when she cancelled tickets issued by other colleagues and kept the refunds for herself. This led to an internal investigation and her being fired in 2019.



## ...and ask questions later

● Illinois police have said that 62-year-old Mark Dicara dreamt that someone had broken into his house. He then shot the 'intruder', *CBS* reports. He very quickly discovered that the intruder was none other than himself – he had shot himself in the leg with a .357 Magnum.

When police arrived, Dicara



"I want to sue myself for negligently shooting me in the leg."

was losing a "significant amount of blood". Officers confirmed that there had been no burglary attempt.

Dicara was subsequently arrested after it was discovered that his Firearm Owners Identification card had been previously revoked. Dicara has been charged with two felonies.

## I love the sound of breaking glass

● Massachusetts police have arrested a man who placed rocks in the middle of a road at night, just to cause crashes, *Boston25News* reports.

Police say that road-worker Cameron Currier (31) would go out in his pickup, place a rock weighing anything from 7kg to 22kg in the middle of a road, return to his home nearby – and listen to the ensuing crashes. At least 11 cars were involved in accidents, some of them sustaining serious damage, with drivers injured in several cases.

Currier was arrested after a detective spotted him in the act.

## Corrupt cop chokes on cash

● A Colombian police officer caught taking a bribe tried to eat the evidence and continued to deny any wrongdoing – even as he was choking on the cash.

*The Straits Times* reports that the officer and a colleague tried to extort payments of 500,000 Colombian pesos (€113) a

week from a businessman in a Bogota suburb by threatening to arrest him on false allegations of a sex crime. The businessman then contacted an anti-kidnapping and extortion unit.

When caught taking the bribe, the police officer ate

the nine bank notes and was hospitalised when they became stuck in his throat. A *video* that went viral in Colombia shows the officer gasping for breath as he says, "I have received nothing, absolutely nothing. I don't know what they are talking about."



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